

2009

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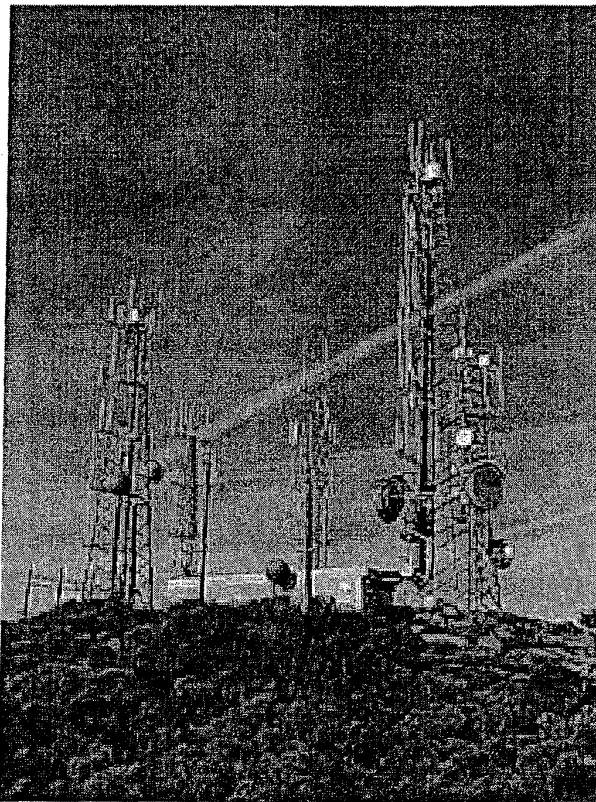
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TOWN OF MONTVILLE

PERSONAL WIRELESS SERVICE FACILITIES SITING ORDINANCE



Approved
October 23, 2001

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PERSONAL WIRELESS SERVICE FACILITIES SITING ORDINANCE

1. Title and Purpose

This ordinance shall be known and cited as the “Town of Montville Personal Wireless Service Facilities Siting Ordinance,” hereinafter referred to as “this Ordinance.”

The purpose of this Ordinance is to establish predictable and balanced regulations for the siting of personal wireless service facilities within the Town of Montville. The requirements of the Ordinance are intended to provide for the appropriate siting of personal wireless service facilities while also minimizing adverse impact on the town's aesthetic resources, avoiding potential damage to adjacent properties, and maximizing the use of approved or preexisting sites within the coverage area to reduce the number of personal wireless service facilities needed to serve the community. The Ordinance thus seeks to accommodate the communication needs of residents and businesses, while protecting the public health, safety, and general welfare of the community.

2. Authority

This Ordinance is adopted pursuant to Home Rule provisions of the Maine Revised Statutes, 30-A M.R.S.A. Section 3001, et.seq.

3. Conflict with Other Ordinances

Whenever a provision of this Ordinance conflicts with or is inconsistent with any other Town of Montville ordinance or standard, the more restrictive provision shall apply.

4. Severability

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

5. Effective Date

The effective date of this Ordinance shall be the date of adoption by voters at a Town Meeting scheduled for this purpose.

6. Definitions

As used in this Ordinance, unless the context otherwise indicates, the terms referenced below have the following meaning:

- a. “Antenna” means the surface from which electromagnetic frequency signals are sent or received by a personal wireless service facility.
- b. “Camouflaged” personal wireless service facilities are disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure.

- a. "Antenna" means the surface from which electromagnetic frequency signals are sent or received by a personal wireless service facility.
- b. "Camouflaged" personal wireless service facilities are disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure.
- c. "Co-Location" means the use of a single mount on the ground by more than one carrier and/or several mounts on an existing building or structure by more than one carrier.
- d. "Equipment Shelter" is an enclosed structure, shed, or box at or near the base of the mount within which are housed equipment for personal wireless service facilities, such as batteries and electrical equipment. Equipment shelters sometimes are referred to as base receiver stations.
- e. "FAA" means the Federal Aviation Administration, or its lawful successor.
- f. "FCC" means the Federal Communications Commission, or its lawful successor.
- g. "Fall Zone" is the area on the ground from the base of a ground mounted personal wireless service facility that forms a circle with a radius equal to the height of the facility, including any antennas or other appurtenances. The fall zone is an area within which there is a potential hazard from falling debris, such as ice or collapsing material.
- h. "Guyed Tower" is a tower that is tied to the ground or other surface by diagonal cables for lateral support.
- i. "Height" means, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
- j. "Lattice Tower" refers to a type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.
- k. "Licensed Carrier" is a company authorized by the FCC to construct and operate a commercial mobile radio services system.
- l. "Mast" is a pole that resembles a street light standard or telephone pole.

- m. "Monopole" is a type of mount, normally thicker than a mast, that is self-supporting with a single shaft of concrete, steel, or wood, which is designed for the placement of antennas or arrays along the shaft.
- n. "Mount" is the structure or surface upon which antennas are mounted. Antennas may be mounted on the roof of a building (roof-mounted), on the side of a building (side-mounted), mounted on the ground (ground-mounted), or mounted on a structure other than a building (structure-mounted.)
- o. "Parabolic Antenna" (also known as a satellite dish antenna) means an antenna which is bowl-shaped, designed for the reception and/or transmission of electromagnetic radiation signals in a specific directional pattern.
- p. "Personal Wireless Service Facility" is a facility for the provision of personal wireless services.
- q. "Personal Wireless Services" includes any personal wireless service defined in the Federal Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services, including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and unlicensed wireless services, and common carrier wireless exchange access services.
- r. "Propagation Studies" are computer generated estimates prepared by a professional radio frequency engineer of the signal emanating, and prediction of coverage, from antennas or repeaters sited on a specific personal wireless service facility or structure.
- s. "Tower" means any structure, whether free standing or in association with a building or other permanent structure, primarily for the purposes of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and similar structures.

7. Exemptions

The following are exempt from the provisions of this Ordinance:

- a. Amateur (Ham) radio stations licensed by the FCC.

- b. Parabolic antennas less than 7 (seven) feet in diameter, that are an accessory use of the property.
 - c. Maintenance or repair of a personal wireless service facility and existing equipment, provided that there is no change in the height or any other dimension of the facility.
 - d. Temporary personal wireless service facility in operation for a maximum period of 30 (thirty) days.
 - e. Residential antennas that are an accessory to a residential dwelling unit, such as a television or radio antenna.
8. Permit Required

No person shall place, construct, erect, or modify a personal wireless service facility unless a permit first has been obtained from the Town of Montville Planning Board.

9. General Filing Requirements

An application for a Personal Wireless Service Facility siting permit must include the name, address, and telephone number of the applicant and any co-applicants, as well as agents for same.

10. Specific Submission Requirements

Applications for Personal Wireless Service Facility siting permits must include the following, at the cost of the applicant:

- a. A site plan prepared and reviewed by a professional engineer registered in Maine indicating the location, type, and height of the proposed facility, loading/antenna capacity, on-site and abutting off-site land uses, means of access, and setbacks from property lines. The site plan must include certification by a professional engineer registered in Maine that the proposed facility meets industry standards and satisfies all Federal, state, and local building code requirements. The Board also may require an independent review of the site plan by a professional engineer or independent consultant at the applicant's expense;
- b. A United States Geological Survey 7.5 minute topographic map showing the current location of all structures and personal wireless service facilities above 100 feet in height from ground level, except antennas located on roof tops, within a 5 (five) mile radius of the proposed facility;

- c. Any site search ring analysis reports documenting the applicant's search for existing structures or property owners in designated land use areas and the rationale for selecting the site under consideration;
- d. Verification of contact with all other owners of facilities for commercial mobile radio or wireless transmission operating within a 15 mile radius, inquiring as to the feasibility of co-locating at a pre-existing tower or structure;
- e. Proof of the need for a new structure and that co-location on an existing structure is not available;
- f. Any information of relevance to a determination whether co-location is feasible under the design configuration most accommodating to co-location;
- g. Propagation studies for the proposed location as well as any existing or approved personal wireless service facility within a 15 mile radius;
- h. Photo simulations of the proposed facility taken from perspectives determined by the Planning Board. Each photo should be labeled with line of sight, elevation, and the date taken. Photos must demonstrate the color of the proposed facility and method of screening;
- i. Elevation drawings of the proposed facility, showing height above ground level;
- j. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting if any;
- k. A certification from a professional forester licensed in Maine confirming the average tree canopy height within a one hundred fifty (150) foot perimeter of the proposed mount, security barrier, or designated clear area for access to equipment, whichever is greatest.
- l. A balloon test, illustrating the proposed height and location of a personal wireless service facility, may be required at applicant expense. Adequate notice to the public of the test shall be given by the applicant.

11. Coverage

Applicants seeking approval for siting of personal wireless service facilities shall demonstrate that the proposed facility is necessary for the applicant to provide coverage within the targeted market area. To this end, propagation studies must be obtained at the applicant's expense for the proposed location as well as any existing or approved personal wireless service facilities within a 15 mile radius.

12. Location

- a. Co-Location Opportunities: Applicants seeking approval for siting of personal wireless service facilities shall first evaluate the suitability of existing structures or approved sites. Only after finding that there are no suitable existing structures or approved sites for co-location, shall a provider propose a new ground mounted facility.
- b. Existing Structures: Personal wireless service facilities shall be located on existing structures, including but not limited to buildings, water towers, flag poles, telecommunication facilities, utility poles or towers, and related facilities, provided that such installation preserves the character and integrity of those structures.
- c. Burden of Proof: The applicant shall have the burden of proving that there are no co-location opportunities which are suitable to locate its personal wireless service facility.

13. Dimensional Requirements

- a. Personal wireless service facilities must comply with the following height requirements:
 1. The height of the personal wireless service facility shall not exceed one hundred (100) feet;
 2. New personal wireless service facilities that are located on water towers, electric transmission and distribution towers, utility poles and similar existing utility structures, guyed towers, lattice towers, masts, and monopoles may be permitted to increase the height of those structures no more than twenty (20) feet but in no event to a height of more than one hundred (100) feet. The twenty (20) foot increase in height shall be permitted only once per structure;

3. Personal wireless service facilities sited on other existing structures shall not increase the height of that structure by more than ten (10) feet, unless the facility is completely camouflaged (i.e. within a flagpole, steeple, or chimney);
4. Ground-mounted personal wireless service facilities shall not project higher than forty (40) feet above the average tree canopy height within a one hundred fifty (150) foot perimeter of the mount, security barrier, or designated clear area for access to equipment, whichever is greatest. The average tree canopy height is the average height of trees with dominate or co-dominate crown positions.

14. Camouflage & Markings

- a. Personal wireless service facilities must be constructed with materials and colored with muted or earth tones that blend with the surrounding natural environment;
- b. All ground-mounted personal wireless service facilities shall be surrounded by a buffer of dense tree growth to create a year-round visual buffer that extends continuously for a minimum distance of one hundred and fifty (150) feet from the mount, security barrier, or designated clear area for access to equipment, whichever is greatest. The buffer must screen the facility in all directions. The required trees or shrubs may be existing on the property or installed as part of the proposed facility, or a combination of both. The Planning Board has authority to decrease, relocate, or alter the required buffer based on site conditions. The vegetative buffer area must be protected by a landscape easement or be within the area of the owner's lease. The easement or lease shall specify that the trees within the buffer cannot be removed or topped, unless the trees are dead or dying and present a hazard to persons or property.
- c. Personal wireless service facilities shall not be located in blueberry barrens or other distinctive open landscapes, such as agricultural fields, as an adequate visual buffer cannot be provided.
- d. When a personal wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility from public ways.

- e. Personal wireless service facilities incorporating guy wires for support must have daytime visual markers, such as aerial marker spheres, on the wires to prevent collisions by birds.
15. Lighting, Signage, Security, Setbacks & Access Roads
- a. Facilities covered by this Ordinance may not be artificially lighted, except for manually operated emergency lights for use when operating personnel are on site.
 - b. No facility that would be classified as a hazard to air navigation, as defined by FAA regulations, is permitted.
 - c. Unless it is demonstrated that the tower or structure is access secure and not a safety hazard, a security fence or wall not less than 8 (eight) feet in height from the finished grade, equipped with an anti-climbing device, shall be provided around the tower. Use of razor wire is not permitted. Access to the tower shall be through a locked gate; however emergency personnel must be provided with the means to enter the area.
 - d. Road access and fencing shall be designed to mitigate or prevent habitat fragmentation and disturbance, and to reduce above-ground obstacles to birds in flight.
 - e. A single access roadway is permitted, which must be designed to harmonize with the topographic and natural features of the site by minimizing filling, grading, excavation, or similar activities which result in unstable soil conditions and soil erosion. The access roadway must follow the natural contour of the land and should not involve excessive grading or tree removal. Curvilinear roads shall be used as access roads to prevent direct line of site from the town road access point to the tower site. Existing vegetation should be maintained to the extent practical. All practical steps must be taken to prevent a visible scar up or across a ridgeline.
 - f. In order to ensure public safety, the minimum distance from the base of any ground-mount of a personal wireless service facility to any property line, public road, habitable dwelling, business, institution, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in section 6, above.
 - g. Signs shall be limited to those needed to identify the property and the owner and to warn of potential hazards.

16. Additional Standards for Permit

The Board shall issue a permit for the siting of a personal wireless service facility when the applicant demonstrates that, in addition to compliance with the standards of sections 9 through 15 and section 20 of this Ordinance, the proposal meets the following standards:

- a. The surrounding topography of the proposed site and any topographical features have been employed to the extent practicable to screen the view of the proposed facility;
- b. The design of the proposed facility has the effect of reducing or eliminating visual obtrusiveness;
- c. The proposed facility fits harmoniously into the existing natural environment and avoids unreasonable adverse impacts on the existing scenic character of the surrounding area;
- d. Visual buffering of the proposed facility substantially eliminates view of the facility by abutting property owners;
- e. The proposed facility will be constructed to avoid needless height, mass, and guy-wire supports. A monopole design is preferred.

17. Application Procedure

Applicants must follow the procedures set forth in Article VII, Section 4 of the Site Plan Review Ordinance of the Town of Montville, and as supplemented by this Ordinance.

18. Application Fee

A non-refundable application fee of \$2500 per proposed tower, payable to the Town of Montville, must be submitted with the application.

19. Notice to Abutters

Applicants must follow the procedures set forth in Article VII, Section 4A of the Site Plan Review Ordinance of the Town of Montville.

20. Equipment Shelters

Equipment shelters for personal wireless service facilities shall be designed consistent with one of the following standards:

- a. Equipment shelters shall be located in underground vaults; or
- b. Equipment shelters shall be designed so that they are architecturally consistent, with respect to materials and appearance, to the buildings in the area of the personal wireless service facility; or
- c. Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood; or
- d. If mounted on a roof top, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be a part of the original structure.

21. Hazardous Waste

No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred and ten (110) percent of the volume of the hazardous materials stored or used on site. In the event of leakage, the owner is responsible for all costs related to cleanup of the site.

22. Noise

Personal wireless service facilities shall not generate noise in excess of that permitted under Article 10, Section 21 of the Montville Site Plan Review Ordinance.

23. Maintenance

The owner of the personal wireless service facility shall maintain the structure in good condition. Such maintenance shall include, but is not limited to, painting, structural integrity of the mount and security barrier, buffer areas, and landscaping.

24. Monitoring

- a. The personal wireless service facility owner shall provide the Town of Montville with evidence of compliance with Federally mandated safety levels for radiofrequency electromagnetic fields and radiofrequency radiation exposure levels, to include copies of any reports filed with the FCC on an ongoing basis.

- b. The personal wireless service facility owner shall arrange for a licensed professional structural engineer to conduct inspections of the tower's structural integrity and safety. Guyed towers shall be inspected every three years. Monopoles and non-guyed lattice towers shall be inspected every five years. A report of the inspection results shall be submitted to the First Selectman and the Planning Board. Modification of existing facilities which include changes to dimension or antenna number or type may require a new structural inspection at the Board's discretion.
- c. As part of the approval process for issuance of a permit, the property owner shall agree that representatives acting on behalf of the Town of Montville may enter the subject property to verify proper maintenance of the structure, and/or to obtain radio frequency radiation and noise measurements at the expense of the personal wireless service facility owner. The Town shall provide written notice to the facility owner and landowner and also afford them the opportunity to accompany the Town representatives when the inspection is conducted.

25. Abandonment or Discontinuation of Use

At least thirty (30) days prior to the time that the owner plans to abandon or discontinue use of a personal wireless service facility, said owner must notify the town by certified mail.

26. Removal

Any personal wireless service facility, or upper portion thereof, that ceases to operate must be removed at the expense of the applicant within six (6) months. Removal shall include, but not be limited to, antennas, mounts, equipment shelters, and security barriers. Waste materials must be properly disposed of at an off-site location. The location of the personal wireless service facility must be restored to its pre-construction condition.

If the owner fails to remove a personal wireless service facility in accordance with the provisions of this section, the Board of Selectmen of the town of Montville and/or their representatives shall have the authority to enter the subject property and dismantle the facility.

27. Bond For Removal

At the time of approval of a permit application, and prior to initiating construction of any personal wireless service facility within the Town of Montville, the applicant must post a bond to

cover costs for the removal of the personal wireless service facility. The amount of the bond shall be based on the removal cost plus fifteen (15) percent, provided by the applicant and certified by a professional civil engineer licensed in Maine. The owner of the facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by a professional civil engineer licensed in Maine every five (5) years from the date of the Planning Board's approval of the site plan. If the cost has increased more than fifteen (15) percent, then the owner of the facility shall provide additional security in the amount of the increase.

28. Enforcement & Violations

This Ordinance may be enforced in accordance with the procedures set forth in Article XII of the Site Plan Review Ordinance of the Town of Montville.

29. Appeals

Any person aggrieved by the action of the Planning Board concerning a matter that falls within the parameters of this Ordinance may appeal the decision to the Board of Appeals within forty-five (45) days after receipt of the notification. Administrative appeals submitted under this Ordinance shall be subject to the standards and procedures established by the Town of Montville.

30. Amendments

An amendment to this Ordinance may be initiated in accordance with the procedures set forth in Article XIV of the Site Plan Review Ordinance of the Town of Montville.

FLOODPLAIN MANAGEMENT ORDINANCE
FOR THE
TOWN OF MONTVILLE, MAINE

ENACTED: June 15, 2015

CERTIFIED BY: _____
Abbie Hills, Town Clerk

FLOODPLAIN MANAGEMENT ORDINANCE

TOWN OF MONTVILLE, MAINE

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ARTICLE I - PURPOSE AND ESTABLISHMENT

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

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

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

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

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

The areas of special flood hazard, Zone A, for the Town of Montville, Waldo County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Waldo County" dated July 6, 2015 with accompanying "Flood Insurance Rate Map" dated July 6, 2015 with panels: 240E, 245E, 380E, 385E, 390E, 395E, 405E, 415E and 560E derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Waldo County," are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the 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 of Montville, Maine.

ARTICLE III - APPLICATION FOR PERMIT

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

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

dimensions;

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

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

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or to a locally established datum in Zone A only, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which in Zone A is determined:
 - a. from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model), including information obtained pursuant to Article VI.K. and VIII.D.;
 - b. from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - c. to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline that passes along the ground through the site of the proposed building.
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
 - 1. a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
 - 2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 - 3. a certified statement that bridges will meet the standards of Article VI.M.;
 - 4. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

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

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$25 for minor development or \$50 for new construction or substantial improvements shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

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

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

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

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

ARTICLE VI - DEVELOPMENT STANDARDS

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

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

- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Residential** - New construction or substantial improvement of any residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D.
- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D., or together with attendant utility and sanitary facilities shall:
 - 1. be floodproofed to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D., so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - 2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - 3. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
- H. **Manufactured Homes** - New or substantially improved manufactured homes located within Zone A shall:
 - 1. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D.;
 - 2. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
 - 3. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - a. over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,

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

I. Recreational Vehicles – Recreational Vehicles located within:

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

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

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

K. Floodways - 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 FEMA's guidelines and standards for flood risk analysis and mapping.

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

1. Enclosed areas are not "basements" as defined in Article XIII;
2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
3. The enclosed area shall not be used for human habitation; and,
4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

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

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D.; and
2. a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
 - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

- N. **Containment Walls** - New construction or substantial improvement of any containment wall located within Zone A shall:
1. have the containment wall elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B.; or Article VIII.D.
 2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 3. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.
- O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zone A in and over water and seaward of the mean high tide if the following requirements are met:
1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
 2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

ARTICLE VII - CERTIFICATE OF COMPLIANCE

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

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

ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

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

- A. All such proposals are consistent with the need to minimize flood damage.

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

ARTICLE IX - APPEALS AND VARIANCES

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

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

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
 - 1. a showing of good and sufficient cause; and,
 - 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
 - 3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
 - 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and,

- d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
 - 1. other criteria of Article IX and Article VI.K. are met; and,
 - 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
 - 1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,
 - 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
 - 1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
 - 2. such construction below the base flood level increases risks to life and property; and,
 - 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- G. Appeal Procedure for Administrative and Variance Appeals
 - 1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
 - 2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
 - 3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
 - 4. The person filing the appeal shall have the burden of proof.

5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE X - ENFORCEMENT AND PENALTIES

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

ARTICLE XI - VALIDITY AND SEVERABILITY

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

ARTICLE XII - CONFLICT WITH OTHER ORDINANCES

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

ARTICLE XIII - DEFINITIONS

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

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

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

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

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

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

Building - see **Structure**.

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

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

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

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

Elevated Building - means a non-basement building

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

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

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

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,

b. is required for purchasing flood insurance.

Flood or Flooding - means:

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

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

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

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

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

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

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

Floodway - see **Regulatory Floodway**.

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

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

Historic Structure - means any structure that is:

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

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

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

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

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

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

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

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

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

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

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

Recreational Vehicle - means a vehicle which is:

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

Regulatory Floodway -

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

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

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

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

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

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

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

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

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

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

ARTICLE XIV - ABROGATION

This ordinance repeals and replaces the Montville Floodplain Management Ordinance enacted on June 18, 2008 to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

Town of Montville

Genetically Modified Organisms Ordinance

TITLE:

This ordinance shall be known and cited as the Town of Montville Genetically Modified Organisms Ordinance.

PURPOSE:

The purpose of this Ordinance is to ensure the right of Montville's residents to equitable access to life-giving seed; to protect Montville's native plants and trees from cross-contamination by genetically modified plants and to protect garden varieties bred using traditional plant propagation methods from genetically engineered or genetically modified organisms; to protect the health of Montville's inhabitants by ensuring they are confident of the integrity of the plants they grow and eat; and to defend the economy of the farmers, gardeners, and foresters in the Town of Montville. Therefore, the Town of Montville deems it necessary to prevent the cultivation of genetically modified crops in Town.

AUTHORITY:

This Ordinance is enacted pursuant to the inherent, inalienable, and fundamental right of the citizens of the Town of Montville to self-government, and by authority granted to the municipal government of Montville by all relevant Federal and State laws and their corresponding regulations, including, but not limited to, the following:

The Declaration of Independence, which declares that the people of Montville are born with "certain unalienable rights" and that governments are instituted among people to secure those rights;

The Maine Constitution, which declares in its preamble that governments are created to "establish justice, insure tranquility . . . promote our common welfare, and secure to ourselves and our posterity the blessings of liberty";

The Maine Constitution, Article I, Section 1, which declares that "All people are born equally free and independent, and have certain natural, inherent and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness";

The Maine Constitution, Article 1, Section 2, which declares that "All power is inherent in the people; all free governments are founded in their authority and instituted for their benefit; they have therefore an unalienable and indefeasible right to institute government, and to alter, reform, or totally change the same, when their safety and happiness require it";

Maine Statute Title 7, Section 1-A which states: "The Legislature finds agriculture to be a major industry in the State, contributing substantially to the state's overall economy, essential to the maintenance and strengthening of rural life and values and necessary to the preservation of the health, safety and welfare of all of the people of this State."

"The survival of the family farm is of special concern to the people of the State, and the ability of the family farm to prosper, while producing an abundance of high quality food and fiber, deserves a place of high priority in the determination of public policy. For this purpose there is established the Department of Agriculture, Food and Rural Resources."

Maine Statute Title 7, Section 1-B which states: “agriculture is significant to the State's economy and that a prospering, stable rural community contributes to the rural quality of life, the preservation of productive farm, farmlands and open space.”

“The Legislature finds that programs that improve the employment opportunity, rural skills, food supply, health and nutrition of the rural people of Maine will improve the economy of Maine and improve the rural quality of life and the health of people and are therefore in the public interest.”

“The Legislature further finds the preservation of rural life and values in the State to be the joint responsibility of all public agencies, local, state and federal, whose policies and programs substantially impact the economy and general welfare of people who reside in rural Maine, such as the development and implementation of programs that assist in the maintenance of family farms...”

The provisions of Title 30-A of the Maine Revised Statutes, which recognizes the authority of Maine municipalities to adopt any Ordinance or Bylaw on any subject not expressly prohibited by the Maine legislature, and which establishes a presumption that all Ordinances are valid as adopted pursuant to a municipality’s inherent home rule authority.

DEFINITIONS:

- A. “*Crop*” means a living, growing agricultural or forest product.
- B. “*DNA*”, or deoxyribonucleic acid, means a complex protein that is present in every living cell of an organism. It contains the genetic code for the organism’s development and transmits hereditary patterns.
- C. “*Genetically modified organisms*” (sometimes referred to as “*GMOs*”) means a specific organism or offspring of an organism containing DNA which has been altered or amended through genetic engineering. Such organisms are also sometimes referred to as “*genetically engineered organisms*.” Through pollination, the DNA of GMOs may crossover to non-GMO crops. Subsequent generations of the non-GMO crop will contain the genetically altered DNA and may or may not exhibit GMO traits.
- D. “*Genetic engineering*” (as defined by the USDA as part of the National Organic Program) “refers to a variety of methods used to genetically modify organisms or influence their growth and development by means that are not possible under natural conditions or processes and are not considered compatible with organic production. Such methods would include recombinant DNA, cell fusion, and micro- and macroencapsulation, and the following results when achieved by recombinant techniques: gene deletion and doubling, introducing a foreign gene, and changing the positions of genes. Such methods would not include the use of traditional breeding, conjugation, fermentation, hybridization, in vitro fertilization, or tissue culture.”
- E. “*Organism*” means any living thing.
- F. “*Produce*” means “to bring forth; bear; yield” (from Webster’s New World Dictionary, third college edition).

FINDINGS:

- A. Genetically engineered life forms and products are being developed with precipitous speed, and have been introduced into the marketplace before the potential risks and long-term effects of these products have been studied. There are inadequate long-term studies on the impact of genetically modified foods and their impact on humans and non-human organisms. It is necessary to protect Montville's agricultural industry, forest industry, natural environment, private property rights of our citizens, and the health and safety of our people by restricting the introduction of genetically altered crops, and other organisms.
- B. The impact on our natural environment from genetically engineered organisms and contamination from such is unpredictable, ultimately uncontrollable, and has received little study. It is undeniable that genetically engineered crops have the potential to contaminate other crops, plants, and trees at a distance, through cross-pollination. This may alter or displace existing species of plants (both native plants and those varieties grown by gardeners, farmers, nurserymen, and foresters), thereby threatening historically important preserved and cultivated varieties of food crops, potentially destroying local ecosystems and potentially irreparably and dramatically altering biodiversity.
- C. The planting of genetically modified crops may accelerate the development of resistant pest populations, thus limiting the types of pesticides and herbicides that can be used in the future to control those pests. Therefore, these crops may have the potential to produce "super weeds" and "super insects" that are difficult and expensive for gardeners, farmers, foresters, and communities to control.
- D. It is impossible for a farmer or forester who grows genetically engineered seed to contain the pollen (reproductive cells containing genetically altered material) from those crops, and to prevent the contamination of conventionally propagated crops belonging to others at a distance.
- E. The unintended presence of genetically modified plant material in agricultural products can have significant economic impacts for farmers and others who sell in organic markets and in other domestic and foreign markets that prohibit or reject products containing such material.
- F. Agricultural impacts related to the release of genetically modified plants into the open environment also effect non-commercial gardens, including but not limited to, residential gardens, community gardens, school gardens, and others. Many Montville residents sustain their families with produce grown in their home gardens. Sound human health and food quality concerns deserve the utmost protection in our community.

STATEMENT OF LAW:

- A. It shall be unlawful for a person, partnership, firm, or organization of any kind to produce genetically modified organisms in the Town of Montville for a period of ten (10) years.
- B. A person growing genetically modified crops at the time this Ordinance is enacted may not expand production of GMO crops and will have a period of two (2) years to phase out the growing of all GMO crops.
- C. Within thirty (30) days of the enactment of this Ordinance, a grower using GMO seeds must sign an agreement with the Health Officer that the phase-out process has begun.

- D. As they continue to grow GMO crops during the phase out period, the grower must register with the Health Officer the number of acres, seed variety or number, and seed source of GMO crops still under cultivation.
- E. At the end of two (2) years, the grower will cease to grow GMO crops as long as the moratorium outlined in the Ordinance is in effect and will provide proof to the Health Officer that he/she has transitioned to growing non-GMO crops.

SUNSET:

- A. The legal enforceability of this Ordinance shall expire ten (10) years after its date of passage.
- B. At any time previous to the expiration date of, or within thirty (30) days of the expiration date of this Ordinance, the issue of extending its expiration date shall be considered by the Town of Montville. At that time, the Town may, by majority vote, extend the legal enforceability of this Ordinance for another ten- (10) year term.

ENFORCEMENT:

- A. The Code Enforcement Officer is hereby designated to enforce this Ordinance and shall exercise such powers as are legal and necessary to carry out and effectuate its purpose.
- B. If a person currently growing GMO crops does not phase out such crops in the time specified in this Ordinance and an agreement cannot be negotiated with the Code Enforcement Officer, the grower may make an appeal to the Board of Appeals.

ADMINISTRATION:

This Ordinance shall be administered by the Select Board of Montville.

SEVERABILITY:

If any portion of this Ordinance shall be held to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

EFFECTIVE DATE:

The effective date of the Ordinance is the date of the adoption by vote at a Town Meeting.

COVER LETTER TO MONTVILLE'S CITIZENS

The second page of this letter answers the question "Why is the Planning Board now proposing a Mobile Home Park (or Trailer Park) Ordinance?" and notes the process by which the Town has proceeded to enact the attached proposed Ordinance.

WHAT IS NEW IN MONTVILLE'S PROPOSED MOBILE HOME PARK ORDINANCE?

- The proposed Mobile Home Park Ordinance only addresses real estate developments which include 3 or more trailers or similar portable homes. This Ordinance does not have any jurisdiction over landowners wishing to place 1 or 2 trailers on their property.
- Much of this new Ordinance includes existing State regulations and repeats some requirements already found in the Town's Subdivision Ordinance. Thus, most of the attached document is a sensible repetition of regulations the Town or the State have already adopted. The Board recognizes that we all would like to avoid a lengthy document, but also feels that in the long run, a more comprehensive document will provide clarity for those people seeking to develop mobile home parks and will ease the Board's task as it responds to the already complex Mobile Home Park application process.
- In its aim to address the many problems created by any large scale development in the Town, the Mobile Home Park Ordinance attempts to:
 - *Promote the health and safety of residents of any new trailer parks in the town,*
 - *Enhance the overall quality of life of residents,*
 - *Maintain the unique rural quality of the Town of Montville, and*
 - *Limit tax increases caused by 1) higher State valuations of the municipality and 2) population increases in new trailer parks (these new developments don't provide the Town with much tax revenue, but may mean extra costs to the Town through schools, roads, etc.)*
- Generally, new requirements for developers of Mobile Home Parks are found in Article VIII of the attached proposed Ordinance. Specifically, these terms provide:
 - *Standards to more effectively protect drinking water.*
 - *Assurance that sewage from a trailer won't be distributed on another trailer lot.*
 - *Means to assess pollution on property adjacent to Mobile Home Parks and to prohibit their construction in unhealthy environments.*
 - *Protection from property tax increases through "phased development" which will allow the Planning Board to slow down any rapid increases in the Town's population of non-taxpayers.*
 - *Fire, heating, maintenance, and safety standards which will protect trailer occupants from various hazards.*
 - *Provisions for adequate parking space for occupants and visitors.*

Continued

COVER LETTER TO MONTVILLE'S CITIZENS, page 2

- New requirements for developers of Mobile Home Parks (Continued)
 - *Measures that will make living in a new Mobile Home Park more comfortable through curved roads, lighting, landscaping, etc.*
 - *Provisions for adequate storage of tools and other belongings as well as storage and disposal systems for household refuse.*
 - *Details particular to Mobile Home Parks such as the percentage of the lot that can be covered by a trailer, numbering of units, etc.*

HISTORY — Why is the Planning Board now proposing a Mobile Home Park Ordinance?

- In 1988 and 1989, the State Legislature enacted laws which regulate Mobile Home Parks (or Trailer Parks.) Essentially, these laws prohibit towns from banning mobile home parks entirely, and establish a number of standards such as those which limit minimum trailer lot sizes, etc. Moreover, the standards enacted by the State are the same for Portland or Bangor as for rural locations such as Montville, and fail to recognize any desire to preserve a rural way of life.
- During 1993 and 1994, the Planning Board was required to review an application for a mobile home park to be built near the Plantation. During this process, many people on the Board determined that existing ordinances – primarily the Town's Subdivision Ordinance – did not address issues that a Mobile Home Park ordinance might more adequately address. These issues include those involving water quality and septage, quality of life, the effect of increased population on taxes in the town, etc.
- In October of 1994, the Board voted to form a subcommittee to design a Mobile Home Ordinance that would allow the Planning Board to more adequately uphold its mandate to "preserve the rural character of the Town, assure the comfort, convenience, safety health and welfare of the people, and promote development in an economically sound manner."
- In the past few months, newspaper advertisements invited Townspeople to join Planning Board members on the subcommittee. It reviewed the ordinances of 5 towns, including those in Searsmont and Washington. The subcommittee also gathered information from the State's Manufactured Housing Board and the Southern Maine Regional Planning Commission and, at one of its meetings, heard from a representative of Maine Tomorrow. Then, in late December, it began to write the attached document.
- On January 25th, at its regular monthly meeting, the Planning Board approved the proposed Ordinance. At a previously advertised February 1st Public Hearing the Planning Board heard from a few members of the public and began a process of revisions on the Ordinance. At its monthly meeting on February 22, the Board approved a final document which will be voted on at Town Meeting in March. The Planning Board welcomes suggestions and questions about this subject. Please contact Planning Board Chairman Chris Schmidt at 342-5234. Other members of the Board are: Jay Legore, Jeff McKeen, Esther Mathieson, Sally Thornley, Peter Kassen, Diana Becker, Paula Wetmore, and Tom Hrichak.

MOBILE HOME PARK ORDINANCE

ARTICLE I - CONTENTS OF THIS ORDINANCE

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ARTICLE II - TITLE & PURPOSE

§1 Title

This Ordinance shall be known and may be cited as the town of Montville, Maine Mobile Home Park Ordinance and will be referred to herein as "this Ordinance".

§2 Purpose

The purpose of this Ordinance is to ensure the comfort, convenience, safety, health and welfare of the people of the town of Montville, Maine; to protect the environment; to promote the development of an economically sound and stable community; to promote the availability of affordable housing while maintaining the rural, residential character of the town; and to address problems which are unique to high density housing.

ARTICLE III - AUTHORITY, APPLICABILITY & ADMINISTRATION

§1 Authority

This Ordinance is enacted pursuant to Home Rule Powers as provided for in Article VIII -A of the Maine State Constitution and under the authority granted to the Town by the statutes of the State of Maine Title 30-A, M.R.S.A. Section 3001, and in accordance with the provisions of the Title 30-A, M.R.S.A., Section 4358, Subsection 3.

§2 Administration

The provisions of this Ordinance shall be administered by the Town of Montville, the Montville Planning Board and enforced by the Town of Montville, Maine Code Enforcement Officer.

§3 Effective Date

This Ordinance shall be known as the Mobile Home Park Ordinance of the Town of Montville, adopted to be effective by vote of Town meeting on _____.

§4 Applicability to this Ordinance

- A. The provisions of this Ordinance shall apply to all proposed mobile home parks and to expansion of any existing mobile home parks within the boundaries of the Town of Montville, Maine. Mobile home subdivisions as expressly defined in Article XI, §3 of this Ordinance are not governed by this Ordinance, except in the case where the individual owners form a corporate body that owns and governs said mobile home lots in common.
- B. An approved mobile home park plan shall be necessary under the terms of this Ordinance, prior to the establishment or expansion of a mobile home park, and shall consist of a plan as required by Article VII of this Ordinance, including all attachments, signed by the Planning Board, and may include any conditions attached by the Planning Board.
- C. An approved mobile home park plan shall not exempt an applicant from meeting other applicable local, state or federal requirements.

ARTICLE IV - SEVERABILITY & CONFLICT

§1 Severability

Should any article of this Ordinance be declared by the courts of the State of Maine or by the courts of the United States to be invalid, such decisions shall not invalidate any other article or provision of this Ordinance.

§2 Conflict with other Ordinances

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

ARTICLE V - AMENDMENT OF THIS ORDINANCE

§1 Initiation of Amendment

An amendment to this Ordinance may be initiated by:

- A. The Planning Board (provided that a majority of the Board has so voted); or
- B. Request of the Selectmen to the Planning Board; or
- C. Written petition to the Selectmen bearing signatures of registered voters of the Town of Montville, Maine numbering at least ten percent of the number who voted in the last gubernatorial election.

§2 Adoption of Amendment

All proposed amendments to this Ordinance shall be referred to the Planning Board for their recommendation. The Planning Board may hold a public hearing on any proposed amendment. Within thirty days of receiving a proposed amendment, the Planning Board shall make known their recommendation to the Selectmen and to the Town. After receiving the recommendation of the Planning Board, the amendment shall be voted on by the voters of the Town of Montville, Maine at a Town Meeting, a majority vote being required for adoption.

ARTICLE VI - PREAPPLICATION

§1 Preapplication Procedure

- A. Applicant presentation and submission of sketch plans.
- B. Question and answer period. Board makes specific suggestions to be incorporated by the applicant into subsequent submissions.
- C. Scheduling of on-site inspection.

§2 Preapplication Submission

The preapplication sketch plan shall show, in simple sketch form, the proposed layout of roads, lots, buildings and other features in relation to existing conditions. The sketch plan, which 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 mobile home park. 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. The sketch plan shall be accompanied by a copy of that portion of the U.S.G.S. topographic map of the area showing the outline of the proposed mobile home park.

§3 Contour Interval and On-Site Inspection

Within thirty days, the Board shall determine and inform the applicant in writing of the required contour interval on the mobile home park plan. The Board, or its designated agent, shall, at its earliest convenience and normally within 30 days, make an on-site inspection. If any conditions such as snow exist to prevent an adequate inspection in the opinion of the Board, the applicant shall be notified in writing, and any time-limits for review shall be extended accordingly until an on-site inspection can be made. The applicant shall place "flagging" at the centerline of any proposed roads, and at the approximate intersections of the road centerlines and lot corners, prior to the on-site inspection.

§4 Rights not Vested

The submittal or review of the preapplication sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A., §302.

ARTICLE VII - MOBILE HOME PARK REVIEW

§1 Applicability of Article VII

The provisions of this article shall be in lieu of the review requirements of the Subdivision Ordinance.

gZ Application

Prior to the establishment or expansion of a mobile home park, an applicant shall apply for an approved mobile home park plan. Each application shall include:

- a. two reproducible, stable-based transparent originals, one to be recorded at the Waldo County Registry of Deeds and one to be filed at the Montville Town Office,
- b. ten copies on paper, of a site plan, no larger than 24 by 36 inches in size, and having a margin of two inches outside the border line on the left side for binding, and a one inch margin outside the border on the remaining sides with space reserved on the plan for the endorsement of the Planning Board to a scale of not more than one hundred feet to the inch;
- c. plans, sections, and elevations necessary to describe the proposed project.
- d. The following information, where applicable, and any other information that may be required by Article VIII of this Ordinance shall be included:
 - a. Name, address and telephone number of the applicant, and the name, address and telephone number of the owner of the property, if different from the applicant.
 - b. The date the plan was prepared with the name, address and telephone number of the person or company that prepared it.
 - c. Scale of the drawings submitted and compass rose (all dimensions to be marked in feet or decimals of a foot).
 - d. Contour lines showing elevations in relation to mean sea level at appropriate intervals to show the effect on the land of existing and proposed grades for areas to be excavated or filled.
 - e. Boundaries of the tract of land showing lot lines, and number(s), and abutting lots illustrated on the Town of Montville Tax Assessor's Maps, with total acreage indicated. The Planning Board may require a survey by a licensed surveyor.
 - f. Verification of right, title or interest the applicant has in the property.
 - g. A copy of the deed or deeds of the property together with copies of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
 - h. Location of existing and proposed mobile homes and other structures.
 - i. Location of buildings or other structures on abutting properties within 300 feet of the property lines of the proposed park.
 - j. Location of existing public and private streets, roadways and rights-of-way.
 - k. Location of proposed access road(s) to the mobile home park from public streets or roadways.
 - l. The following disclaimers shall be attached to the plan to be recorded at the Registry of Deeds and filed with the municipality, as well as any other notes or conditions of approval:
 1. "The land within the park shall remain in a unified ownership and the fee to lots or portions of lots shall not be transferred. "
 2. "No dwelling unit other than a manufactured housing unit shall be located within the park."
 3. "All existing or proposed roads shown in this mobile home park plan shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town of Montville, Maine."
 - m. An estimate of the average daily traffic projected to be generated by the park and a traffic impact analysis, if required, as stated by Article VIII, §7-F of this Ordinance.

- n. Location and arrangement of proposed off-street parking and loading areas, driveways and maneuvering areas.
- o. Location of existing and proposed pedestrian walkways.
- p. Location of existing and proposed utilities and easements, including sanitary sewerage, water supply, and electricity.
- q. Location of all outdoor lighting.
- r. Location and proposed use of areas proposed for outdoor recreation or for reserved open space as per Article VIII, §5 of this Ordinance.
- s. Location and type of existing and proposed fences, hedges, and trees exceeding 6-inches in diameter measured four feet above ground level.
- t. Location of existing natural drainage ways and proposed storm drainage facilities, including dimensions of culverts, pipes, etc.. If any portion of the mobile home park is in a flood-prone area, the plan shall show the boundaries of all flood hazard areas and the 100-year flood elevation.
- u. An analysis of ground water impact if required by Article VIII, §8-A of this Ordinance.
- v. Information about Soils Conditions on the site of the proposed mobile home park:
 - 1. For proposed subsurface sewage disposal, the information shall include evidence of soil suitability according to the standards established in Article VIII, §12 of this Ordinance.
 - 2. The Site Plan shall show the location of soil test areas and natural wet areas.
 - 3. A soil erosion and sedimentation control plan, prepared in accordance with the latest standards of the U.S. Soil Conservation Service.
- w. A "Preservation of Natural and Historic Features" map as required by Article VIII, §10 of this Ordinance.
- x. For projects within lake watershed districts a phosphorus control analysis and plan may be required by the Board.

§3 Application Procedures

A. Submission of Application

- 1. Applications for mobile home park permits shall be submitted to the Chair of the Planning Board who shall issue to the applicant a dated receipt. Within 30 days from the date of receipt, the Planning Board shall determine the applications completeness and notify the applicant in writing either that the application is complete or incomplete. If the application is incomplete, the planning board shall specify what additional material is required to complete the application. The applicant assumes all responsibility to provide the required information. Determination by the Planning Board that the application is complete in no way commits or binds the Planning Board as to the adequacy of the application to meet the criteria of the Subdivision Law, Title 30-A, M.R.S.A., Section 4401-4407 or of this Ordinance.
- 2. The application shall be accompanied by a fee specified by the Planning Board.
- 3. The Planning Board shall provide a public advertisement.
- 4. The Applicant shall provide written notice sent certified return receipt to all owners of abutting property, including abutters to any right-of-way leading to the subdivision, that an application for subdivision approval has been submitted to the Board, including the date of the meeting at which it will be discussed. If the proposed subdivision will impact any town bordering Montville, the Board will notify that town's Selectmen. Copies of certified return receipts shall be submitted to the Board.

B. Public Hearing

A public hearing on the proposed mobile home park, shall be held within thirty days of having notified the applicant in writing that a complete application has been received. The Board shall advertise the public hearing, and include the following information:

1. date, time and place of hearing,
2. location of proposed mobile home park by address and
3. the number of proposed units or lots.

The notice shall be published in a newspaper of general circulation in the Town of Montville, Maine and the date of such publication shall be at least fourteen days prior to the hearing. Public hearings shall be conducted in accordance with the procedures in Title 30-A, M.R.S.A., Section 2691.

C. Planning Board Decision on the Mobile Home Park Application

1. The Planning Board shall, within thirty days of a public hearing, or within sixty days of having received a complete application, if no hearing is held, or within such other time limit as may be mutually agreed to by the Planning Board and applicant, issue an order:
 - a. denying or granting approval of the proposed mobile home park,
 - b. granting approval on such terms or conditions as it may deem advisable to satisfy the criteria contained in this Ordinance and in the Subdivision Law. In issuing its decision, the Planning Board shall make a written finding of fact establishing that the proposed mobile home park does or does not meet the provisions of this Ordinance.
2. Upon approval of the mobile home park, a majority of the Board shall sign all copies of the development plan. The original shall be filed by the applicant with the Waldo County Registry of Deeds. One copy shall be retained by the applicant, one copy shall be retained by the Planning Board, one copy shall be filed with the Tax Assessor, and one copy shall be filed with the Code Enforcement Officer. The Planning Board shall maintain a permanent record of their action on the mobile home park. Any plan not recorded within 90 days with the Waldo County Registry of Deeds shall be null and void.
3. Approval by the Planning Board of a mobile home park plan shall not be deemed to constitute or be evidence of any acceptance by the Town of Montville, Maine to own or maintain any road, easement, or other open space shown on such plan.

D. Construction limitations

1. Construction of the proposed mobile home park is subject to the provisions of Article IX, §3-D of this Ordinance.
2. After approval of the mobile home park, and before any construction begins, the applicant shall apply for and receive all applicable permits as may be required by the Subdivision Ordinance or any other Town, state or federal regulations, laws or ordinances regulating such developments.

E. Expiration of Approval

All approvals shall expire within one year of the date of issuance unless work thereunder has commenced. If work is not completed within two years from the date of approval, a new application must be made.

F. Plan Revisions after Approval

Plan revisions after approval may be made as provided for in Article IX, §4 of this Ordinance.

G. Limitation on Units

After the effective date of this Ordinance as stipulated in Article III, §3 mobile and modular homes as defined by Article XI, §3 and mobile homes meeting the safety standards contained in Article VIII, §11 may be located in a mobile home park sited within the Town of Montville, Maine. Excepting any units legally sited as of the effective date of this Ordinance as stipulated in Article III, §3 no manufactured housing unit which fails to meet the definition of mobile or modular home contained in Article XI, §3 or which otherwise fails to meet the safety standards contained in Article VIII, §11 travel trailers, units not suitable for year-round occupancy, or site built home shall be located in a mobile home park situated within the Town of Montville, Maine.

H. Expert Witnesses and Opinions

The Planning Board shall retain the right to call, cite, reference, examine, cross-examine, quote, or question any authority, expert, professional, or experienced individual of their choice who, in their sole opinion, may have pertinent information regarding the proposed mobile home park, at any time during the approval process or during the construction process. All costs for above services shall be borne by the developer of the proposed mobile home park. Consultation shall be sought first from sources without fees.

§4 Appeals and Variances

A. Administrative Appeals

1. Any person aggrieved by an action from determinations of the Planning Board pursuant to this Ordinance may file an application for appeal in writing within 30 days of the granting or denial of approval from the Planning Board. The applicant shall file this appeal with the Chair of the Board of Appeals, who shall issue a dated receipt within 7 days, and notify the applicant in writing that the application is either complete or incomplete. The Chair shall specify what additional material is needed, if any, to make the application complete.
2. The fee to accompany applications for appeal shall be specified by the Planning Board. An additional fee shall be required to cover the costs of advertising, postal notification, and dissemination of information for the appeals hearing.
3. The Board of Appeals shall, upon complete written application of an aggrieved party and after public notice, hear appeals within 30 days of such application. Such hearing shall be held in accordance with Maine State Law. The board shall cause notice of the date, time and place of public hearing, the location of the proposed mobile home park, and the general nature of the question involved to be given in writing to the applicant of the appeal and published in a newspaper of general circulation in the Town of Montville, Maine at least two times; the date of the first such publication shall be at least fourteen (14) days prior to the hearing. The Board shall also cause notice of the hearing be given to the Selectmen, the Planning Board, the Code Enforcement Officer, and all property owners within 3,000 feet of the boundaries of the proposed mobile home park at least 21 days prior to the date of the hearing.
4. If such application for appeal is not made within the stated time, the prior decision of the Planning Board shall be final.
5. Following such hearing, the Board of Appeals may reverse the decision of the Planning Board only upon a finding in fact that the decision of the Planning Board is clearly contrary to specific provisions of this Ordinance. The Board of Appeals shall render a

decision in writing to the applicant, Planning Board Chair, Code Enforcement Officer, and the Selectmen within 30 days of the appeal hearing.

B. Variances

1. The Board of Appeals may, upon written application and hearing as outlined in Article VII, §4-A of this Ordinance grant a variance from the strict application of the dimensional requirements of this Ordinance, including lot sizes, setbacks, site distances, lot coverage by structures, sign requirements, and parking requirements only if the strict application of the terms of this Ordinance would result in undue hardship, as defined in Article XI, §3 of this Ordinance, to the applicant.
2. Variances are not justified unless all elements of undue hardship as defined in Article XI, §3 of this Ordinance are present in the case.
3. Variances to relieve economic hardship or to alleviate economic inconvenience, or to make a project economically viable, or to enhance economic viability, are prohibited.
4. Following the public hearing, as outlined in Article VII, §4-A of this Ordinance, the Board of Appeals shall render a decision to grant a variance in writing to the applicant, Planning Board Chair and the Selectmen within 30 days of the appeal hearing.

C. Appeal to Superior Court

Any aggrieved party having proper standing may appeal any decision of the Appeals Board under this Ordinance to the Superior Court of Waldo County, within thirty days of a written decision in accordance with Maine State Law.

- D. Any appeal or variance granted contrary to the standards set forth in this Ordinance, except as noted in Article VII, §4 of this Ordinance, shall be null and void.

ARTICLE VIII - MINIMUM DESIGN & PERFORMANCE STANDARDS

§1 General Requirements

- A. Except as stipulated below, mobile home parks shall meet all the requirements of Montville's Subdivision Ordinance, and shall conform to all applicable State laws and local ordinances or regulations. Where the provisions of this article conflict with specific provisions of the Subdivision Ordinance the provisions of this article shall prevail.
- B. Where a developer elects to create a mobile home park, the park plan shall show lots and the developer shall demonstrate that the development standards described herein are met.
- C. The owner or operator of a mobile home park shall be responsible for ensuring the maintenance of all infrastructure, structures and their sites, including snow removal from all park roads and walkways and sanding where required. Park management shall conform to Maine State Laws. Compliance with this Ordinance shall not exempt the park owner, developer, or manager from complying with other applicable local, state, and federal codes and regulations.
- D. No manufactured housing may be sited within the Town of Montville, Maine without either a bill of sale indicating the name, address, dealer registration number and sales tax certificate number of the person who sold or provided the manufactured housing to the buyer locating such housing in this Town; or evidence of certification of payment of the sales tax in accordance with Title 36, M.R.S.A., Section 1760, Subsection 40 and Title 36, M.R.S.A., Section 1952-B. A copy of each document required for each housing unit shall be filed with the Code Enforcement Officer prior to the siting of said unit.

- E. Mobile home parks shall be specifically prohibited from areas with unsuitable soils; where terrain is too steep; where noisy, noxious, polluted or otherwise unsuitable conditions exist; within 300 feet of a numbered highway; in wetlands; in historic areas and in environmentally sensitive areas, as defined in Article XI, §3 of this Ordinance. Mobile home parks shall be prohibited on land that has soils vulnerable to the pollution of the aquifer as defined in Article VIII, §8-B.

§2 Lot Area, Lot Width and Lot Coverage

These requirements shall be the maximum allowed by Title 30, M.R.S.A. section 4358, currently as follows:

- A. Lots served by individual subsurface waste water disposal systems
 - Min. lot area.....20,000 square feet
 - Min. lot width.....100 feet
- B. Lots served by a central subsurface waste water disposal system located on a parcel designated solely for that purpose, maintaining 20 foot setbacks to all above and below ground construction, and approved by the Maine Department of Human Services or a licensed plumbing inspector:
 - Min. lot area.....12,000 square feet
 - Min. lot width.....75 feet
- C. The overall density of any park served by any subsurface wastewater disposal system shall not exceed one dwelling unit per 20,000 square feet of total park area. The overall density of the mobile home park shall be determined by the combined area of its mobile home lots plus the sum of the area required for road rights-of-way, the area required for buffer strips (if any), the open space area as defined in Article VIII, §5-A of this Ordinance.
- D. Non-rectangular lots shall be of a size and configuration capable of containing the Town minimum rectangular lot within their boundaries.
- E. Lots located within any shoreland zoning district shall meet the lot area, lot width and shore frontage requirements for that district.
- F. All buildings on the mobile home lot, including accessory buildings and structures, but excluding open decks and parking spaces, shall not cover more than 50% of the lot area.

§3 Setback Requirements

- A. The following minimum unit setbacks shall apply to all homes and accessory buildings located in the mobile home park:
 - Front setback.....20 feet
 - Side setback.....20 feet
 - Rear setback.....10 feet
- B. So as to avoid monotony and sameness, the Planning Board may allow the front setback on a private road within the mobile home park to be varied provided that no home may be closer than 10 feet from the right-of-way and the average distance is at least 20 feet for all units.
- C. On lots which abut a public way either within the park or adjacent to the park, all structures shall be setback 50' from the right-of-way.
- D. On lots which are located within a shoreland zoning district, structures shall meet the setback requirements and setback from high water mark requirements in the Shoreland Zoning Ordinance.

- E. The Planning Board may allow unit side yard setbacks to be reduced to 5 feet provided a distance of 40 feet is maintained between units for the purpose of providing more useable yard space on one side of a home.

§4 Buffering

- A. If a park is proposed with a residential density at least twice the density of existing development, or at least twice the density permitted in situations where neighboring land is undeveloped, the park shall be designed with a continuous landscape area not less than fifty feet in width, (or the maximum allowed by the Title 30, M.R.S.A. section 4358), free of all structures or streets.
- B. If a mobile home park contains or is adjacent to an existing borrow pit, in accordance with the D.E.P. Site Location & Development Law, chapter 375, a natural buffer strip at least 50 feet wide, plus 4 times the average percent slope must be maintained. If or when the pit is operational, a visual screen at least eight feet high in the form of planting or a wooden fence, shall be provided by the park owner. The screen shall be permanently maintained and any plant material which dies shall be replaced within one year.
- C. If the proposal park is affected by dust or odors which a majority of the Planning Board members deem unhealthy or offensive, the developer must take measures to eliminate the source of the dust or odor, reduce the level to the Board's satisfaction, or maintain a satisfactory distance from the source of the dust or odor.

§5 Open Space Reservation

For mobile home parks served by a public sewer:

- A. An area no less than 10% of the total area of the mobile home park lots shall be reserved as open space. The area reserved for open space shall be provided in parcels which the board deems to be useful in size, number and configuration, and shall be maintained and used for its stated purpose. Parking space, driveways and streets and buffer areas are not considered useable open space but community recreation buildings, pools and courts are considered as open space.
- B. At least 50% of the reserved open space shall have slopes less than 5%, shall not be located on poorly or very poorly drained soils, and shall be accessible directly from roads within the park.
- C. All developed open space shall be designed and landscaped for the use and enjoyment of the park residents and shall be maintained for their long term use. Plans for these areas shall be submitted in the application.
- D. To the maximum extent possible, undeveloped open space shall be left in its natural state. Improvements to make trails for walking and jogging or to make picnic areas are permitted. Plans for these areas shall be submitted in the application.
- E. The developer shall submit as part of the application, a copy of that portion of the proposed mobile home park rules, and a plan which specify how the open space is to be used and maintained, and what conditions are to apply to its use. The plan shall specify the areas to be dedicated to open space and recreation.
- F. Reserved open space shall not be used for future mobile home lots.

§6 Road Design, Circulation, Traffic Impacts and Parking

Roads within a park shall be designed by a Professional Engineer, registered in the State of Maine.

- A. Roads which the applicant proposes to be dedicated as public ways shall be designed and constructed in accordance with the standards for roads as detailed in Article VII of the Town of Montville, Subdivision Ordinance.
- B. Roads which the applicant proposes to remain private ways shall meet the following minimum design standards.
 - 1. For two way roads:
 - i. Minimum right of way width:.....23 feet
 - ii. Minimum width of traveled way:.....20 feet
 - 2. For one way roads:
 - i. Minimum right of way width:.....18 feet
 - ii. Minimum width of traveled way:.....14 feet
 - 3. Cul-de-sac turnarounds shall have a minimum radii of 50 feet at the outer edge of the pavement, exclusive of any parking areas.
 - 4. The surfacing of all private roads shall be constructed in accordance with Article VII, of the Town of Montville, Subdivision Ordinance.
 - 5. The park owner or management shall be responsible for snow removal and sanding on all park roads.
- C. The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation shall be based on the Trip Generation Manual, 1987 edition, published by the Institute of Transportation Engineers. If the park is projected to generate more than 400 vehicle trip ends per day, the application shall also include a traffic impact analysis, by a professional engineer registered in the State of Maine with experience in transportation engineering.
- D. Any mobile home park expected to generate average daily traffic of 200 trips per day or more shall have at least two road connections with existing public roads. Any road within a park with an average daily traffic of 200 trips per day or more, shall have at least two road connections leading to existing public roads, other roads within the park, or other roads shown on an approved subdivision plan.
- E. No individual lot within a park shall have direct vehicular access onto an existing public road.
- F. The intersection of any road within a park and an existing public road shall meet the following standards.
 - 1. The desired angle of intersection shall be 90°. The minimum angle of intersection shall be 75°.
 - 2. The maximum permissible grade within 75 feet of the intersection shall be 2%.
 - 3. A minimum sight distance of 10 feet for every mile per hour of posted speed limit on the existing road shall be provided. Sight distances shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder line with the height of the eye 3 ½ feet above the pavement and the height of object 4 ¼ feet.
 - 4. The center line of any road within a park intersecting an existing public road shall be no less than 125 feet from the center line of any other road intersecting that public road.
 - 5. No connection of a road within a mobile home park shall be made with any public road unless the public road meets or exceeds the standards for roads in Article VII of the Town of Montville, Subdivision Ordinance.

6. Where necessary to safeguard against hazards to traffic, pedestrians and/or to avoid traffic congestion, turning lanes, traffic directional islands, frontage roads, and traffic controls shall be provided on public roads at the developer's expense.
- G. Each lot shall be legibly marked for identification, and easily accessible to emergency vehicles, permitting fire apparatus and emergency vehicles to approach within 100 feet.
 - H. Curvilinear roads shall be utilized within the park wherever possible. No road within the park shall be more than 200 feet long without a curve or bend of 5° or more.
 - I. All roads within the park and connecting with roads outside the park shall be marked with signs designating their name, appropriate safety and stop signs, and with appropriate lines and markings painted on them, all approved by the Road Commissioner. Proposed road names shall be approved by the Planning Board.
 - J. On-street parking shall be prohibited within the park unless an eight foot parking lane is provided in addition to the road width requirements of Article VIII, §7-B of this Ordinance, in which case on-street parking may be permitted on the side of the road where the parking lane is located.
 - K. For each mobile home lot there shall be provided and maintained at least two hard surfaced off-street parking spaces. Each parking space shall contain a minimum of 200 square feet with minimum dimensions of 10 feet by 20 feet. This requirement may be waived if a parking lane is provided that supplies an equivalent number of parking spaces.
 - L. Guest and service parking shall be provided within the boundaries of the park at a ratio of one space for every four mobile home lots. Such parking shall be hard surfaced and the spaces shall be marked and reserved for that sole use. These parking spaces shall be off-street unless a parking lane is provided that supplies the equivalent number of spaces in addition to those required under Article VIII, §7-K.
 - M. The mobile home park shall contain pedestrian walkways that link all units and all service and recreational facilities. Such walkways shall be lit and adequately surfaced with 4" of hard surface. A portion of the road surface may be reserved for walkways provided the roadway width is increased and marked accordingly. Walkways shall be a minimum width of 3 feet. The park owner or management shall be responsible for snow removal on all park walkways.
 - N. Outdoor lighting shall be provided to adequately illuminate internal streets and pedestrian walkways. Lights shall be sized and directed to avoid adverse impact on adjacent properties. Lighting costs and maintenance are the responsibility of the park management.

§7 Ground Water Impacts

A. Assessment Submitted

Accompanying the application for approval of any mobile home park which is not served by public sewer shall be an analysis of the impacts of the proposed mobile home park on ground water quality. The hydrogeologic assessment shall be prepared by a certified geologist or professional engineer registered in the State of Maine, experienced in hydrogeology and 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 mobile home park.
3. Drainage conditions throughout the mobile home park.
4. Data on the existing ground water quality, either from test wells in the mobile home park or from existing wells on neighboring properties.

5. An analysis and evaluation of the effect of the mobile home park on ground water resources. The evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the mobile home park, at the mobile home park boundaries and at a distance of 1000 feet from potential contamination sources, whichever is a shorter distance. For mobile home parks within the watershed of a lake, projections of the development's impact on groundwater phosphate concentrations shall also be provided.
 6. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the mobile home park and within 200 feet of the mobile home park boundaries.
- B. Standards for Acceptable Ground Water Impacts
1. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
 2. No mobile home park shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No mobile home park shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
 3. If ground water contains contaminants in excess of the primary standards, and the mobile home park is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
 4. If ground water contains contaminants in excess of the secondary standards, the mobile home park shall not cause the concentration of the nitrate-nitrogen, phosphate and other contaminate parameters in question to exceed 150% of the ambient concentration.
- C. 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 are recommended in the assessment, those standards shall be included as a note on the Plan.

§8 Conversion

No development or subdivision which is approved under this Ordinance as a mobile home park may be converted to another use or individual lots sold without the approval of the Planning Board, and meeting the appropriate lot size, lot width, setback and other requirements.

§9 Preservation of Natural and Historic Features

The Planning Board shall require that the proposed park include a landscape and management plan that will show the preservation of scenic, historic or environmentally desirable areas or any areas identified by the Maine Critical Areas Program as rare and irreplaceable areas.

§10 Safety Standards

The standards in Article VIII, §11 shall apply to all manufactured housing built before June 15, 1976, or any manufactured housing not built according to the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Chapter 70, to be located in a mobile home park in the Town of Montville, Maine. The park owner shall have the burden of proving to the Code Enforcement Officer that these standards are met.

- A. Exit Facilities - Exterior Doors

1. Required egress doors shall not be located where a lockable interior door must be used in order to exit.
2. Homes shall have a minimum of two exterior doors not less than twelve feet from each other as measured in any straight line direction regardless of the length of travel between doors. One of the required exit doors must be accessible from the doorway of each bedroom without traveling more than 35 feet.
3. All exterior swinging doors shall provide a minimum 28 inches wide by 74 inches high clear opening. All exterior sliding glass doors shall provide a minimum 28 inches wide by 72 inches high clear opening. Locks shall not require the use of a key for operation from the inside.

B. Exit Facilities - Egress Windows and Devices

Mobile homes shall have the following emergency egress facilities:

1. Every room designated expressly for sleeping purposes, unless it has an exit door, shall have at least one outside window or approved exit device. If an exit window or device is installed, it shall be listed in accordance with procedures and requirements of AAMA 1704-1985.
2. The bottom of the window opening shall not be more than 36 inches above the floor.
3. Locks, latches, operating handles, tabs and any other window, screen or storm window devices, which need to be operated in order to permit exiting, shall not be located in excess of 54 inches from the finished floor.

C. Interior Doors

Each interior door, when provided with a privacy lock, shall have a privacy lock that has an emergency release on the outside to permit entry when the lock has been locked by a locking knob, lever, button or other locking devices on the inside.

D. Fire Detection Equipment

1. At least one smoke detector (which may be a single station alarm device) shall be installed in the home in the following locations:
 - i. A smoke detector shall be installed on any wall in the hallway or space communicating with each bedroom area between the living area and the first bedroom door unless a door separates the living area from that bedroom area, in which case the detector shall be installed on the living area side as close to the door as practical. Homes having bedroom areas separated by any one or combination of communication areas such as kitchen, dining room, living room, or family room (but not a bathroom or utility room) shall have at least one detector protecting each bedroom area.
 - ii. When located in hallways, the detector shall be between the return air intake and the living area.
 - iii. The smoke detector shall not be placed in a location which impairs its effectiveness.
 - iv. Smoke detectors shall be labeled as conforming with the requirements of Underwriters Laboratory Standards No. 217, Third Edition, 1985, as amended through October 8, 1985, for single and multiple station smoke detectors.
 - v. Each smoke detector shall be installed in accordance with its listing. The top of the detector shall be located on a wall four inches to twelve inches below the ceiling. However, when a detector is mounted on an interior wall below a

sloping ceiling, it shall be located four inches to twelve inches below the intersection on the connecting exterior wall and the sloping ceiling (cathedral ceiling). The required detector(s) shall be attached to an electrical outlet box and the detector connected by permanent wiring method into a general current protection device protecting the branch circuit and the detector. The smoke detector shall not be placed on the same branch circuit or any circuit protected by a ground fault circuit interrupter.

E. Flame Spread

1. Ceiling interior finish shall not have a flame spread rating exceeding 75.
2. Walls and ceilings adjacent to or enclosing a furnace or water heater shall have an interior finish with a flame spread rating not exceeding 25. Sealants and other trim material two inches or less in width used to finish adjacent surfaces within this space are exempt if supported by framing members or by materials having a flame spread rating not exceeding 25.
3. Exposed interior finishes adjacent to the cooking range shall have a flame spread rating not exceeding 50.
4. Kitchen cabinet doors, countertops, backsplashes, exposed bottoms, and end panels shall have a flame spread rating not to exceed 200.
5. Finish surfaces of plastic bathtubs, shower units, and tub or shower doors shall not exceed a flame spread rating of 200.
6. No burner of a surface cooking unit shall be closer than twelve horizontal inches to a window or an exterior door.

F. Kitchen Cabinet Protectors

1. The bottom and sides of combustible kitchen cabinets over cooking ranges to a horizontal distance of six inches from the outside edge of the cooking range shall be protected with at least 5/16 inch thick gypsum board or equivalent limited combustible material. One inch nominal framing members and trim are exempted from this requirement. The cabinet area over the cooking range or cook tops shall be protected by a metal hood with not less than a three inch eyebrow projecting horizontally from the front cabinet face. The 5/16 inch thick gypsum board or equivalent limited combustible material which is above the top of the hood may be supported by the hood. A 3/8 inch enclosed air space shall be provided between the bottom surface of the cabinet and the gypsum board or equivalent limited combustible material. The hood shall be at least as wide as the cooking range.
2. The metal hood will not be required if there is an oven at least as wide as the cooking range installed between the cabinet and the range, centered above the range.
3. Ranges shall have a vertical clearance above the cooking top of not less than 24 inches to the bottom of combustible cabinets.

G. Carpeting

Carpeting shall not be used in a space or compartment designed to contain only a furnace and/or water heater. Carpeting may be installed in other areas where a furnace or water heater is installed, provided that it is not located underneath the furnace or water heater.

H. Heating and Fuel Burning System

A person holding a master license issued by the State of Maine Oil and Solid Fuel Examining Board shall inspect and provide a copy of written certification to the Montville C.E.O. indicating that the heating and fuel system meets the requirements of NFPA -31- Installation of Oil Burning Equipment as adopted by that Board.

I. Electrical System

A person holding a master license issued by the State of Maine Electricians Examining Board shall inspect and certify in writing that the electrical system is safe and meets the National Electrical code in effect at the time the home was manufactured.

§11 Sanitary Standards

A. Sewage Disposal

1. All water carried sewage shall be disposed of by means of one of the following:
 - i. A centralized private sewer system located on one or more parcels of land designated solely for sewage treatment, maintaining 20 ft setbacks to all above and below ground construction, and approved by the State of Maine Department of Human Services.
 - ii. Individual subsurface sewage systems located on soils approved by the local Plumbing Inspector and designed in accordance with State regulations.

B. Refuse Disposal

The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution.

§12 Fire Protection

A. If the mobile home park is to contain 20 living units or more and the park is not served by a piped central or public water supply then the developer shall construct a pond or ponds with suitable dry hydrant(s) within ¼ mile of the proposed park to provide adequate water storage for fire-fighting purposes. An easement shall be granted to the Town of Montville, Maine granting access to and maintenance of the dry hydrant(s) where necessary. The Planning Board may waive this requirement only upon submittal of evidence that there is an existing pond with dry hydrant(s) within ¼ mile of the proposed mobile home park or that the soil types within ¼ mile of the proposed mobile home park will not permit their construction. The burden of proving this rests solely with the developer.

B. If the park is served by a piped central water supply then the developer shall install fire hydrants within the park at the rate of one hydrant for every six units or less.

§13 Storm Drainage

A storm drainage plan shall be prepared by a professional engineer licensed by the State of Maine showing ditching, culverts, storm drains, easements, and other proposed improvements sufficient to accommodate a 25-year storm. Said storm drainage construction shall conform to the standards set forth in Article VII of the Town of Montville, Subdivision Ordinance.

§14 Storage

At least 294 cubic feet (for example, a utility building measuring approximately 6' wide by 7' long by 7' high or equivalent) of enclosed tenant storage facilities shall be conveniently provided on or near each mobile home lot for the storage of materials and equipment.

§15 Utility Requirements

All mobile home parks shall provide permanent electrical, water and sewage disposal connections to each mobile home in accordance with applicable state and local rules and regulations. State rules and regulations shall take precedence over local rules and regulations in the event there is a conflict.

§16 Signs

Signs and advertising devices shall be prohibited in the mobile home park except:

- A. One identifying sign at each entrance of the mobile home park no larger than 24 square feet which may be indirectly lit, but not flashing.
- B. Directional and informational signs for the convenience of tenants and the public relative to parking, office, traffic movement, etc.
- C. Mobile/manufactured home "for sale" signs, provided that such signs that face a public road shall be no more than 10 square feet and shall be limited to two signs per mobile home park.
- D. Mobile/manufactured home address signs.

The styles and location of the identifying sign shall not interfere with vehicle sight distance.

§17 Roof Loads

All homes to be located in the mobile home park with roofs added after manufacturing will require a professional engineer licensed in the State of Maine to inspect the roof to determine that the roof and home can withstand the extremes of the local weather and winds that may occur and certify such in writing.

ARTICLE IX - ENFORCEMENT

§1 Permits

- A. After approval of the final plan, and before any construction begins, the applicant shall apply for and receive all applicable permits as may be required by the Town, State, or Federal regulations, laws or ordinances regulating such developments and said permits. A copy shall be sent to the Board prior to construction.

§2 Construction Inspection

- A. At least five days prior to beginning each major phase of construction of required improvements, the developer or builder shall:
 - 1. Notify the Code Enforcement Officer in writing of the time when it is proposed to complete construction of the following phases of construction so that the Municipal Officers inspection can be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board:

- i. Roads and Walkways
 - ii. Septic and Drainage
 - iii. Utilities, Lighting and Signs
 - iv. Fire Pond, and Open Spaces, if required
 - v. Unit Siting, Buffers, and Utility Building Siting
 2. Submit a fee to pay for the costs of inspection of each phase as listed in Article IX, §2-A1, i through v, of this Ordinance. The amount to be established by the Planning Board.
- B. If the inspecting official finds upon inspection that any of the required improvements have not been constructed in accordance with the plans and specifications filed for the mobile home park, it shall be so reported in writing to the Selectmen, Planning Board, developer and owner of the mobile home park. The Selectmen shall take any steps necessary to preserve the rights of the Town of Montville, Maine.
- C. If at any time before or during the construction of the required improvements it appears to be necessary or desirable to modify 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 article in writing and shall transmit a copy of the approval to the Planning Board. Revised plans shall be filed with the Chairmen of the Planning Board. For major modifications, such as relocation of rights-of-way, property or lot boundaries, changes of grade by more than 1%, etc., the developer or owner shall obtain permission from the Planning Board in writing to modify the plans.
- D. Upon completion of road construction, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Chairmen of the Planning Board at the expense of the applicant, certifying that the road(s) meet or exceed the design and construction requirements of this Ordinance.

§3 Violations

- A. No mobile home park plan shall be recorded in the Registry of Deeds until a Final Plan has been approved and signed by the Planning Board in accordance with this Ordinance.
- B. No person, corporation or other legal entity may sell or rent or offer to sell or rent any land in a mobile home park which has not been approved by the Planning Board and recorded in the Registry of Deeds.
- C. No public utility, shall serve any lot in a mobile home park for which a final Plan has not been approved by the Planning Board and recorded in the Registry of Deeds.
- D. No development of the infrastructure of a mobile home park may begin until Final Plan approval by the Planning Board and recording in the Registry of Deeds. Development includes the removal of trees, rocks or soil, the grading and construction of roads, the grading of lots, utility installations, siting of mobile homes, and construction of buildings.
- E. No lot shall be rented until the entire project is constructed as approved by the Planning Board.

§4 Park Plan Amendments After Approval

No changes, erasures, or modifications shall be made on a Final Plan after approval has been given by the Planning Board unless the plan is first resubmitted and the Planning Board approves any modifications. The applicant is not required to go through the complete review process of an amendment to an existing

mobile home park, unless, in the judgment of the Planning Board the amendment substantially alters the character of the original mobile home park, or unless the change constitutes a new mobile home park. If an amended Final Plan is recorded without complying with this requirement, it shall be null and void, and the Planning Board may institute proceedings to have the plan stricken from the Registry of Deeds.

§5 Enforcement

The Code Enforcement Officer or the Selectmen of the Town of Montville, Maine, upon finding that any provisions of this Ordinance or the conditions of any approval(s) is being violated, are authorized to institute legal proceedings to enjoin violations of this Ordinance.

§6 Penalties

Any person, firm or corporation being the owner or having control or use of any residential building or infrastructure constructed or placed in violation of any of the provisions of this Ordinance shall be fined in accordance with the penalty provisions of Title 30-A, M.R.S.A., Section 4452.

ARTICLE X - PERFORMANCE GUARANTEES

§1 Applicability of Article X

The provisions of this article shall be in lieu of the Performance Guarantee requirements of the Subdivision Ordinance.

Types of Guarantees

With submittal of the application for Final Plan approval, the developer shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

- A. Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account; or
- B. A performance bond payable to the Town issued by a surety company, approved by the Selectmen; or
- C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the mobile home park, from which the Town may draw if construction is inadequate, approved by the Selectmen.

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the Code Enforcement Officer, Road Commissioner, Selectmen, and/or Town Attorney.

§3 Contents of Guarantee

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all the performance guarantee to the developer, and a date after which the developer will be in default and the Town shall have access to the funds to finish construction.

§4 Escrow Account

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the developer, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the developer unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the developer and the amount withdrawn to complete the required improvements.

§5 Performance Bond

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the developer, and the procedures for collection by the municipality. The bond documents shall specifically reference the mobile home park for which approval is sought.

§6 Letter of Credit

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the mobile home park and may not be used for any other project or loan.

§7 Phasing of Development

The Board may require or approve plans to develop a mobile home park in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed mobile home park street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

§8 Release of Guarantee

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the inspecting official and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

§9 Default

If, upon inspection, the inspecting official 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 shall so report in writing to the Code Enforcement Officer, the Municipal Officers, the Board, and the developer or builder. The Municipal Officers shall take any steps necessary to preserve the Town's rights.

§10 Improvements Guaranteed

Performance guarantees shall be tendered for all improvements required by this Ordinance, as well as any other improvements required by the Board.

ARTICLE XI - DEFINITIONS

§1 Construction of Language

In general, all words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, certain words and terms shall be described below.

§2 Relationship to Other Town Ordinances

Where there is a conflict between the language contained in this Ordinance and any other Town ordinances, the stricter language shall apply for purposes of this Ordinance.

§3 Definitions:

Board of Appeals: The Appeals Board of the Town of Montville, Maine as created by 30, M.R.S.A. 4954.

Body of Water: Shall include the following:

- A. Pond or Lake: any inland impoundment, natural or human-made, which collects and stores surface water.
- B. Stream or River: a free flowing drainage outlet, with a defined channel lacking terrestrial vegetation, and flowing water for more than three months during the year.

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

Driveway: A private vehicular entrance from a road or right-of-way. The driveway itself shall not constitute the means of legal access along which frontage may be measured.

Environmentally sensitive areas: Wetlands, swamps, eskers, wildlife habitat areas (per Title 38, M.R.S.A., section 343), prime agricultural areas, areas with steep slopes, areas with poorly drained soils, and flood plain areas (subject to a 100 year flood).

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

Frontage: The linear distance between the sidelines of a lot, measured along the line that borders upon whatever right-of-way serves as legal access to the lot. For the purposes of these regulations, the following ways shall constitute legal access to a lot along which frontage may be measured:

- A. A way accepted by or established as belonging to the Town of Montville, Maine, or the State of Maine, provided access is not specifically prohibited.
- B. A road way, whether dedicated to public ownership or not, as shown on an approved mobile home park plan.

Hard surfaced: A covering for roads and walkways comprising any hard material such as packed gravel, pea stone, asphalt, concrete, or paving blocks but not including sand, soil, clay, loam, or wood.

Lot: (see "Mobile Home Park Lot")

Lot Area: The total horizontal area within the lot lines.

Lot Coverage: A percentage of the total horizontal area within the lot lines.

Lot Width: The distance between the side boundaries of the lot measured at the front setback line.

Manufactured Housing Unit: A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For the purposes of this section, two types of manufactured housing are included. These two types are:

- A. Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit; this term also includes any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.; and
- B. Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10, Chapter 957, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit.

Mobile Home Park Lot: The area of land on which an individual home is situated within a mobile home park and which is reserved for use by the occupants of that home. The Planning Board may require a lot to be designated on a mobile home park plan.

Mobile Home Park: A parcel of land under unified ownership designed and/or used to accommodate three or more manufactured housing units in a manner approved by the Planning Board.

Mobile Home Subdivision or Development: A parcel of land approved by the Planning Board designed and/or used to accommodate three or more manufactured housing units on individually owned lots.

M.R.S.A.: The abbreviation for Maine Revised Statutes, Annotated, the definitive source for all state statutes as published and updated by the State of Maine.

Noise Conditions: Consistent with the D.E.P. Site Location & Development Law, chapter 375, noisy conditions shall be defined as sound levels greater than 45 dB during the hours between 6 p.m. and 6 a.m. and greater than 55 dB during the hours of 6 a.m. and 6 p.m.

Normal High Water Mark of Inland Waters: That line on the shores and banks of nontidal water which is apparent because of the different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plant and plant groups: water lily, pond lily, pickerelweed, cattail, wild rice, sedges, rushes, and marsh grasses, and terrestrial vegetation included but is not limited to the following plants and plant groups, upland grasses, aster, lady slipper, wintergreen, partridgeberry, sasaparilla, pines, cedars, oaks, ash, alders, elms, and maples). In places where the shore or bank is of such character that the high water mark shall be estimated from places where it can be determined by the above method.

Planning Board: The Planning Board of the Town of Montville, Maine as created by 30, M.R.S.A. 4952.

Road: Public and private ways such as alleys, avenues, boulevards, highways, roads, streets, lanes and other rights-of-way, as well as areas on mobile home park plans designated as rights-of-way.

Road Commissioner: The elected officer of the Town of Montville, Maine in charge of the roads of said Town.

Selectmen: The primary elected officers of the Town of Montville, Maine.

Setback: The horizontal distance from a lot line to the nearest part of a structure.

Setback from Water: The horizontal distance from the normal high water mark to the nearest part of a structure.

Subdivision Ordinance: The Town of Montville, Maine Subdivision Ordinance as adopted 3 December 1988 by the Town, including its subsequent amendments.

§: A symbol used by legislating bodies or entities meaning "section".

Undue Hardship:

- A. 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
- B. That the granting of a variance will not alter the essential character of the locality; and
- C. That the hardship is not the result of action taken by the applicant or a prior owner.

Variance: A relaxation of the terms of an ordinance where such variance would not be contrary to the public interest where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this Ordinance would result in unnecessary and undue hardship. A financial hardship shall not constitute grounds for granting a variance. The crucial points of variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless all elements are present in the case.

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Town of Montville Radioactive Waste Ordinance

Section 1. Purpose

The regulations set forth in this Ordinance are adopted to:

- A. Provide for the protection of ground water and surface water quality through the control of radioactive waste handling, storage or disposal;
- B. Protect the health, safety and welfare of the citizens of Montville.

Section 2. Legislative Authority

A. Authority

1. This ordinance is adopted pursuant to Home Rule Powers as provided for in Article VII-A of the Maine Constitution and Title 30-A, M.R.S.A. Section 3001.

B. Administration

1. The Selectmen of the town of Montville shall administer this Ordinance.

Section 3. Requirements

A. Waste defined as radioactive waste materials by 38 M.R.S.A. Sec. 1451 Subsections 6 & 11, within the boundaries of the town are prohibited.

B. Any request for an exception to the prohibition shall be submitted in writing to the selectmen and brought to the whole town of Montville, acting as a body politic, to be voted on by all registered voters. Any person intending to construct or operate any temporary or permanent radioactive waste repository shall at least one year prior to commencing any construction or operation notify the town officials in writing of his / her intent and of the nature and location of the facility, together with any other information the Selectmen may require.

Section 4. Appeals

A. An aggrieved party or landowner may appeal a decision to Superior Court within thirty (30) days from the final decision in accordance with Rule 80B of the Maine Rules of Civil Procedure.

Section 5. Amendments

A. This Ordinance may be amended by a majority vote of the voters of the town. Amendments may be initiated by a majority), vote of town voters or on petition of 10 % (ten percent) of the voters cast in the last gubernatorial election in the town. The selectmen shall conduct a public hearing on any proposed amendment.

Section 6. Site Characterization

Any testing or drilling pertaining to the siting of a high I low level nuclear waste repository within the town of Montville will be prohibited. Any request for exception to this section shall be handled under Section 3 of the Radioactive Waste Ordinance, subsection B.

Section 7. Commencement

This Ordinance shall become effective when enacted. *MARCH 28, 1992*

Road Entrance Notification Ordinance

Town of Montville

Enacted _____, 2011

SECTION 1. TITLE AND PURPOSE

This Ordinance shall be known as the “Road Entrance Notification Ordinance for the Town of Montville, Maine.” It is enacted by the inhabitants of the town of Montville to inform the Road Commissioner of the location of new road entrances in order to keep track of driveways and culverts and prevent damage to town ways.

SECTION 2. AUTHORITY

This Ordinance is adopted pursuant to and consistent with Municipal Home Rule Powers as provided for in Title 30-A M.R.S.A., Section 3001.

SECTION 3. REQUIREMENTS

3.1 This Ordinance shall apply to all road entrances on town ways commenced after the effective date of the Ordinance. Before the construction of a road entrance begins, the owner shall submit a sketch showing the location and layout of the proposed road entrance to the Montville Road Commissioner. The sketch can be dropped off at the town office.

3.2 After receiving the sketch, the Road Commissioner will contact the applicant to discuss whether and where a culvert is needed.

3.3 There shall be no fee charged for notification.

SECTION 4. PENALTY AND ENFORCEMENT

The penalty for failing to notify the Montville Road Commissioner of the intention to construct a new road entrance prior to its construction shall be \$200, as well as court costs and attorney fees incurred by the Town. The Board of Selectmen shall be responsible for the enforcement of this Ordinance.

SECTION 5. VALIDITY AND AMENDMENTS

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

5.2 This Ordinance may be amended by majority vote of the town at any town meeting.

SECTION 6. RELATIONSHIP TO OTHER TOWN ORDINANCES

Where there is a conflict between the language contained in this Ordinance and any other Town ordinances, the stricter language shall apply for purposes of the Ordinance.

SECTION 7. EFFECTIVE DATE

The effective date of the Ordinance is the date of the adoption by vote at a Town Meeting, March 26, 2011.

**SHORELAND ZONING ORDINANCE
For the Municipality of Montville**

Adopted: March 28, 2009

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Shoreland Zoning Ordinance for the Municipality of Montville

1. **Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.
2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the
 - normal high-water line of any great pond or river, or
 - upland edge of a freshwater wetland,

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

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

4. **Effective Date**

A. Effective Date of Ordinance and Repeal of Formerly Adopted Ordinance. This Ordinance, which was adopted by the municipal legislative body on March 28, 2009, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance within forty-five (45) days of his/her receipt of the Ordinance, it shall be automatically approved. Upon approval of this Ordinance by the Commissioner of the Department of Environmental Protection, the Shoreland Zoning Ordinance for the Municipality of Montville adopted on March 23, 1991 and revised on March 28, 1992 is hereby repealed.

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

B. Sections 15(O) and 15(O-1). Section 15(O) is repealed on the statutory date established under 38 M.R.S.A. section 438-B (5), at which time Section 15(O-1) shall become effective. Until such time as Section 15(O) is repealed, Section 15(O-1) is not in effect.

5. **Availability.** A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.
6. **Severability.** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

7. **Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.
8. **Amendments.** This Ordinance may be amended by majority vote at the town meeting. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.
9. **Districts and Zoning Map**
 - A. **Official Shoreland Zoning Map.** The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:
 - (1) Resource Protection
 - (2) Limited Residential
 - B. **Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.
 - C. **Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.
 - D. **Changes to the Official Shoreland Zoning Map.** If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (90) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.
10. **Interpretation of District Boundaries.** Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.
11. **Land Use Requirements.** Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.
12. **Non-conformance.**
 - A. **Purpose.** It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as

otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. General

- (1) **Transfer of Ownership.** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
- (2) **Repair and Maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

NOTE: See Section 17 for the definitions of non-conforming structures, non-conforming uses and non-conforming lots.

C. Non-conforming Structures

- (1) **Expansions.** A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.
 - (a) After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12(C)(3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.
 - (b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 12(C)(1)(a) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.
- (2) **Relocation.** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with

the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

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

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

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

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

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

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal

maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

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

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

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

D. Non-conforming Uses

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

E. Non-conforming Lots

- (1) Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.
- (2) Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that

the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

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

- (3) Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on March 23, 1991 and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

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

13. Establishment of Districts

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

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

NOTE: The Natural Resources Protection Act, 38 M.S.R.A. sections 480-A through 480-Z, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat". Significant wildlife habitat includes:

Habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as

defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; and shorebird nesting, feeding and staging areas and seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife.

- (2) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.
 - (3) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
 - (4) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
-

NOTE: These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.

- (5) Land areas along rivers subject to severe bank erosion, undercutting, or riverbed 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.

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

Resource Protection

Kingdom Bog,
Bartlett Stream, Thompson Stream
Mud Pond
and certain streams and wetlands as designated on the Official
Shoreland Zoning Map (See appendix A)

Limited Residential

Sheepscot River, Trues Pond
Sandy Pond, Ledge Pond
Halfmoon Stream, Halldale Stream, George River
and certain streams and wetlands as designated on the Official
Shoreland Zoning Map (See appendix A)

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

Key to Table 1:

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

No - Prohibited

PB - Allowed with permit issued by the Planning Board.

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection

LR - Limited Residential

TABLE 1. LAND USES IN THE SHORELAND ZONE

LAND USES	DISTRICT	
	RP	LR
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes
3. Forest management activities except for timber harvesting & land management roads	yes	yes
4. Timber harvesting	CEO	yes
5. Clearing or removal of vegetation for activities other than timber harvesting	1 CEO	yes
6. Fire prevention activities	yes	yes
7. Wildlife management practices	yes	yes
8. Soil and water conservation practices	yes	yes
9. Mineral exploration	2	2
	yes	yes
10. Mineral extraction including sand and gravel extraction	3 PB	PB
11. Surveying and resource analysis	yes	yes
12. Emergency operations	yes	yes
13. Agriculture	PB	yes
14. Aquaculture	PB	PB
15. Principal structures and uses		
A. One and two family residential, including driveways	9 PB	CEO
B. Multi-unit residential	no	PB
C. Commercial	10	10
D. Industrial	no	no
E. Governmental and institutional	no	PB
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB	CEO
16. Structures accessory to allowed uses	PB	CEO
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland		
a. Temporary	11	11
b. Permanent	CEO PB	CEO PB
18. Conversions of seasonal residences to year-round residences	no	LPI
19. Home occupations	PB	PB
20. Private sewage disposal systems for allowed uses	LPI	LPI
21. Essential services	6 PB	PB
A. Roadside distribution lines (34.5kV and lower)	CEO ⁶	yes ¹²
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁵	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁸	PB
D. Other essential services	PB ⁶	PB
22. Service drops, as defined, to allowed uses	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB
24. Individual, private campsites	CEO	CEO
25. Campgrounds	7 no	PB
26. Road construction	8	PB
	no	
27. Land management roads	PB	yes
28. Parking facilities	7 no	PB
29. Marinas	no	PB
30. Filling and earth moving of <10 cubic yards	CEO	yes
31. Filling and earth moving of >10 cubic yards	PB	CEO
32. Signs	yes	yes
33. Uses similar to allowed uses	PB	PB
34. Uses similar to uses requiring a CEO permit	PB	PB
35. Uses similar to uses requiring a PB permit	PB	PB

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

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

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

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

⁵ Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).

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

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

⁸ Except as provided in Section 15(H)(3)

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

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

¹¹Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
¹²Permit not required but must file a written "notice of intent to construct" with CEO.

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

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

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

A. Minimum Lot Standards

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit	40,000	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure	60,000	300
(c) Public and Private Recreational Facilities	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 (2) lots shall not be included toward calculating minimum lot area.		
 (3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.		
 (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.		
 (5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.		

B. Principal and Accessory Structures

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

In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
 - (b) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection Districts and Limited Residential Districts shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
- (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
- (4) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed.
- (5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
- (a) The site has been previously altered and an effective vegetated buffer does not exist;
 - (b) The wall(s) is (are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - (b) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - (c) The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

- (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
- (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii)Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (iii) Only native species may be used to establish the buffer area;
 - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;

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

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

C. Piers, Docks, 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 the surrounding character and uses of the area. A temporary pier, dock or wharf shall not be wider than six feet for non-commercial uses.

- (5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- (6) New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
- (7) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (8) Except in the General Development Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

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

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

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

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (3) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (4) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

- (5) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or landowner is required.
- (6) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

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

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops
- (3) Chemical and bacteriological laboratories
- (4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
- (5) Commercial painting, wood preserving, and furniture stripping
- (6) Dry cleaning establishments
- (7) Electronic circuit assembly
- (8) Laundromats, unless connected to a sanitary sewer
- (9) Metal plating, finishing, or polishing
- (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- (11) Photographic processing
- (12) Printing

G. Parking Areas

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.

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

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

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

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

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

- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.
- (3) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(Q).
- (5) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and

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

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

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

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

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

(c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

(d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

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

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

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

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

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

- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff

- (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwater.
- (2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

NOTE: The Stormwater Management Law (38 M.R.S.A. section 420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of 20,000 square feet or more of impervious area or 5 acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with 1 acre or more of developed area in any other stream or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area but less than 1 acre impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than 5 acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.

K. Septic Waste Disposal

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

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

L. Essential Services

- (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- (2) The installation of essential services, other than roadside distribution lines, is not allowed in a Resource Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where

allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

- (3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

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

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(3) below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
- (3) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

NOTE: The State of Maine Solid Waste Laws, 38 M.R.S.A., section 1301 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

- (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
- (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (4) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture

- (1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

O. Timber Harvesting

- (1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:
 - (a) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:
 - (1) The ground is frozen;
 - (2) There is no resultant soil disturbance;
 - (3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
 - (4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
 - (5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.
 - (b) Beyond the 75-foot strip referred to in Section 15(O)(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average

residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.

- (2) Except in areas as described in Section 15(O)(1) above, timber harvesting shall conform with the following provisions:
- (a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 - (i) Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - (ii) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.
 - (b) Timber harvesting operations exceeding the 40% limitation in Section 15(O)(2)(a) above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.
 - (c) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
 - (d) Timber harvesting equipment shall not use stream channels as travel routes except when:
 - (i) Surface waters are frozen; and
 - (ii) The activity will not result in any ground disturbance.
 - (e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
 - (f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion

of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

- (g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

O-1. Timber Harvesting – Statewide Standards [Effective on effective date established in Section 4(B)]

- (1) Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.
- (2) Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 15(O-1)(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.
 - (a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
 - (b) Adjacent to great ponds, rivers and wetlands:
 - (i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and
 - (ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.
- (3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:
 - (a) Option 1 (40% volume removal), as follows:

- (i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;
 - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
 - (iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a wetland, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.
- (b) Option 2 (60 square foot basal area retention), as follows:
- (i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;
 - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
 - (iii) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.
- (c) Option 3 (Outcome based), which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

- (4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.
- (a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
 - (b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.
 - (c) Setbacks:
 - (i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.
 - (ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (5) Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15(O-1)(7) of this rule.
- (a) Land management roads and associated ditches, excavation, and fill must be set back at least:
 - (i) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or wetland;
 - (ii) 50 feet, horizontal distance, from the normal high-water line of streams; and
 - (iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams
 - (b) The minimum 100 foot setback specified in Section 15(O-1)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15(O-1)(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid

sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- (c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.
- (d) New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15(O-1)(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (f) Road closeout and discontinuance. Maintenance of the water control installations required in Section 15(O-1)(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
- (g) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 15(O-1). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
- (h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15(O-1)(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.

- (6) Crossings of waterbodies. Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.
- (a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 15(O-1): The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.
 - (b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15(O-1). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15(O-1).
 - (c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
 - (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
 - (e) Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
 - (i) a map showing the location of all proposed permanent crossings;
 - (ii) the GPS location of all proposed permanent crossings;
 - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
 - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
 - (f) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15(O-1)(6)(g) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
 - (i) concentrated water runoff does not enter the stream or tributary stream;
 - (ii) sedimentation of surface waters is reasonably avoided;
 - (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
 - (iv) fish passage is not impeded; and,
 - (v) water flow is not unreasonably impeded.

Subject to Section 15(O-1)(6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or

are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

- (g) Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:
 - (i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.
 - (ii) Temporary bridge and culvert sizes may be smaller than provided in Section 15(O-1)(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:
 - 1. use of temporary skidder bridges;
 - 2. removing culverts prior to the onset of frozen ground conditions;
 - 3. using water bars in conjunction with culverts;
 - 4. using road dips in conjunction with culverts.
 - (iii) Culverts utilized in river, stream and tributary stream crossings must:
 - 1. be installed at or below river, stream or tributary streambed elevation;
 - 2. be seated on firm ground;
 - 3. have soil compacted at least halfway up the side of the culvert;
 - 4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
 - 5. have a headwall at the inlet end that is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.
 - (iv) River, stream and tributary stream crossings allowed under Section 15(O-1), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.
 - (v) Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.
- (h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:

- (i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15(O-1)(6)(i) below.
 - (ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
 - (iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
- (i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
 - (ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.
 - (iii) Any bridge or water-crossing culvert in roads to be discontinued shall satisfy one of the following requirements:
 1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25-year frequency water flows;
 2. it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the river, stream or tributary stream channel; or
 3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(7) Slope Table

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 15(O-1), but in no case shall be less than shown in the following table.

Average slope of land between exposed mineral soil and the shoreline (percent)	Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145

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

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

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

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

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

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

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

NOTE: As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points (36 - 24 = 12) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

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

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

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

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

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

- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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

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

Q. Erosion and Sedimentation Control

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - (a) Mulching and revegetation of disturbed soil.
 - (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - (c) Permanent stabilization structures such as retaining walls or rip-rap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

R. Soils. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe

erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data that the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

- S. **Water Quality.** No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.
- T. **Archaeological Site.** Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

16. Administration

A. Administering Bodies and Agents

- (1) Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- (2) Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.
- (3) Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

B. Permits Required.

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

- (1) A permit is not required for the replacement of an existing road culvert as long as:
 - (a) The replacement culvert is not more than 25% longer than the culvert being replaced;
 - (b) The replacement culvert is not longer than 75 feet; and
 - (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- (2) A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or

level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

- (3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application

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

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

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

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

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland waters;

- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will avoid problems associated with floodplain development and use; and
- (8) Is in conformance with the provisions of Section 15, Land Use Standards.

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

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

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

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

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

F. Expiration of Permit. Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial

start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

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

H. Appeals

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

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

(b) Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

(2) Variance Appeals. Variances may be granted only under the following conditions:

(a) Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

(b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

(c) The Board shall not grant a variance unless it finds that:

(i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and

(ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:

a. That the land in question cannot yield a reasonable return unless a variance is granted;

b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

c. That the granting of a variance will not alter the essential character of the locality; and

d. That the hardship is not the result of action taken by the applicant or a prior owner.

- (d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
- (e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

(3) Administrative Appeals

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

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

(4) Appeal Procedure

(a) Making an Appeal

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official,

written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal that includes:
 - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

(b) Decision by Board of Appeals

- (i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
 - (ii) The person filing the appeal shall have the burden of proof.
 - (iii) The Board shall decide all administrative appeals and variance appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
 - (iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.
- (5) Appeal to Superior Court. Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
- (6) Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and

those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

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

I. Enforcement

- (1) Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.
- (2) Code Enforcement Officer
 - (a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
 - (b) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
 - (c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.
- (3) Legal Actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
- (4) Fines. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

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

17. Definitions.

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

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

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

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

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

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

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

Bureau – State of Maine Department of Conservation’s Bureau of Forestry

Campground - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

Canopy – the more or less continuous cover formed by tree crowns in a wooded area.

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

Cross-sectional area – the cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight-line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

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

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

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

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

Disruption of shoreline integrity - the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

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

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

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

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

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

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

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

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

Forest management activities - timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement,

pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

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

Forest Stand - a contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

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

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

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

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

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

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

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

Harvest Area - the area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest

encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

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

Home occupation - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

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

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

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

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

Land Management Road - a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Licensed Forester - a forester licensed under 32 M.R.S.A. Chapter 76.

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

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

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

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

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

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

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

Native – indigenous to the local forests.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Residual Stand - a stand of trees remaining in the forest following timber harvesting and related activities

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

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

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

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

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

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

Shoreland zone - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline – the normal high-water line, or upland edge of a wetland.

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

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

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

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

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

Subsurface sewage disposal system – any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system..

Sustained slope - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

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

Timber harvesting and related activities - timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

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

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

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

Upland edge of a wetland - the boundary between upland and wetland. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

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

Water body - any great pond, river or stream.

Water crossing - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables

as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Wetland - a freshwater wetland.

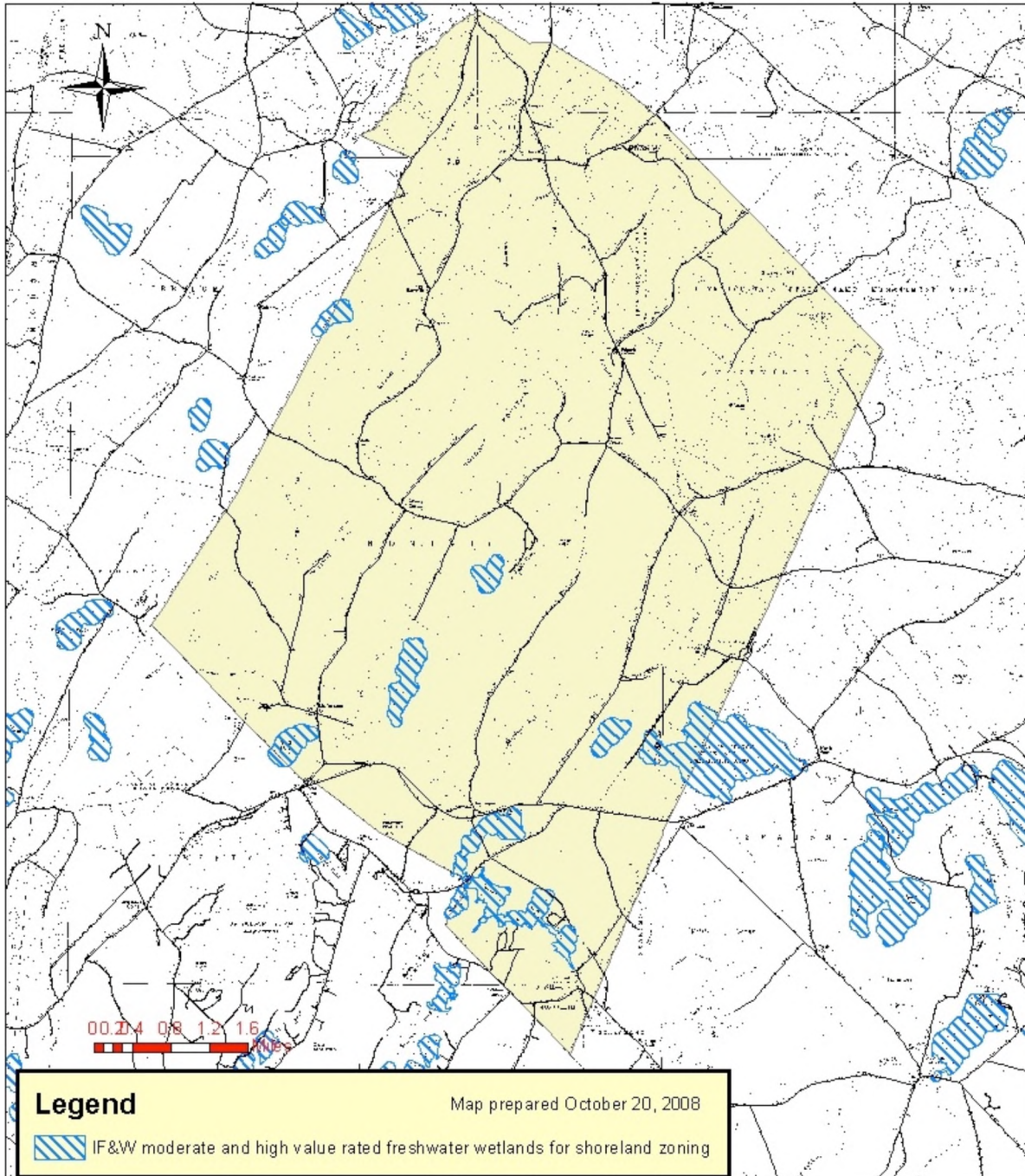
Windfirm - the ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

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

Appendix A:

For purposes of this chapter, other significant wetlands that are resource protected include the following:

Town of Montville Moderate & High Value Freshwater Wetlands- Revised



This map shows only moderate and high value rated freshwater wetlands. Please note that low value and non-rated freshwater wetlands are still required to be zoned, as they have been since 1989.

Site Plan Review Ordinance

Town of Montville, Maine

Approved March 31, 2001

Amended March 26, 2011

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ARTICLE II - TITLE AND PURPOSE

§1 Title

This ordinance shall be known and may be cited as the Site Plan Review Ordinance of the Town of Montville, Maine.

§2 Purpose

The purposes of this Ordinance are to promote the health, welfare and safety of the residents of the Town of Montville, Maine; to provide a level of municipal review for commercial projects that could potentially impact the community; to balance the rights of landowners to use their land while minimizing adverse impacts on adjacent properties; to protect the town's natural resources; to reduce the off-site effects of development, thereby controlling the costs of maintaining or improving municipal services; and to promote a fair, thorough, and expedient review process for proposed activities subject to this ordinance.

ARTICLE III - ADMINISTRATION AND APPLICABILITY

§1 Administration

As described herein, this ordinance shall be administered and enforced by the Town of Montville Planning Board and a Code Enforcement Officer (CEO) appointed by the Municipal Officers. The Planning Board shall act in this capacity in the absence of a Code Enforcement Officer.

§2 Approval Required

A person or entity with right, title, or interest in a parcel of land must obtain site plan approval prior to commencing any of the following activities on the parcel:

- A. New development of the following: commercial uses, retail uses, industrial uses, the establishment of a new nonresidential use even if no buildings or structures are proposed, institutional uses and multiple family dwelling units consisting of three or more attached dwelling units and their accessory uses and structures, or
- B. Substantial expansion of the aforementioned uses;
- C. Changing the use of an existing building or structure from a residential to a commercial or other non-residential use;
- D. Changing a non-residential use to an industrial use.

§3 Approval Not Required

Site plan approval is not required for the following:

- A. This ordinance does not apply to:
 1. Detached single and two family dwelling units (the Town of Montville Subdivision Ordinance may apply),
 2. Agricultural land use practices including associated retail and production facilities,
 3. Horticultural land use practices including associated retail and production facilities,
 4. Forest management practices including associated retail and production facilities,
 5. Municipal projects, or
 6. Home occupations as defined herein.

- B. Nothing in this ordinance shall be construed to prevent ordinary repair, maintenance or replacement of any part of the building or landscaping which does not involve a substantial change.
- C. Minimal Impact Developments as defined in Article IV, §2 below.

ARTICLE IV – CLASSIFICATION OF PROJECTS

§1 Project Classes

The Planning Board shall classify each project as one of three classifications: Minimal Impact Development, Minor Development, or Major development.

§2 Minimal Impact Development

A Minimal Impact Development shall include those projects involving the construction or addition of less than 300 square feet of gross nonresidential floor area, and/or projects involving the installation of less than 300 square feet of impervious surfaces. Minimal Impact Developments will not require site plan review.

§3 Minor Development

A Minor Development shall include those projects involving:

- A. The construction, enlargement or expansion of at least 300 square feet, but less than 2,500 square feet, of gross nonresidential floor area, and/or
- B. Those projects involving the installation of at least 300 square feet, but less than 2,500 square feet, of impervious surfaces, or
- C. Those projects involving the conversion of existing buildings or structures from residential to non-residential use as outlined in the provisions of this Ordinance.
- D. Minor Developments will require site plan approval.

§4 Major Developments

A Major Development shall include those projects involving:

- A. The construction, enlargement or expansion of 2,500 or more square feet of gross nonresidential floor area, and/or
- B. Projects involving the installation of 2,500 or more square feet of impervious surfaces, or
- C. Projects involving the establishment of a campground, communications tower, or other commercial project not classified as a Minimal Impact or Minor Development.
- D. Major Developments will require site plan approval.

ARTICLE V – INTERPRETATION OF THE ORDINANCE

The Code Enforcement Officer (CEO) shall be responsible for administering the provisions of this ordinance including interpreting the provisions hereof.

Any person, who believes that the CEO has made an error in the interpretation or application of the provisions of this ordinance, may appeal such determination to the Board of Appeals as an administrative appeal. If the Board finds that the CEO erred in his/her interpretation of the ordinance, it shall modify or reverse the action accordingly.

ARTICLE VI - REVIEW AND APPROVAL AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Maine Constitution and Title 30-A MRSA S3001. This Ordinance is also founded upon and pursuant to the Town of Montville, Comprehensive Plan. In considering site plans under this provision, the Montville Planning Board may act to approve, disapprove or approve with conditions, any projects governed by the Ordinance.

ARTICLE VII – REVIEW PROCEDURES

§1 Pre-Application Procedures

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

§2 Purpose of Pre-Application

The purposes of the pre-application conference are to:

- A. Allow the Planning Board to understand the nature of the proposed use and the issues involved in the proposal,
- B. Allow the applicant to understand the development review process and required submissions,
- C. Identify issues that need to be addressed in future submissions,
- D. Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities, and
- E. Determine if a site inspection, in accordance with Article VII, §4, F, is deemed necessary to resolve any requests for waivers and variations from the submission requirements.

§3 Information Required

There are no formal submission requirements for a pre-application conference. However, the applicant should be prepared to show a simple Sketch Plan and discuss the following with the Board:

- A. The proposed site, including its location, size, and general characteristics,
- B. The nature of the proposed use and potential development,
- C. Any issues or questions about existing municipal regulations and their applicability to the project,
- D. Any requests for waivers from the submission requirements.

§4 Formal Application Procedures

The applicant must prepare and submit a site plan review application, including the development plan and supporting documentation that meets the submission requirements set forth below. This material must be submitted to the Chair of the Planning Board.

- A. At the first meeting in which the application is considered, the Planning Board shall give a dated receipt to the applicant or to their appointed representative who shall be in attendance. The Town of Montville shall notify, by certified return receipt mail, all property owners within 1,000 feet of the parcel on which the proposed development is located. The cost of said mailing will be the responsibility of the applicant. The town will bill the applicant for said costs. Written notice of the pending application shall be mailed to the Selectmen, Fire Chief, Road Commissioner, Plumbing Inspector, Code Enforcement Officer, the Town Clerk for public posting, and other interested parties. The list of property owners located within 1,000 feet and a copy of the written notice shall be submitted to the Planning Board and made part of the official record.
- B. Within 45 days of the receipt of a formal site plan review application, the Planning Board shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the Board shall notify the applicant in writing of this finding, specify the additional materials required to make the application complete, and advise the applicant that the application will not be considered by the Board until the additional information is submitted. These steps, except the notification requirements, shall be repeated until the application is found to be complete.
- C. As soon as the Board determines that the application is complete, the Board shall notify the applicant in writing of this finding, meet the notification requirements of subsection (E) below, and place the item on the agenda for substantive review within 45 days of this finding.
- D. The Planning Board shall hold a public hearing on the Site Plan Review application and schedule the hearing within 45 days of receipt of the completed application.
- E. The Planning Board shall give written notice of the date, time, and place of the meeting at which the application will be considered to the applicant and all persons who received the written notice under subsection (A).
- F. The Planning Board and/or Code Enforcement Officer may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted and investigate the development proposal. The Board may schedule this visit either before or after the first meeting at which the application is considered. The Board may decide not to hold an on-site inspection when the site is snow covered. If an application is pending during a period when there is snow cover, the deadline by which the Planning Board shall take final action on the application as specified in subsection (C) may be extended. This extension shall not exceed 45 days after the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties entitled to notice under subsection (A).
- G. The Planning Board shall take final action on said application within 45 days of determining that the application is complete. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval.
- H. In issuing its decision, the Planning Board shall make written findings of fact establishing that the proposed development does or does not meet the standards of approval and other requirements of the Town.
- I. All time limits provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

§5 Final Approval and Filing

Upon completion of the requirements outlined in this Ordinance and an approval vote by the majority of the Planning Board, the application shall be deemed to have final approval. The site plan shall be signed by a majority of the members of the Board and must be filed with the Code Enforcement Officer. The signed plan, with any agreed upon conditions of approval attached, must be recorded by the applicant in the Waldo County Registry of Deeds within 45 days of the vote to approve the plan. The Planning Board, by vote, may extend the filing period for good cause.

ARTICLE VIII – PERFORMANCE GUARANTEES AND FEES

§1 Performance Guarantees

With submittal of the application for Final Plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

- A. Either a certified check payable to the Town of Montville or a savings account or certificate of deposit naming the Town of Montville as owner for the establishment of an escrow account, or
- B. A performance bond payable to the Town of Montville issued by a surety company licensed to do business in the State of Maine and approved by the Selectmen, or
- C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the project, from which the Town may draw if construction is inadequate, approved by the Selectmen.

The Planning Board, with the advice of the Code Enforcement Officer, Road Commissioner, Selectmen, and/or Town Attorney, shall determine the conditions and amount of the performance guarantee.

§2 Application Fee

An application fee must accompany an application for site plan review. This fee is intended to cover the cost of the municipality's administrative processing of the application, including notification, advertising, mailings, and similar costs. The fee shall not be refundable. This application fee must be paid to the municipality and evidence of payment of the fee must be included with the application. The application fee shall be established by the Town of Montville Board of Selectmen following posting of the proposed schedule of fees and public hearing.

§3 Technical Review Fee

In addition to the application fee, the applicant for site plan review may be required to pay a technical review fee to defray the municipality's legal and technical costs of the application review. The application will be considered incomplete until evidence of payment of this fee is submitted to the Planning Board.

- A. The fee will be set by the Planning Board. The Board, in consultation with the Code Enforcement Officer, will determine the costs of technical assistance needed after receiving estimates for the services.
- B. This fee must be paid to the municipality and shall be deposited in the Development Review Trust Account, which shall be separate and distinct from all other municipal accounts. If funds are expended then additional funds will be requested of the applicant and placed into the account.
- C. The technical review fee may be used by the Planning Board to pay reasonable costs incurred by the Board, at its discretion, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, consulting, engineering or other professional fees, attorney fees, recording fees, and appraisal fees.
- D. The municipality shall provide the applicant, upon written request, with an accounting of his or her account and shall refund all of the remaining monies, including accrued interest, in the account after the payment by the Town of all costs and services related to the review. Such payment of remaining monies shall be made no later than 60 days after the approval of the application, denial of the application, formal withdrawal of the application, or approval with condition of the application. Such refund shall be accompanied by a final accounting of expenditures from the fund. The monies in such fund shall not be used by the Board for any enforcement purposes nor shall the applicant be liable for costs incurred by or costs of services contracted for by the Board which exceed the amount deposited to the trust account.

ARTICLE IX - SUBMISSION REQUIREMENTS

§1 Waivers

Applications for site plan review must be submitted on application forms provided by the town of Montville. The complete application forms, evidence of payment of the required fees, and the required plans and related information must be submitted to the Code Enforcement Officer and the Chair of the Planning Board. The submissions must contain at least the following exhibits and information unless specifically waived in writing. The Planning Board may waive any of the submission requirements based upon a written request of the applicant. Such request must be made at the time of the pre-application conference or at the initial review of the application if no pre-application conference is held. A waiver of any submission requirement may be granted only if the Board makes a written finding that the information is not required to determine compliance with the standards.

§2 Information Required

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

- A. A fully executed and signed copy of the application for site plan review.
- B. Evidence of payment of the application and all other required fees.
- C. Thirteen copies of written materials plus thirteen sets of maps or drawings containing the information listed below. The written materials must be contained in a bound report. The maps or drawings must be at a scale sufficient to allow review of the items listed under the approval standards and criteria, but in no case shall be more than 100 feet to the inch for that portion of the tract of land being proposed for development:

§3 General Information

The following general information must be included in all applications:

- A. Record owner's name, address and phone number and applicant's name, address and phone number if different.
- B. The location of all required building setbacks, yards, and buffers.
- C. Names and addresses of all property owners within 1,000 feet of any and all property boundaries.
- D. Sketch map showing general location of the site within the municipality. The DeLorme map is preferred.
- E. Boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time.
- F. The tax map(s) and lot number(s) of the parcel(s) on which the project is located.
- G. A copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.
- H. The name, registration numbers, and seal of the person who prepared the plan, if applicable.

The following general information must be included with applications for Major Developments only:

- A. Evidence of the applicant's technical and financial capability to carry out the project as proposed.

§4 Existing Conditions

The following existing conditions must be included in all applications:

- A. The boundaries of the Shoreland District of any portion of the property being developed are located in the Shoreland Zone as depicted on the Town of Montville Shoreland Zoning Map.
- B. A boundary survey depicting the bearings and length of all property lines of the property to be developed and the source of this information. The Planning Board may waive this requirement of a boundary survey when sufficient information is available to establish, on the ground, all property boundaries.
- C. Location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, power and telephone lines, poles on the property to be developed, or abutting streets, or land that may serve the development, and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of flow.
- D. Location, names, and present widths of existing public and/or private streets and rights-of-way within or adjacent to the proposed development.
- E. The location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site.
- F. Location of intersecting roads or driveways within 200 feet of the site.
- G. The location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to floodplains, deer wintering areas, significant wildlife habitats, scenic areas,

habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.

- H. The direction of existing surface water drainage across the site.
- I. Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.
- J. The location and description of the nearest water supply for fire protection.
- K. Upon receipt of data from the applicant, a licensed site evaluator will describe the existing subsurface wastewater disposal system and determine the system's viability.

The following additional existing conditions must be included with Major Development applications:

- A. A statement from the Code Enforcement Officer regarding the applicability of the Town of Montville Floodplain Management Ordinance is required for all development in the floodplain.
- B. A general description of the soils in the area of the proposed development or expansion. This information can be taken from the Soil Survey of Waldo County or provided by a certified soil scientist.
- C. The location, front view, dimensions, and lighting of existing signs.
- D. The location, dimensions and ground floor elevation of all existing buildings on the site.

§5 Proposed Development Activity

The following proposed development activities must be included in all applications:

- A. Estimated demand for water supply and sewage disposal together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data if on-site sewage disposal is proposed.
- B. The direction of proposed surface water drainage across the site and from the site, with an assessment of impacts on downstream properties.
- C. Descriptions by type and amount, as well as provisions for handling all solid wastes, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities.
- D. The location, dimensions, and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes in traffic flow onto or off-site.
- E. Proposed landscaping and buffering.
- F. The location, dimensions, and ground floor elevation of all proposed buildings or building expansion proposed on the site.
- G. Location, front view, materials, and dimensions of proposed signs together with the method for securing the sign.
- H. The size, location, direction, and intensity of illumination and method of installation of all major outdoor lighting apparatus and signs.
- I. The location of all utilities, including fire protection systems.
- J. A general description of the proposed use or activity.
- K. An estimate of the peak hour and daily traffic to be generated by the project.
- L. The amount and type of any raw, finished, or waste materials to be stored outside of roofed buildings, including their physical and chemical properties if appropriate.

- M. Copies of applicable State approvals and permits. The Board may approve development plans subject to the issuance of specified State approvals and permits where it determines that it is not feasible for the applicant to obtain them at the time of development review.
- N. A schedule of construction including anticipated beginning and completion dates.

The following proposed development activities must be included with Major Development applications:

- A. Stormwater calculations, erosion and sedimentation control measures, and water quality and/or phosphorous export management provisions, if the project requires a stormwater permit from the Maine Department of Environmental Protection or if the Planning Board determines that such information is necessary based upon the scale of the project or the existing conditions in the vicinity of the project.

§6 Approval Block

Space must be provided on the plan drawing for the signatures of the Planning Board and date together with the following words, “Approved: Town of Montville, Maine, Planning Board.”

ARTICLE X - APPROVAL STANDARDS AND CRITERIA

§1 Approval Standards

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

§2 Utilization of the Site

The plan for the development must reflect the natural capabilities of the site to support development. Buildings, lots, and support facilities must be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

§3 Adequacy of Road System

Vehicular access to the site must be on roads that have adequate capacity to accommodate the additional traffic generated by the development.

- A. For developments that generate 100 or more peak-hour trips (based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers), intersections on major access routes to the site within one mile of any entrance road which are

functioning at a Level of Service of D or better prior to the development, must function at a minimum at Level of Service D after development.

- B. If any such intersection is functioning at a Level of Service E or lower prior to the development, the project must not reduce the current level of service.
- C. This requirement may be waived by the Planning Board if the project is located within a growth area designated in the Town's adopted Comprehensive Plan and the Board determines that the project will not have an unnecessary adverse impact on traffic flow or safety.
- D. A development not meeting this requirement may be approved if the applicant demonstrates that:
 - 1. A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or
 - 2. The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements with a financial guarantee acceptable to the municipality.

§4 Access into the Site

Vehicular access to and from the development must be safe, convenient and include:

- A. Any driveway or proposed street must be designed so as to provide at least the minimum sight distance according to the Maine Department of Transportation standards.
- B. Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- C. The grade of any proposed drive or street must be not more than $\pm 3\%$ for a minimum of two car lengths, or 40 feet from the intersection.
- D. The intersection of any access/egress drive or proposed street must function at a Level of Service of D following development if the project will generate 1,000 or more vehicle trips per 24-hour period; or (b) at a level which will allow safe access into and out of the project if less than 1,000 trips are generated.
- E. Where a lot has frontage on two or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe.
- F. Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing traffic controls within public streets.
- G. Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- H. The following criteria must be used to limit the number of driveways serving a proposed project:
 - 1. No use that generates less than 100 vehicle trips per day shall have more than one two-way driveway onto a single roadway. Such driveway must be no greater than 30 feet wide.
 - 2. No use that generates 100 or more vehicle trips per day shall have more than two points of entry from and two points of egress to a single roadway. The combined width of all accessways must not exceed 60 feet.

§5 Accessway Location and Spacing

All accessways must meet the following standards:

- A. Private entrances/exits must be located at least 50 feet from the closest unsignalized intersection and 150 feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
- B. Private accessways in or out of a development must be separated by a minimum of 75 feet where possible.

§6 Internal Vehicular Circulation

The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site to include:

- A. Nonresidential projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.
- B. Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
- C. The layout and design of parking areas must provide for safe and convenient circulation of vehicles and pedestrians throughout the lot.
- D. All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction.
- E. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, adequate parking, and delivery and collection services.

§7 Parking Layout and Design

Off-street parking must conform to the following standards:

- A. Parking areas with more than two parking spaces must be arranged so that it is not necessary for vehicles to back into the street and parking to the side or rear of buildings is encouraged. Parking stalls shall not be directly accessible from any public way. Ingress and egress to parking areas shall be limited to driveway entrance.
- B. All parking spaces, access drives, and impervious surfaces must be located at least five feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within five accessways not exceeding 24 feet in width.
- C. Parking stalls and aisle layout must conform to the following standards.

Parking Stall Angle	Skew Width	Stall Width	Stall Depth	Aisle Width
90°		9'-0"	18'-0"	24'-0" two way
60°	8'-6"	10'-6"	18'-0"	16'-0" one way only
45°	8'-6"	12'-9"	17'-6"	12'-0" one way only
30°	8'-6"	17'-0"	17'-0"	12'-0" one way only

- D. In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings (required for all paved parking lots only) or other permanent indications and maintained as necessary.
- E. Parking areas for nonresidential uses must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. Double stack parking may be permitted for resident parking in conjunction with residential uses if both spaces in the stack are assigned to the occupants of the same dwelling unit.
- F. Provisions must be made to restrict the “overhang” of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

§8 Pedestrian Circulation

The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project.

§9 Stormwater Management

Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties and include:

- A. To the extent possible, the plan must retain stormwater on the site using the natural features of the site.
- B. Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.
- C. The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to flooding and erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.
- D. All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.
- E. The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.
- F. The design of the storm drainage systems must be fully cognizant of upstream runoff that must pass over or through the site to be developed and provide for this movement.
- G. The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

§10 Erosion Control

All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

Soil erosion and sedimentation of watercourses and water bodies will be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, current version as adopted by Maine Department of Environmental Protection.

§11 Water Supply

The development must be provided with a system of water supply that provides each use with an adequate supply of water.

If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms to its design and construction standards, will not result in an undue burden on the source or distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

§12 Sewage Disposal

The development must be provided with a method of disposing of sewage that is in compliance with the State of Maine Subsurface Wastewater Disposal Rules.

When two or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an owners association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

§13 Utilities

The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

§14 Natural Features

The landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction. Extensive grading and filling must be avoided as far as possible.

§15 Groundwater Protection

The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems. Applicants

whose projects involve on-site water supply or sewage disposal systems with a capacity of 2,000 gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

§16 Water Quality Protection

All aspects of the project must be designed so that:

- A. No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwater so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
- B. All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State of Maine Fire Marshall's Office.
- C. If the project is located within the watershed of a 'body of water most at risk from development' as identified by the Maine Department of Environmental Protection (DEP), the project must comply with the standards of the DEP with respect to the export of total suspended solids and/or phosphorous.

§17 Hazardous, Special and Radioactive Materials

The handling, storage, and use of all materials identified by the standards of all federal or state agencies 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.

§18 Solid Waste Disposal

The proposed development must provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

§19 Historic and Archaeological Resources

If any portion of the site has been identified by appropriate state agencies or the Montville Comprehensive Plan as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

§20 Floodplain Management

If any portion of the site is located within a flood hazard area as identified by the Federal Emergency Management Agency's 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, all use and development of that portion of the site must be consistent with the Town of Montville Floodplain Management Ordinance.

§21 Noise Limitations

The maximum permissible sound pressure level of any continuous, regular or frequent or intermittent source of sound produced by any activity on the site shall be limited by the time period and sound levels as listed below.

7:00 a.m. to 7:00 p.m. <65

7:00 p.m. to 7:00 a.m. <50

Sound levels shall be measured at least four feet above ground at the property boundary of the source. Measurements of sound pressure level limits are to be made using the sound equivalent level of one minute (leq1) (measured in dB[a] scale).

§22 Exterior Lighting.

The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated. Lighting may be used which serves security, safety and operational needs but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways.

Lighting fixtures must be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings and so that they do not unnecessarily light the night sky. Direct or indirect illumination must not exceed 0.5 foot-candles at the lot line or upon abutting residential properties. All exterior lighting, except security lighting, must be turned off between 11 P.M. and 6 A.M. unless located on the site of a commercial or industrial use which is open for business during that period.

ARTICLE XI – POST-APPROVAL ACTIVITIES

§1 Limitation of Approval

Substantial construction of the improvements covered by any site plan approval must be commenced within 12 months of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the specified period, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to the expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two six-month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

§2 Incorporation of Approved Plan

All construction activities must conform to the approved plan, including any conditions of approval and minor changes approved by the Code Enforcement Officer to address field

conditions. Any changes approved by the Code Enforcement Officer shall be in writing and made part of the project file.

§3 Improvement Guarantees

The Planning Board may require the posting of an improvement guarantee in such amount and form as specified in Article VIII, Section 1, Performance Guarantees, and as is reasonably necessary to ensure the proper installation of all off-site improvements required as conditions of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.

Upon substantial completion of all required improvements, the developer must notify the Planning Board of the completion or substantial completion of improvements, and must send a copy of such notice to Selectmen, Planning Board, and Code Enforcement Officer who shall inspect all improvements and must file a report indicating either approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection. The Planning Board shall approve, partially approve, or reject the improvements on the basis of the report of the Planning Board, Selectmen, and Code Enforcement Officer. If the improvements are approved, the guarantee shall be released. Where partial approval is granted, the developer shall be released from liability only for that portion of the improvements approved.

§4 Submission of As-Built Plans

Any project involving the construction of more than 20,000 square feet of gross floor area or 50,000 square feet of impervious surface, must provide the Code Enforcement Officer with a set of construction plans showing the building(s) and site improvements as actually constructed on the site. These “as-built” plans must be submitted within 30 days of the issuance of a certificate of occupancy for the project or occupancy of the building. The as-built plans shall be made part of the project file.

§5 Minor Changes to Approved Plans

Minor changes in approved plans necessary to address field conditions may be approved by the Code Enforcement Officer provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal. The Code Enforcement Officer must endorse any such change in writing on the approved plan. Any changes approved by the Code Enforcement Officer shall be in writing and made part of project file.

§6 Amendments to Approved Plans

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

ARTICLE XII – ENFORCEMENTS AND VIOLATIONS

§1 Nuisances

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

§2 Code Enforcement Officer

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal or discontinuance of the illegal use of land, buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
- B. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- C. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On an annual basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.
- D. Legal Actions
When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Montville. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
- E. Fines
Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. Section 4452.

ARTICLE XIII - APPEAL OF PLANNING BOARD AND/OR CODE ENFORCEMENT OFFICER ACTIONS

§1 Administrative Appeal

Any person aggrieved by an action from determinations of the Planning Board or the Code Enforcement Officer pursuant to this Ordinance may file an application for appeal.

- A. All appeals shall be in writing and submitted within 30 days of the granting or denial of approval from the Planning Board or a decision of the Code Enforcement Officer. The applicant shall file this appeal with the Chair of the Board of Appeals, who shall issue a dated receipt within 7 days, and notify the applicant in writing that the application is either complete or incomplete. The Chair shall specify what additional material is needed, if any, to make the application complete.
- B. A fee to accompany applications for appeal shall be determined by the Town of Montville Board of Selectmen.
- C. The Board of Appeals shall, upon complete written application of an aggrieved party, and after public notice, hear appeals within 30 days of such application. Such hearing shall be held in accordance with Maine State Law. The Appeals Board shall cause notice of the date, time and place of public hearing with the general nature of the question involved to be given in writing to the applicant of the appeal. Notice shall be published in a newspaper of general circulation in the Town of Montville, Maine at least two times. The date of the first such publication shall be at least 14 days prior to the hearing. The Board shall also cause notice of the hearing be given to the Selectman, the Planning Board, the Code Enforcement Officer.
- D. Following such hearing the Board of Appeals may reverse the decision of the Planning Board or the Code Enforcement Officer only upon a finding in fact that the decision of the Planning Board or the Code Enforcement Officer is clearly contrary to specific provisions of this Ordinance. The Board of Appeals shall render a decision in writing to the applicant, Planning Board Chair, Code Enforcement Officer, and the Selectmen within 30 days of the appeal hearing.

§2 Appeal to Superior Court

Any aggrieved party, having proper standing, may appeal any decision of the Appeals Board under this Ordinance to the Superior Court of Waldo County, within thirty days of a written decision in accordance with Maine State Law.

ARTICLE XIV - AMENDMENTS TO THE ORDINANCE

§1 Initiation of Amendment

An amendment to this ordinance may be initiated by:

- A. The Planning Board (provided that a majority of the Board has so voted), or
- B. Request of the Selectmen to the Planning Board, or
- C. Written petition to the Selectmen bearing signatures of registered voters of the Town of Montville, Maine numbering at least 10% of the number who voted in the last gubernatorial election.

§2 Adoption of Amendment

All proposed amendments to this ordinance shall be referred to the Planning Board for their recommendation. The Planning Board may hold a public hearing on any proposed amendment. Within 30 days of receiving a proposed amendment, the Planning Board shall make known their recommendation to the Selectmen and the Town. After receiving the recommendation of the Planning Board, the amendment shall be voted on by the voters of the Town of Montville, Maine at a Town Meeting, a simple majority vote being required for adoption.

ARTICLE XV - SEVERABILITY

Should any article or provision of the ordinance be declared by the courts of the State of Maine or the courts of the United States to be invalid, such decisions shall not invalidate any other article or provision of the ordinance.

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

ARTICLE XVI - AVAILABILITY

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

ARTICLE XVII - DEFINITIONS

§1 Construction of Language

In general, all words and terms used in this Ordinance shall have customary dictionary meanings. More specifically, certain words and terms shall be described below.

§2 Relationship to Other Town Ordinances

Where there is a conflict between the language contained in this Ordinance and any other Town ordinances, the stricter language shall apply for purposes of the Ordinance.

§3 Definitions

Abutting Property: Any lot which is physically contiguous with the subject lot even if only at a point and any lot which is located directly across a street or right-of-way from the subject lot such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property.

Accessory Building: A detached, subordinate building, the use of which is clearly incidental and related to that of the principal building or use of the land, and which is located on the same lot as that of the principal building or use.

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

Aggrieved Party: An owner of land whose property is directly or indirectly affected by the granting or denial of an approval under this ordinance; a person whose land abuts land for which approval 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 approval.

Arterial: A controlled access road or a street or road with traffic signals at important intersections and/or stop signs on side streets or which is functionally classified by the Maine Department of Transportation as an arterial.

Building: Any permanent structure, having one or more floors and a roof, which is used for the housing or enclosure of persons, animals or property. When any portion thereof is separated by a division wall without opening, then each such portion shall be deemed a separate building.

Building Footprint: The area covered by a building measured from the exterior surface of the exterior walls at grade level exclusive of cantilevered portions of the building. Where the building is elevated above grade level on posts or similar devices, the building footprint is the area the building would cover if it were located at ground level.

Change From One Category of Nonresidential Use to Another Category of Nonresidential Use: A change in the type of occupancy of a nonresidential building or structure, or a portion thereof, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants.

Collector Street: A street that collects traffic from local streets and connects with arterials or a street or road functionally classified as a collector by the Maine Department of Transportation.

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.

Curb Cut: The opening along the curb line or street right-of-way line at which point vehicles may enter or leave the street.

Enlargement or Expansion of Structure: An increase of the building footprint and/or increase in the height of the structure beyond its present highest point. Alterations of existing buildings which are required in order to meet the requirements of the Americans with Disabilities Act (ADA) and/or the State Fire Code are not considered to be enlargements or expansions of a structure and are not required to meet otherwise applicable setback requirements, provided the alterations are the minimum necessary to satisfy the ADA and/or State Fire Code.

Enlargement or Expansion of Use: Any intensification of use in time, volume, or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use. Increases, which are required in order to meet the

requirements of the Americans with Disabilities Act and/or the State Fire Code, are not considered to be enlargements or expansions of use.

Fisheries, Significant fisheries: Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife, Atlantic Salmon Authority, or Maine Department of Marine Resources as having significant value as fisheries and any areas so identified in the municipality's comprehensive plan.

Floor Area: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

Groundwater: All of the water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the subsurface water present in aquifers and recharge areas.

Historic or Archeological Resources: Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the municipality's comprehensive plan.

Home Occupation: This term shall include both professional and personal services. It includes those occupations carried on in a dwelling unit or structure accessory to the dwelling unit which are:

- a. primarily conducted within such unit or structure,
- b. clearly incidental and secondary to the use of the dwelling for residential purposes and do not change the character thereof, and
- c. carried on exclusively by a member or members of the family residing in the dwelling unit, except, however, three additional fulltime employees or the equivalent thereof, not residents of the dwelling unit nor members of the family, are additionally included.

The term shall also apply to those occupations which do not satisfy one or more of the three limits mentioned above, but which exceed those limits only for a continuous period of not more than 90 days and such that this excess specifically results from the seasonal nature of the occupation.

The traffic generated by such occupation shall not exceed 50 vehicle trips per day or create a traffic hazard. Any waste or hazardous waste shall be disposed of in accordance with DEP regulations. Should the Planning Board determine that the operation no longer fits the definition of a home occupation, it shall be subject to site plan review.

Impervious Surface: The area covered by buildings and associated constructed facilities, areas which have been or will be covered by a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas, which have been or will be compacted through design or use to reduce their permeability. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of stormwater.

Local Street: A public street or road that is not identified as an arterial or collector. A local street includes a proposed street shown on an approved and recorded subdivision.

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

Multi-Family Dwelling: a building containing three or more dwelling units, such buildings being designed for residential use and occupancy by three or more families living independently of one another, with the number of families not exceeding the number of dwelling units. The term also includes commercial space as the principal use.

Natural Areas and Natural Communities, Unique Natural Areas and Natural Communities: Areas identified by a governmental agency such as the Maine Department of Conservation Natural Areas Program as having significant value as a natural area and any areas identified in the municipality's comprehensive plan.

Principal Structure: A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal Use: A use other than one that is wholly incidental or accessory to another use on the same premises.

Recharge Area: Area composed of permeable, porous material through which precipitation and surface water infiltrate and directly replenish groundwater in aquifers.

Setback, Front: An open area extending the entire width of a lot from lot sideline to lot sideline and extending in depth at a right angle from the street right-of-way to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

Setback, Rear: An open area extending the entire width of a lot from lot sideline to lot sideline and extending at a right angle from the rear property line of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

Setback, Side: An open area extending along each sideline of a lot between the front setback and the rear setback on such lot and extending at a right angle from the sidelines of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

Structure: Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, but not including a tent or vehicle.

Substantial Change: A substantial change shall be an increase of more than 500 square feet or 20% of the existing building footprint, whichever is less, within any three year period.

Substantially Commenced, Substantially Completed: Construction shall be considered to be substantially commenced when any work beyond the state of excavation, including but not limited to, the pouring of a slab or footings, the installation of piles, the construction of columns, or the placement of a manufactured home on a foundation has begun. Construction shall be considered to be substantially completed when it has been completed to the point where normal functioning, use, or occupancy can occur without concern for the general health, safety, and welfare of the occupant and the general public. At a minimum it shall include the completion of no less than 70% of the costs of the proposed improvements within a development and shall include permanent stabilization and/or re-vegetation of areas of the site that were disturbed during construction.

Use: The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

Vegetation: All live trees, shrubs, ground cover, and other plants.

Wildlife Habitat, Significant Wildlife Habitat: Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for animals and any areas identified in the municipality's comprehensive plan.

Site Plan Checklist Minor Project

For your convenience, please use the following checklist to ensure that you are submitting all the necessary documents required with your application. *Please be sure to read each subsection of Article IX in its entirety.* The checklist below is only provided as a reminder.

Subsection	Requirement
1	Waiver requests
2 a	<input type="checkbox"/> Fully completed and signed application
b	<input type="checkbox"/> Payment of all fees
c	<input type="checkbox"/> 8 copies of written material & maps
3 a	<input type="checkbox"/> Record owner's & applicant's information(name, address, phone)
b	<input type="checkbox"/> Location of all setbacks, yards and buffers
c	<input type="checkbox"/> Names & addresses of all abutters
d	<input type="checkbox"/> Sketch map based on tax map
e	<input type="checkbox"/> Boundary map of total parcel
f	<input type="checkbox"/> Tax map(s) and lot number(s) of project parcel
g	<input type="checkbox"/> Copy of deed or other document showing ownership
h	<input type="checkbox"/> Name, registration number and seal of plan preparer
4 a	Zoning classification(s)
b	<input type="checkbox"/> Property line bearings & lengths(may be waved)
c	<input type="checkbox"/> Location & size of water, sewer and utilities
d	<input type="checkbox"/> Location, names & widths of existing roadways
e	<input type="checkbox"/> Location and dimensions of existing walkways, driveways, etc.
f	<input type="checkbox"/> Location of intersecting roads or driveways -200"
g	<input type="checkbox"/> Location of wetland, scenic & natural features
h	<input type="checkbox"/> Surface water drainage direction across site
l	<input type="checkbox"/> Easements, covenants or deed restrictions
j	<input type="checkbox"/> Location & description of fire protection water supply
k	<input type="checkbox"/> Plumbing inspection report
5 a	<input type="checkbox"/> Water demand estimates
b	<input type="checkbox"/> Drainage direction & assessment
c	<input type="checkbox"/> Solid waste assessment
d	<input type="checkbox"/> Location, dimensions & materials for construction of roadways, walkways & traffic flow
e	<input type="checkbox"/> Landscaping & buffering
f	<input type="checkbox"/> Elevation drawings
g	<input type="checkbox"/> Outdoor sign plans
h	<input type="checkbox"/> Outdoor lighting plans
l	<input type="checkbox"/> Location of utilities & Fire protection systems
J	<input type="checkbox"/> General use description
k	<input type="checkbox"/> Traffic estimates
l	<input type="checkbox"/> Material storage plans
m	<input type="checkbox"/> Copies of applicable state permits
n	<input type="checkbox"/> Construction schedule

Site Plan Review Application

Town of Montville, Maine

Board of Selectmen

Edward George, 342-5463
Charles Martin
James Buckle

Town Clerk

Lenora Martin
589-4302

Planning Board

Chris Schmidt, Chair
342-5234

Any individual with right, title, or interest in a parcel of land within the town of Montville, Maine must obtain site plan approval prior to commencing: new commercial, industrial, or retail developments, substantial expansions, and significant changes of use as defined in the *Site Plan Review Ordinance, Town of Montville, Maine*.

All applicants are advised to familiarize themselves with the procedures and submission requirements related to the various project classifications. Specific questions and requests for waivers are best addressed through an informal pre-application meeting scheduled with the Montville Town Planning Board. Subsequent questions may be directed to Chris Schmidt, Chair of the Montville Planning Board or upon presentation of this application to the Montville Planning Board.

In addition to this *Site Plan Review Application* form, you are expected to provide evidence of payment of the required fees, and all exhibits and information outlined in Article IX, Submission Requirements of the *Site Plan Review Ordinance, Town of Montville, Maine*.

All materials are to be submitted to the Chair of the Montville Planning Board.

Project Name (if appropriate)

Applicant Information

1. Applicant's Name

Address

Zip Code

Telephone Number(s)

2. Property Owner's Name

Address

Zip Code

Telephone Number(s)

3. List the names and addresses of all property owners within 1000' of any and all property boundaries. (Attach separate list if necessary)

Name

Name

Address

Address

Zip Code

Zip Code

Name

Name

Address

Address

Zip Code

Zip Code

Name

Name

Address

Address

Zip Code

Zip Code

Name

Name

Address

Address

Zip Code

Zip Code

4. List the tax map(s) and lot number(s) of the parcel(s) on which the project is located.

Tax map number

Lot number

Tax map number

Lot number

Tax map number

Lot number

5. List the name and registration numbers of the person who prepared the plan, if applicable.

Name

Address

Zip-Code

6. Give a brief description of proposed project: _____

Applicant's Signature

Date

TOWN OF MONTVILLE

SEPTAGE, SLUDGE AND SOLID WASTE DISPOSAL ORDINANCE

CHAPTER 1

Authority, Purpose and Definitions

Section 1. Authority. This ordinance is enacted pursuant to 38 M.R.S.A. §1304-B(3), ME. Const. Art. VIII, Pt. 2, S1 and 30 M.R.S.A. §1917 (1979).

Section 2. Purpose. The purpose of this ordinance is to protect the health, safety and welfare of the citizens of Montville, to enhance and maintain the quality of the environment, to conserve natural resources, and to prevent water, air and land pollution through the regulation of septage, sludge or solid waste disposal within the Town of Montville.

Section 3. Definitions. The following definitions shall apply to this ordinance:

(a) "Person" includes individuals, partnerships, corporations and their agents and employees.

(b) "Solid Waste" means 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, junk, refuse, inert fill material and landscape refuse, but shall not include septic tank sludge or agricultural wastes.

(c) "Septage" means waste, refuse, effluent, sludge and any other materials from septic tanks, cesspools or any other similar facilities.

(d) "Sludge" means any free-flowing semisolid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant, air pollution control facility, industrial wastes generated by food, wood, fish, or any other such waste having similar characteristics and effect.

(e) "Hazardous Waste" means a waste substance or

material in a physical state designated as hazardous by the State of Maine Board of Environmental Protection.

(f) "Facility" or "Waste Facility" means any land area, structure, location, equipment or combination of them, including dumps, used for handling solid waste, sludge or septage. A land area or structure does not become a waste facility solely because: (a) it is used by its owner for disposing of septage from his residence; (b) it is used to store for 90 days or less hazardous waste generated on the same premises; (c) it is used by individual home owners or lessees to open burn leaves, brush, dead wood and tree cuttings accrued from normal maintenance of the residential property when such home owner or lessee has received approval to conduct such burning under other applicable local and state laws; or (d) it is used by its residential owner to burn highly highly combustible domestic, household trash such as paper, cardboard or wood boxes when such owner has obtained approval under other applicable local and state laws.

(g) "Handle" or "Handling" means to store, transfer, collect, separate, salvage, process, reduce, recover, incinerate, treat or dispose of.

(h) "Selectmen" means the selectmen of the Town of Montville.

(i) "Town" means the Town of Montville.

(j) "Agricultural Wastes" means wastes which result from agricultural activities which are returned to the soils as fertilizers as long as such wastes do not include insecticides, herbicides, or other hazardous waste. The term "agricultural activities" referred to in this definition means the growing of vegetables, fruits, seeds, nursery crops, poultry, livestock, field crops, cultivated or pastury hay and farm woodlot products including Christmas trees.

CHAPTER 2

Permit Process

Section 1. Permit Required. No person shall establish or operate a septage, sludge or solid waste facility within the

Town of Montville without first obtaining a permit from the Selectmen.

Section 2. Application Procedure. Each application for a permit under this ordinance shall be submitted by the prospective operator of the waste facility and shall include the following:

(a) A written application which includes:

- Name and complete address of applicant.
- Evidence by the applicant of his title and/or interest in the property under consideration as a waste facility.
- A detailed description of the site utilization which sets forth the specific activities, proposed methods of operation and a description of all buildings and machinery which are a part of the proposed waste facility.
- Identity of the site of the waste facility by deed and tax map and lot and reference.
- A description of the consistency, chemical composition and origin of the material to be handled at the applicant's waste facility.
- The weight and volume by day, week and year of the material to be handled at applicant's waste facility.
- Plans to excavate, landscape, screen, and reduce any unsightliness and to control access to and from the site for protection against accident and harm to the public and environment.
- Manner in which septage, sludge and/or solid waste will be transferred to the applicant's waste facility.
- The results of any engineering evaluations and other studies supporting applicant's proposal.
- Manner in which material to be handled by applicant will be treated to reduce odor to a level tolerable to abutters.

- Manner in which material to be handled by applicant will be treated to reduce pathogen level.

{b) A site plan which includes:

- A survey plan or plans of applicant's property drawn and certified by a registered land surveyor which delineates the following:

1. the property which applicant has title to or an interest in together with an outline of the perimeter of applicant's proposed waste facility on this property,
2. existing dwelling units and other structures,
3. one hundred year flood zones,
4. private and public water supplies,
5. topography indicating contours and intervals of five feet in elevation,
6. existing soil conditions described using the unified soil classification system by a registered geologist or soil scientist in the State of Maine,
7. location of aquifers and aquifer recharge areas and surface watershed boundaries, according to surveys on file with the Montville Town Office.
8. landscape plan showing location, type, and approximate size of plantings, location and dimension of all fencing and screening, and location and dimension of all excavation,
9. profiles of underlying soil and bedrock conditions prepared by a registered geologist in the State of Maine, and
10. location and details of any proposed groundwater monitoring wells.

(c) The Selectmen may reduce the amount of information needed in the application provided they determine, after meeting with the applicant, that the information requested

is not applicable to the proposed waste facility.

Section 3. Permit Fee and Term. All applications shall be accompanied by a nonrefundable fee of \$50.00 payable to the Town of Montville. The applicant may be responsible for additional costs when, in the discretion of the Selectmen, such costs are reasonable necessary to process the application. The term of the permit shall be for one year, beginning January 1 of each year.

Section 4. Public Hearing. A public hearing must be held on all applications, notice of which shall be posted at least seven (7) and not more than fourteen(14) days prior to a hearing in not less than two(2) public places in the Town and in one newspaper of general circulation in the Town. The Selectmen shall hold the public hearing within 30 days of the receipt of a completed application in order to receive comment and input from the citizens of Montville. It shall be the applicant's responsibility to provide seven (7) days written notice of this public hearing to all property owners who abut the proposed waste facility.

Section 5. Criteria for Granting Permit. A permit shall be granted under this ordinance after public hearing provided the Selectmen find that:

(a) The overall purposes of this ordinance are met by the granting of a permit;

(b) The applicant has provided the Selectmen with all of the information required under the application procedure described in Section 2 above;

(c) Applicant has sufficient legal interest in the property under consideration for a waste facility;

(d) The applicant has provided proof that he has served written notice of the public hearing upon all owners of property which abut the proposed waste facility (with the applicant being entitled to rely upon tax information for the current addresses of all abutters and with certified mail receipts being acceptable proof of service).

(e) The applicant has adequate technical and financial

capacity to properly construct, operate, maintain and close the proposed waste facility. Proof of financial capacity to operate a waste facility shall include evidence of liability insurance coverage in the minimum amount of 1 million dollars per occurrence and an annual aggregate of 2 million dollars (exclusive of legal defense costs) for claims arising out of injury to persons or property from the operation of applicant's waste facility which insurance shall extend for such periods deemed necessary by the Selectmen to protect its citizenry in view of the type and volume of waste being handled together with the unique characteristics and specifications of the proposed waste facility. The required amount and scope of insurance coverage set forth above may be lessened for waste facilities which operate solely as automobile graveyards as defined by 30 M.R.S.A. S2451-B(1978), if the selectmen find that the purposes of this ordinance can otherwise be met.

(f) When the owner of the property under consideration for a waste facility is not the operator/applicant, the owner shall be required to guarantee and shall be liable for the performance by the operator, and the owner shall be required to demonstrate adequate financial capacity therefor.

(g) The soils, bedrock formation and ground contours are such that the ground water and surrounding surface waters will not be adversely affected.

(h) There are no hazardous wastes to be disposed of at the proposed facility.

(i) Abutting landowners will not be adversely affected by the granting of the permit.

(j) The site and entrance thereto will be properly landscaped to screen to the maximum extent possible the disposal area from all surrounding property and that the entrance to the site will be controlled to prevent accident and public harm.

(k) Any excavation or open soil will be planned in such a way as to minimize erosion and prevent sediment pollution or siltation of any ground or surface water in the town.

(l) Adequate provision has been made to monitor the site against surface and ground water contamination which may include the use of monitoring wells.

(m) No waste facility is located within one mile of aquifers.

(n) The concentration levels set forth in Exhibit A are not exceeded.

Section 6. Decision of Selectmen. A permit shall be granted, granted with conditions, or denied within 90 days of a public hearing. Which period shall be extended in the discretion of the Selectmen, additional time is needed to gather information. The Selectmen shall immediately notify the applicant in writing of their decision together with their reasons for denial or imposing conditions, if applicable.

Section 7. Conditions. The Selectmen may issue a permit subject to any conditions necessary to ensure compliance with the above criteria and the purposes set forth in this ordinance. Standard conditions applicable to all permits are as follows:

(a) The establishment and operation of a new waste facility and the handling of all septage^{sludge} or solid waste within this municipality shall comply with all other municipal, state and federal laws and regulations which may apply.

(b) All permit holders shall be responsible for keeping a journal of all septage, sludge and/or solid waste brought into its waste facility throughout the duration of the permit period which journal shall include the following information:

- date any septage, sludge or solid waste is spread on or over land encompassing the waste facility
- identity of person transporting waste material into waste facility together with the identity of the transporter's employer if different
- a description (including consistency and chemical composition) of all waste material handled at the waste facility
- the volume or weight of all waste material transported into waste facility together with the date of such disposal

- the origin of such waste material

-the method in which such waste material was disposed of

(c) Each permit holder shall accept no waste material from any transporter who fails or refuses to provide the information specified in Section 7(b) above.

Chapter 3

General Provisions

Section 1. Existing Waste Facilities. Any waste facility in existence at the time this ordinance is enacted must comply with the provisions of and obtain a permit under this ordinance within one (1) year of enactment of this ordinance by the town. However, any existing waste facility which expands or alters its operation within this one year period must immediately comply with and obtain a permit under this ordinance.

Section 2. Suspension and Revocation of Permit. After notice and hearing, the Selectmen may suspend or revoke the permit of any person who violates this ordinance or the conditions inserted in a permit. Notice of a hearing shall be sent to the operator/applicant by registered mail not less than seven(7) nor more than fourteen(14) days before the hearing and such notice shall state the time and place of hearing. The notice of hearing shall contain a statement describing the alleged violation(s) of this ordinance or of any conditions inserted in the permit.

Section 3. Changes in Location, Size or Operation. If the operation or location of any septage, ^{sludge or} solid waste facility changes from that specified in the original permit application, an amendment to the permit must be obtained. A public hearing on any amendment may or may not be held at the discretion of the Selectmen.

Section 4. Annual Permit Renewal. Each permit granted under this ordinance must be renewed on an annual basis. Applications for a renewal permit shall be accompanied by a

nonrefundable fee of \$25.00 payable to the Town of Montville. Selectmen shall issue a renewal permit provided they find that the permit holder has:

1. Maintained an operations log with the information required under Chapter 2, Section 6, paragraph b
2. Complied with all applicable municipal, state and federal laws and regulations pertaining to septage, sludge and/or solid waste disposal
3. The criteria for granting the applicant's original permit together with the purposes of this ordinance, generally, have been and are being met in all respects.

If the Selectmen find that either the criteria for granting the initial permit or the general purposes of this ordinance are not being met by the permit holder, then the Selectmen shall be entitled to either deny the renewal permit or grant a renewal permit with additional conditions.

A public hearing on renewal permits may or may not be held at the discretion of the Selectmen.

Section 5. Penalty. Any person who violates this ordinance shall be subject to the civil penalties set forth in 30 M.R.S.A. S4966 (Supp. 1985).

Section 6. Access to Site. The Selectmen or their designated agents shall be permitted access to the site of any existing or proposed waste facility for the purpose of evaluating an application or monitoring compliance with this ordinance. The Selectmen or their agents shall be permitted to take samples of soils, water from wells or surface water, or septage, sludge, or solid waste materials for laboratory analysis at the expense of the operator. Evaluation by experts deemed necessary by the Selectmen will be at the expense of the applicant.

Section 7. Separability. The invalidity of any provision of this ordinance shall not invalidate any other part.

Section 8. Enforcement. The Town may recover all costs of enforcement, including attorney's fees.

Section 9. Exemptions. The current Montville Sanitary Landfill shall be exempt from this ordinance. Automobile graveyards for personal use shall be exempt from this ordinance.

Section 10. Commencement. This ordinance shall become effective when enacted.

TOWN OF MONTVILLE

SEPTAGE, SLUDGE AND SOLID WASTE DISPOSAL ORDINANCE

EXHIBIT A

Allowable Concentrations of Heavy Metals, PCB's and Maximum Loading Limits:

Many sludge and residuals contain trace quantities of various elements, heavy metals, organic compounds or pollutants such as PCB's. As a means of providing for increased environmental safety, public health and long term agricultural productivity, the following permissible concentrations of heavy metals and PCB's shall serve as maximum concentration limits and total cumulative loading limits for the application of residuals and sludges on the land:

Table 1. a
MAXIMUM PERMISSIBLE CONCENTRATIONS (mg/kg dry weight)

Cadmium (Cd)	.....5
Chromium (Cr)	..... 500
Copper (Cu)	..... 500
Lead (Pb)	..... 350
Mercury (Hg)	..... 5
Nickel (Ni)	..... 100
Zinc (Zn)	.....1000

Table 1. b
MAXIMUM PERMISSIBLE CONCENTRATIONS OF ORGANIC CHEMICAL POLLUTANTS
(mg/kg dry weight)

Polychlorinated Biphenyls (PCB's)...0

Table 2
MAXIMUM LOADING LIMITS (kg/ha) BASED UPON CATION EXCHANGE
CAPACITY OF UNAMENDED SOIL

	5 MEQ/100g	5-15 MEQ/100g	15 MEQ/100g
Cadium (Cd) ¹	.....2.5	.....5.0	.....5.0
Chromium (Cr)	.....250	.....500	.....500
Copper (Cu)	.....125	.....250	.....250
Lead (Pb)	.....500	.....1000	.....1000
Zinc (Zn)	.....250	.....500	.....500
Nickel (Ni)	.....50	.....100	.....100

¹In addition the annual cadmium loading rate shall not exceed 0.5 kg/ha per year on land used for production of food chain crops.

Note: kg/ha means kilogram per hectare. (kg/ha) X (.892) = pounds per acre.

MEQ/100g means milliequivalents per 100 grams and is a measure of caption exchange capacity.

**SUBDIVISION ORDINANCE
TOWN OF MONTVILLE**

AMENDED: MARCH 25, 1995

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March 25, 1995

SUBDIVISION ORDINANCE

Town of Montville, Maine

ARTICLE I: TITLE

This Ordinance shall be known and may be cited as the "Subdivision Ordinance of the Town of Montville, Maine."

ARTICLE II: AUTHORITY, ADMINISTRATION AND JURISDICTION

- A. Authority
This Ordinance is enacted under the authority granted to the Town by the statutes of the State of Maine, and in accordance with the provisions of Title 30 M.R.S.A. Section 4956. The existing Montville Subdivision Ordinance is hereby repealed.
- B. Administration
This Ordinance shall be administered by the Planning Board of Montville, hereinafter called "the Board."
- C. Jurisdiction
The provisions of this Ordinance shall pertain to all land proposed for subdivision, as herein defined, located within or partly within the boundaries of the Town of Montville, pursuant to the home rule provisions of 30 M.R.S.A. 1917 and 2151A.

ARTICLE III PURPOSES

The purposes of this Ordinance are to assure the comfort, convenience, safety, health and welfare of the people of the Town of Montville; to protect the environment, natural resources and to preserve the rural character of the Town, and to promote the orderly development of an economically sound and stable community in accordance with the Town's comprehensive Plan. To this end, in approving subdivisions within the Town, the Planning Board shall consider the following criteria, and before granting approval shall make findings of fact that the provisions of this Ordinance have been met. The proposed subdivision:

- A. will not result in undue water, soil or air pollution. In making this determination, the Board shall at least consider the elevation of the land and its relation to flood plains; the nature of the soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents;

- B. has sufficient potable water available for the foreseeable needs of the subdivision, and an adequate supply of water for fire control;
- C. will not cause an unreasonable burden on an existing water supply;
- D. will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- E. will not cause unreasonable road congestion or unsafe conditions with respect to use of existing or proposed roads;
- F. will provide for adequate solid and sewage disposal;
- G. will not cause an unreasonable burden on the ability of the Town of Montville to dispose of solid waste and sewage or septage if Town facilities are to be utilized;
- H. will not have an adverse effect on the scenic or natural beauty of the area, wildlife habitat, aesthetics, rural character, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to Montville's ponds, rivers and streams;
- I. is in conformance with a duly adopted Subdivision Ordinance, Comprehensive Plan, and all State and local ordinances, laws and regulations. In making this determination, the Planning Board is authorized to interpret these ordinances and plans;
- J. the subdivider has proven adequate financial and technical capacity to meet these standards;
- K. whenever situated in whole or in part within the watershed of any pond, river or stream, will not adversely affect the quality of that body of water. Furthermore, when lots in a subdivision have frontage on an Outstanding River Segment, as defined in 30 M.R.S.A. 4956, the proposed subdivision plan shall require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of five hundred feet. (i.e. the Sheepscot River from Wiscasset to the Halldale Road, St. George River - excluding Trues Pond).
- L. will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
- M. will require construction of dwellings with their lowest floors, including basements, at least on foot above the 100-year flood elevation.

ARTICLE IV: PREAPPLICATION

- A. The applicant shall request to be placed on the Planning Board's agenda one week in advance of a scheduled monthly meeting, and will attend that meeting to submit a sketch plan showing proposed layout of roads, lots, and other features in relation to existing conditions. The sketch plan shall be outlined on a copy of the USGS topographic map and a copy of the Assessor's map showing abutting property owners.
- B. The applicant shall submit the required Preapplication fee, as specified by a separate fee schedule available from the Board.
- C. Within 30 days the Board will hold an on-site inspection of the property and inform the applicant of anticipated problems and/or recommendations concerning the proposed subdivision. Prior to the inspection, proposed roads and corners of lots will be clearly marked by colored "flagging."
- D. The submittal or review of the sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A. 302.

ARTICLE V: PRELIMINARY PLAN

- A. Within six months after the sketch plan has been reviewed by the Board, the subdivider shall submit an application for approval of a Preliminary Plan after requesting to be placed on the agenda of a scheduled Planning Board meeting one week in advance. Failure to act within the six month time frame may require the applicant to resubmit the sketch plan to the Board. The Preliminary Plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Board.
- B. All applications for Preliminary Plan approval shall be accompanied by the required Preliminary Plan fee payable to the Town of Montville.

In addition, the Board may set an amount to be added to the base fee paid by the subdivider, sufficient to enable the Board to secure outside technical assistance in reviewing the proposed subdivision, and sufficient to cover the cost of public hearings. The balance of unused additional fees will be returned to the applicant.
- C. The subdivider or duly authorized representative shall attend the meeting of the Board to discuss the Preliminary Plan.
- D. The Applicant shall provide written notice, sent certified return receipt to all owners of abutting property, including abutters to any right-of-way leading to the subdivision, that an application for subdivision approval has been submitted to the Board, including the date of the meeting at which it will be discussed. If the proposed subdivision will have

an impact on any town bordering Montville, the Board will notify that town's Selectmen. A copy of certified return receipts shall be submitted to the Board.

- E. The Preliminary Plan shall be submitted in ten copies to the Planning Board and shall be drawn to a scale of not more than 100 feet to the inch. The plan shall include:
1. A location map showing the relationship of the proposed subdivision to adjacent properties, including existing and proposed roads, boundaries, lot lines, boundaries of zoning districts.
 2. Proposed name of subdivision and the Tax Assessor's Map and Lot numbers.
 3. The date the plan was prepared, magnetic north point, graphic map scale, names and addresses of the recorded owner, subdivider, and individual or company who prepared the plan. If the subdivider is not the owner of the property, evidence of the subdivider's right, title or interest to the property.
 4. The names and addresses of recorded owners of abutting property, including abutters across a road or adjacent to a right-of-way leading to the subdivision.
 5. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a Licensed Land Surveyor. The corners of the tract shall be located on the ground and marked by colored "flagging".
 6. A copy of the deed on which the survey was based; a five year title history; and all covenants, deed restrictions, easements, rights-of-way or other encumbrances currently affecting the property.
 7. A copy of proposed covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
 8. A map showing contour lines at the interval of five (5) feet showing elevations in relation to Mean Sea Level and a map showing areas where slopes are fifteen percent (15%) to thirty percent (30%), and over thirty percent (30%) drawn on a scale of fifty feet to the inch.
 9. The number of acres within the proposed subdivision, all land identified as not suitable for development, location of property lines, existing buildings, watercourses, areas containing significant wildlife habitat or deer wintering areas, stone walls, vegetative cover type, and other essential physical features.
 10. The proposed lot lines with dimensions and lot areas.

11. Indication of the type of sewage disposal to be used in the subdivision. A soil analysis for a subsurface sewage disposal system shall be prepared by a Licensed Site Evaluator and the location of the test sites marked on the plan, with an indication of the water table level marked at each test site. The soil analysis shall be prepared using the State of Maine form HHE 200.
12. Indication of the type of water supply system(s) to be used in the subdivision. Where the Board deems necessary, it will require a history of land use and water quality in the area.
13. The location and size of existing and proposed sewage disposal systems, wells, natural or constructed culverts within the proposed subdivision or within 100' of any boundary.
14. The location, names and widths of existing and proposed roads, easements, and rights-of-way.
15. Location of all parcels of land proposed for common use of lot owners with an indication of its proposed improvement and management, and open space to be preserved; easements proposed to serve as wooded or planted screening from existing public roads.
16. A copy of the Waldo County Soils Survey Map covering the subdivision. Where that soil survey shows soils which are generally unsuitable for the proposed uses, or when a subdivision is located within the watershed of a body of water the Board shall require the submittal of a high intensity soils survey and a report by a registered Soils Scientist indicating the suitability of soil conditions for the proposed uses.
17. A soil erosion and sedimentation control plan endorsed by the Soil Conservation Service District Conservationist, including a plan for the disposal of surface drainage waters and storm water runoff control showing sizes of culverts and ditches, and proposed maintenance. This plan shall be designed to prevent erosion, not only for the completed project, but also for each phase of instruction during development.
18. A traffic impact analysis to include an estimate of the number of daily vehicle trips generated by the project and statement of sight distances at intersections of access roads to the subdivision and existing roads.
19. If any portion of the proposed subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.

20. Location of the proposed subdivision on the map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers" by the Maine State Geological Survey. The Board may require a hydrogeologic assessment prepared by a Certified Geologist or a Registered Professional Engineer, experienced in hydrology, if any part of the subdivision is located over a sand and gravel aquifer.
- F. Within thirty days of receipt of a Preliminary Plan application, the Board shall notify the applicant in writing whether or not the application is complete and what, if any, additional submissions are required. Upon determination that an application is complete, the Board shall issue a dated receipt to the subdivider.
 - G. The Board shall hold a public hearing within thirty days of receipt of a complete application, and shall publish notice of the hearing in local newspapers and post in public places.
 - H. The Board shall, within thirty days of a public hearing, or within sixty days of receipt of a complete application, or within another time limit as may be mutually agreed to be the Board and the subdivider, make findings of fact on the application and approve, approve with conditions, or deny the Preliminary Plan.
 - I. Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve Final Plan. The Final Plan shall be submitted for approval upon fulfillment of the requirements of this Ordinance and the conditions of Preliminary Plan approval. Prior to approval of the Final Plan, the Board may require additional changes and/or submissions as a result of further study of the subdivision or new information received.

ARTICLE VI FINAL PLAN

- A. Within six months after approval of a Preliminary Plan, the applicant shall request to be placed on the agenda one week in advance of a regular Planning Board meeting, and shall submit an application for approval of a Final Plan, accompanied by the required Final Plan fee. If the Final Plan is not submitted to the Planning Board within this period, the Board may refuse without prejudice to act on the Final Plan and require resubmission of the Preliminary Plan.
- B. Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where appropriate:
 1. Maine Department of Environmental Protection, under the Site Location of Development Act, Great Ponds Act, Fresh Water Wetlands Act, Alteration of Streams and Rivers Act, Natural Resources Protection Act.
 2. Maine Department of Human Services, if the subdivider proposes to provide a central water system.

3. Maine Department of Human Services or a State licensed plumbing inspector, if a centralized or shared subsurface sewage disposal system is to be utilized.
- C. Within thirty days of receipt of an application for approval of a Final Plan, the Board shall determine either that the application is complete, or will notify the applicant of what, if any, further submissions are required. Upon determination that the application is complete, the Board shall issue a dated receipt to the subdivider.
 - D. Within thirty days, the Board shall hold a public hearing on the complete application, to be advertised in local newspapers and post in public places. When the Board determines that a proposed subdivision will have an impact on a neighboring town, or a body of water within that town, the Applicant shall notify the Selectmen of that town.
 - E. The subdivider, or a duly authorized representative, shall attend the meeting of the Planning Board to discuss the Final Plan.
 - F. The subdivider shall submit a performance bond or guarantee in a form and amount meeting the requirements of Article VIII to secure the completion of all improvements required by the Board, and written evidence that the Town Selectmen have reviewed and approved the bond or guarantee.
 - G. A Final Plan shall be submitted to the Planning Board which shall consist of one original drawn on durable, permanent transparency material and ten copies of one or more maps or drawings, drawn to the same scale and on the same size sheet as the Preliminary Plan, unless otherwise directed by the Board. Space shall be reserved for the signatures of the Planning Board and the date of approval following the words, "Approved: Town of Montville Planning Board, Pursuant to Title 30 M.R.S.A. Section 4956." The application for Final Plan Approval shall include the following:
 1. All of the information presented on the Preliminary Plan and Location map and any amendments thereto suggested or required by the Planning Board.
 2. The name, registration number and seal of the Land Surveyor, architect, engineer or planning consultant who prepared the plan.
 3. The subdivider shall notify the Town Road Commissioner, Fire Chief, Superintendent of Schools, and Selectmen of the number of house lots or dwelling units planned. The subdivider shall request comments on the adequacy of each of their departments' existing facilities to serve the subdivision. Their comments shall be submitted as part of the Final Plan, and will be considered in regard to minimizing any potentially adverse impact of the subdivision on the Town based on the Purposes stated in Article III of this Ordinance.

4. Written offers of cession, in a form certified as satisfactory by the Town Attorney, of all land or roads proposed to be dedicated to the Town. Also, copies of agreements or documents showing the manner in which open spaces to be retained by the subdivider or lot owners are to be maintained.
 5. Written approval from the Board of Appeals for variances or specified exceptions, if required, and any conditions imposed.
 6. A list of construction items with cost estimates that will be completed by the subdivider prior to the sale of lots and a complete and detailed schedule of construction as it proceeds to completion of the project.
 7. Detailed construction drawings and specifications drawn by a Professional Engineer or other qualified individual, showing:
 - a. Water supply system(s)
 - b. Sewage disposal system(s)
 - c. Road profiles and cross-sections
 - d. Soil erosion and sediment control system
 - e. Surface drainage and storm water runoff system
- H. Within thirty days of a public hearing or within sixty days of receiving a completed application, or such other time limit as may be mutually agreed to, the Planning Board shall approve, approve with conditions, or deny the Final Plan. In issuing its decision, the Planning Board shall make findings of fact, in writing, that the proposed subdivision does or does not meet the provisions of this Ordinance. Upon approving the Final Plan, those members of the Planning Board voting for approval shall sign the original plan of the subdivision.
- I. No Final Plan shall be approved by the Board as long as the subdivider is in violation of the provisions of a previously approved Plan.
- J. At the time the Board grants Final Plan approval, the subdivider shall forward one copy of the signed plan to the Tax Assessor and one copy of the signed plan to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date of approval shall become null and void.
- K. No changes, erasures, modifications or revisions shall be made on any Final Plan after approval has been signed by the Planning Board, except as specified in Article X (C) of this Ordinance. In the event that an amended Final 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 Town and Registry of Deeds and/or enjoin any development attempted or commenced pursuant to said Plan.

- L. At the time the Board grants approval to a Final Plan, it may permit the Plan to be divided into two or more sections subject to reasonable conditions the Board deems necessary in order to insure the orderly development of the subdivision.
- M. The approval by the Board of a subdivision shall not be deemed to constitute or be evidence of any acceptance by the Town of any road, easement or open space shown on such Plan. The Board shall require the Plan to contain appropriate notes to this effect.
- N. Failure to complete construction of the subdivision within five years of the date of approval and signing of the Plan shall render the Plan null and void. Upon determination that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to this effect.

ARTICLE VII: GENERAL STANDARDS

In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of proof shall be upon the applicant.

- A. **OPEN SPACE** The subdivider shall reserve a minimum of ten percent of the area of the subdivision as open space, to be left in its natural state, to be considered an integral feature of the plan design, and protected by appropriate deed restrictions.
 - 1. If the proposed subdivision contains pond or stream frontage, a portion of that frontage shall be reserved for public access; such public rights or access to the shoreline shall be maintained by easements or rights-of-way, with provisions made for continued public access.
 - 2. If the proposed subdivision contains any identified historic sites, or any areas identified in the Comprehensive Plan or by the Maine Critical Areas Program as rare and irreplaceable natural areas, these areas shall be included in the open space, and suitably protected by deed restrictions and management plans.
 - 3. If any areas in the proposed subdivision are identified by the Department of Inland Fisheries and Wildlife as deer wintering areas or other critical wildlife habitat, the subdivider shall be required to develop a plan to reduce the adverse impact of the subdivision on wildlife populations.
 - 4. If the Planning Board determines that land within a subdivision is not suitable or is insufficient in amount, a payment-in-lieu of dedication shall be calculated at the market value of the land at the time of the subdivision, as determined by the Tax Assessor, and deposited into a Town Land Acquisition Fund.
- B. **LOT DIMENSIONS**
 - 1. All lots shall be a minimum of two acres in size, with road frontage of two hundred

fifty feet (250'). Any pond or stream frontage shall be a minimum of two hundred fifty feet (250'). Buildings, wells and subsurface sewage disposal systems shall be set back from front, side and rear lot lines by a minimum of fifty feet (50').

Exception: For Mobile home park as defined by Title 30-A, M.R.S.A. section 4358, minimum lot size, minimum overall density, minimum frontage, minimum buffet strips, and minimum setbacks shall be the maximum allowed by said statute or its revisions.

2. Lots having less than 500' frontage shall have a ratio of lot length to width of no more than three to one. Odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.
3. Wherever possible, side lot lines shall be perpendicular to the road.
4. If a lot on one side of a stream, road or other similar barrier fails to meet the minimum lot size requirements, it may not be combined with a lot on the other side of the stream, road, or other barrier to meet the lot size requirement.
5. Permanent iron pipe or stone monuments shall be set at all corners and angle points of the boundaries of lots and open space.
6. The Planning Board shall require deed restrictions when applicable, to be included in the deeds of lots to be sold, regarding setbacks, location of access, landscape, further division or subdivision of lots, and/or any areas within Montville's Minimum Shoreland Zoning Ordinance.
7. Any further division of a lot in an approved subdivision shall be subject to the requirements of this Ordinance for review and approval by the Planning Board.

C. **LAND NOT SUITABLE FOR DEVELOPMENT** The following lands shall not be included in the calculations of lot area for the purpose of meeting minimum lot size requirements:

1. Areas located within the one hundred year flood plan as identified by an authorized Federal or State agency, unless the applicant shows proof through the submission of material prepared by a registered Land Surveyor which shows that the property in question lies at least two feet above the one hundred year flood plan.
2. Land which is part of a right-of-way or easement, including utility easements.
3. Land which has a water table within ten inches of the surface for at least three months of the year as identified by the Waldo County Soil Survey, or areas comprised of fifty percent or more of poorly drained soils.
4. Land that has been created by filling or draining a wetland or pond.

5. Portions of land containing a topographical slope of thirty percent or more.

D. WATER SUPPLY SYSTEMS

1. If a central water supply system is provided by a subdivider, the location and protection of the source, and the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water.

- E. SEWAGE DISPOSAL** The subdivider shall submit evidence of soil 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. In no instance shall a disposal area be permitted on soils or on a lot which requires a New System Variance.

F. LAND FEATURES

1. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus soil from roads and building excavations. Extensive grading and filling shall be avoided, with lots and roads conforming to the terrain.
2. Except for normal thinning, landscaping and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion and to minimize storm water runoff.
3. To prevent soil erosion in shoreline areas, the landscape within twenty-five feet (25') of any pond, river or stream shall be preserved in its natural state by restricting tree removal to minimal thinning and pruning of trees, with no clear-cut sections, to provide visual access to the shoreline, while preserving natural beauty and erosion control.
4. The Board shall require that the development plans include a landscape plan that will show the preservation of trees, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic or environmentally important areas. A planting screen easement of at least twenty feet, across which there shall be no right of access, shall be provided along the line of lots abutting an existing public road.
5. Stone walls that were fitted and built by early settlers of Montville shall be considered historic features, and shall be preserved where practical.

- G. CLUSTER DEVELOPMENT** The purpose of this provision is to allow for innovative concepts of housing development where maximum variations of design may be allowed, provided that the net residential density shall be no greater than is permitted otherwise by this Ordinance. To this end, the layout and dimensional requirements of the lots may be altered. In no instance shall cluster design be used as a means to include areas of land that are unsuitable for development, as specified in Article VII Section C.

1. All the requirements and standards of this Ordinance, except those dealing with lot size, layout, setbacks and dimensions, shall be met.
2. The minimum area of land in a cluster development shall be ten acres.

H. GENERAL REQUIREMENTS FOR ROAD DESIGN AND CONSTRUCTION

1. The proposed subdivision shall provide for safe access to and from public and private roads. Safe access shall be assured, and the rural character of Montville shall be preserved, by providing a maximum of two driveways per one thousand feet (1,000') of frontage on an existing public road.
2. Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to the lots. The subdivider will provide maintenance and snow removal for private roads.
3. The road giving access to the subdivision shall have a traffic carrying capacity and be suitably improved to accommodate the amount and types of traffic generated by the proposed subdivision. Such improvements shall be at the expense of the subdivider.

I. ROAD DESIGN STANDARDS

1. These design standards shall be met by all roads within subdivisions reviewed under this Ordinance and shall control the roadway, shoulders, drainage systems, culverts and other improvements.
2. Roads shall be designed to discourage through traffic within a subdivision as well as cross-section (four-cornered) roads.
3. The following design standards apply according to road classification:

DESCRIPTION	PUBLIC RIGHTS-OF-WAY	PRIVATE RIGHTS-OF-WAY
Minimum right-of-way width	50'	50'
Minimum pavement width	18'	18'
Minimum shoulder width (each side)	3'	3'
Minimum grade	.5%	N/A
Minimum centerline radius	150'	150'
Roadway crown	1/4"ft.	N/A
Minimum angle of road intersections	90°	90°
Minimum curb radii at intersections	15'	N/A
Maximum grade within 75' of intersection	2%	N/A
Minimum r/o/w radii at intersection	10'	10'

4. In addition to the design standards above, dead-end roads shall be constructed to provide a turn-around and the road length shall be a maximum of one-half mile, unless lot density is reduced by one-half.
5. All changes in grade shall be connected by vertical curves to provide for the minimum sight distances.

J. ROAD CONSTRUCTION STANDARDS

1. Minimum thickness of material after compaction for both public and private rights-of-way shall be as follows:
 - Aggregate Sub-base Course (Max. 4-" Stone).....12"
 - Aggregate Base Course (Max. 2-" Stone).....6"
2. Before any clearing has commenced on a right-of-way, the center line or side lines of the new road shall be staked or flagged at fifty foot intervals.
3. Side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, limed, fertilized and seeded.
4. Following road construction, the subdivider shall conduct a thorough cleanup of stumps and debris from the entire road right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the Plan, and be covered with fill and topsoil, limed, fertilized and seeded.

K. GENERAL REQUIREMENTS FOR DESIGN OF STORM WATER RUNOFF CONTROL AND SURFACE WATER DRAINAGE

In recognizing that erosion and storm water runoff introduce significant amounts of additional nutrients resulting in the major source of pollution in our waterways and ponds, the Montville Planning Board strongly recommends the subdivider utilize the latest revision of the Environmental Quality Handbook published by the United States Soil Conservation Service.

1. The storm water runoff control system and the surface water drainage system will not adversely affect neighboring properties, downstream water quality, or cause soil erosion. Whenever possible, on-site absorption of runoff waters shall be utilized to minimize discharges from the site. If it is not possible to detain water on-site, downstream improvements to the channel may be required by the Planning Board to prevent flooding. Such improvements shall be at the expense of the subdivider.
2. The design of piped or open channel systems will be based on a ten-year flow frequency without overloading or flooding beyond channel limits. In addition, areas expected to be flooded by a runoff of a 25-year frequency will be designated, and no structures constructed within such area.
3. Sediment basins or infiltration basins shall be installed where necessary.

4. For subdivisions within the direct drainage of a pond or stream, runoff shall be managed to infiltrate on-site any excess runoff created by the subdivision for a one-year twenty-four hour storm, through the use of tile drains, infiltration basins, or other suitable measures.
5. Inlets and outlets of drainage structures shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity.
6. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water control system.

ARTICLE VIII: PERFORMANCE GUARANTEES

- A. With submittal of the application for Final Plan approval, the subdivider shall provide one of the following performance guarantees for an amount equal to 125% of 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, and specifying a date after which the subdivider will be in default.
 1. A certified check payable to the Town of Montville, a savings account passbook or certificate of deposit naming the Town as owner, for the establishment of an escrow account.
 2. A performance bond payable to the Town issued by a surety company licensed to do business in the State of Maine.
 3. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the Town Selectmen.
- B. A conditional agreement, if acceptable to the Board in lieu of a performance guarantee, shall be endorsed by the Planning Board on the Final Plan, and shall provide that no lot or parcel of land may be conveyed, until the completion of the road construction, drainage, utilities and other similar improvements as specified on the Final Plan. The agreement shall be conditioned upon the completion of all such improvements within two years from the date of Final Plan approval.
- C. Completion of required improvements shall be determined by the Planning Board upon receipt of written and signed certifications by the Code Enforcement Officer or other qualified person stating that all improvements assured by the performance guarantee or conditional agreement have been constructed in accordance with the Final Plan and all applicable codes and Ordinances. The Planning Board may hire, at the applicant's

expense, a Professional Engineer or other qualified person to represent the Town in inspecting and monitoring the construction or required improvements.

- D. The performance guarantee shall be released by the Planning Board upon the request of the applicant only after the requirements of paragraph (C) above have been met to the satisfaction of the Board.

ARTICLE IX: WAIVERS

Where the Planning Board makes written findings of fact that there are special circumstances of a particular parcel of land proposed to be subdivided, it may waive portions of the submission requirements or general standards to permit a more practical and economical development, provided the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Minimum Shoreland Zoning Ordinance, State and Town Laws and codes, and this Ordinance.

Furthermore, in order to encourage the preservation of the rural character of Montville, the Planning Board will, by waiver, substantially reduce or modify the submission requirements and general standards, to whatever extent they determine feasible, where proposed lots contain twenty (20) or more acres, provided the public health, safety and welfare are protected, and provided such waivers do not nullify the intent and purposes of the Comprehensive Plan, M.S.Z.O., State and Town Laws and codes, and this Ordinance.

ARTICLE X: ENFORCEMENT

- A. Development of a subdivision without Board approval shall be a violation of the law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a Final Plan approval as provided in this Ordinance and recorded in the Registry of Deeds.
- B. After approval of the final plan, and before any construction begins, the applicant shall apply for and receive all applicable permits as may be required by the Town, State, or Federal regulations, laws or ordinances regulating such developments and said permits. A copy to be sent to the Board prior to construction.
- C. At least five days prior to commencing each major phase of construction or required improvements (i.e. roads, runoff controls, septic systems, major land clearing or earth moving, etc.), the subdivider shall notify the Code Enforcement Officer in writing of the time when construction will commence to facilitate inspections of each major phase of construction.
- D. If at any time before or during construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the Code Enforcement Officer is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The Code

Enforcement Officer shall issue any approval under this section in writing and shall transmit a copy to the Board. Revised plans shall be filed with the Town. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than one percent, etc., the subdivider shall obtain permission to modify the plan from the Board.

- E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a registered Land Surveyor, stating that all monuments have been installed.
- F. No plan of a division of land within the Town which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with this Ordinance.
- G. No person, firm, corporation or other legal entity may 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.
- H. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in an approved subdivision which is not shown on the Final Plan as a separate lot.
- I. No lot in a subdivision may be sold, leased, or otherwise conveyed before the road upon which the lot fronts is completed in accordance with this Ordinance up to and including the entire frontage of the lot. No dwelling unit shall be occupied before the road upon which the unit is accessed is complete in accordance with this Ordinance.
- J. Any person, firm, corporation or other legal entity who violates the provisions of this Ordinance shall be guilty of a civil violation and shall be fined not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2500) for each violation. Each conveyance, offering or agreement to transfer and in a subdivision which has not been approved as required by this Ordinance is a separate violation. Each day that a violation of the terms of the subdivision permit continues shall constitute a separate violation. All fines shall be paid to the Town of Montville. Such persons shall also be liable for court costs and attorneys fees incurred by the Town if the Town is the prevailing party.

ARTICLE XI: APPEALS

An aggrieved party may appeal any decision of the Board under this Ordinance to Waldo County Superior Court within thirty days.

ARTICLE XII: VALIDITY, SEPARABILITY AND CONFLICT WITH OTHER ORDINANCES

- A. Should any article or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other article or provision of the Ordinance.

- B. Whenever the requirements of this Ordinance are inconsistent with the requirements of any other Ordinance, the more restrictive requirements shall apply, as interpreted by the Board.

ARTICLE XIII: DEFINITIONS

In general, words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, certain terms and phrases used herein are defined as follows:

ABUTTER: One whose property abuts, is contiguous, or joins at a border or boundary, including property across a road.

CLUSTER DEVELOPMENT: A subdivision in which the lot sizes are reduced below the Town's minimum lot size and permanent open spaces are increased in area of acreage. Clustering shall not be used to increase the net residential density of the subdivision.

CODE ENFORCEMENT OFFICER: A person appointed by the Selectmen to administer and enforce State and Town Ordinances, Laws and codes. The Planning Board shall act in this capacity in the absence of a Code Enforcement Officer.

COMPLETE APPLICATION: An application shall be determined complete by the Planning Board upon submission of the required fees and all information required by this Ordinance for a Preliminary Plan and a Final Plan.

COMPREHENSIVE PLAN: Any part or element of overall plan or policy for future development of the Town as defined in Title 30, M.R.S.A., Section 4961 or H.P. 1688-L.D. 2317, "An Act to Promote Orderly Economic Growth and Natural Resources Conservation."

DEVELOPED AREA: Any area which a site improvement or change is made, including buildings, landscaping, parking areas, roads.

DRIVEWAY: A private vehicular entrance from a road or right-of-way.

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

FINAL PLAN: The final drawings on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, shall be filed with the Selectmen and recorded in the Registry of Deeds.

FRONTAGE: The linear distance between the sidelines of a lot, measured along the lot line that borders the right-of-way serving as legal access to the lot.

FRONTAGE, SHORE: The horizontal distance, measured in a straight line, between the intersections of the lot lines with the shoreline at normal high water elevation.

HIGH INTENSITY SOIL SURVEY: A soil survey conducted by a Certified Soil Scientist, meeting the standards of the Maine Association of Soil Scientists, which identifies soil types down to one tenth (1/10) acre or less at a scale equivalent to subdivision plan submitted. The mapping units shall be the soil series. Single test pits and their evaluation shall not be considered to constitute a high intensity soil survey.

HYDROGEOLOGIC ASSESSMENT: An evaluation drawn by a Geologist or other qualified individual using available data and indicating the quantity, quality and the direction and rate of flow of groundwater sources, including an assessment of the impact of effluents upon groundwater.

LOT: A parcel of land occupied by one building and the accessory buildings or uses customarily incidental to it, and having frontage upon a public or private road.

100 YEAR FLOOD: The highest level of flood that, on the average, is likely to occur once every one hundred years, that has a one percent chance of occurring in any year.

MONUMENTS: Durable monuments capable of being detected with electromagnetic metal detectors shall be placed at all angle points, points of curvature, and points of tangencies of property boundaries. Every monument shall bear the license number of the surveyor responsible for its placement, permanently affixed to last the life of the monument.

M.R.S.A.: The abbreviation for Maine Revised Statutes, Annotated, the definitive source for all state statutes as published and updated by the State of Maine.

NET RESIDENTIAL ACREAGE: The acreage available for the subdivision, and shown on the proposed subdivision plan, minus the area for roads, easements, rights-of-way, areas unsuitable for development, open space, utilities, or other areas designated by the Planning Board.

NET RESIDENTIAL DENSITY: The average number of dwelling units per net residential acre.

NORMAL HIGH WATER MARK: The line on the shores or banks of nontidal waters which is apparent because of the contiguous different character of soil or vegetation due to prolonged action of the water. Relative to vegetation, it is that line where vegetation changes from predominantly aquatic to predominantly terrestrial.

OFFICIAL SUBMITTAL DATE: The date upon which the Board issues a receipt indicating a complete application has been submitted.

OPEN SPACE: A portion of land in a subdivision dedicated by the subdivider to be preserved in its natural state, never to be divided or developed, and owned in common by the lot owners or the Town. Legal documents and deed restrictions or covenants will be required as evidence of the permanence of such open space. The acreage requirement is ten percent (10%) of the entire parcel proposed for subdivision.

PREAPPLICATION: An informal discussion between the subdivider and Planning Board, accompanied by a sketch plan, to give the Board a clear understanding of what is proposed, and to give the applicant a clear understanding of what is possible and what is acceptable.

PRELIMINARY PLAN: The preliminary drawing for a subdivision indicating the proposed layout of the subdivision and such other information as required by this Ordinance.

ROAD CLASSIFICATION:

TOWN WAY: Area or right-of-way designated and held by the Town for the passage and use of the public by motor vehicle.

PUBLIC RIGHT-OF-WAY: An easement held by the Town for purposes of public access to land or water not otherwise connected to a public way, for which the Town has no maintenance responsibility.

SUBDIVIDER: Assessed owner or owners of land proposed for subdivision or person with documented title, right or interest in the land to be subdivided. The term "applicant", as used herein, means subdivider.

SUBDIVIDER'S AGENT OR REPRESENTATIVE: That person who has written authorization to act for the subdivider.

SUBDIVISION: As defined by 30 M.R.S.A. 4956, and as the same may be amended from time to time, namely:

"A subdivision is the division of a tract or parcel of land into three (3) or more lots within any five (5) year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings or otherwise, provided that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, or a gift to a municipality, unless the intent of that gift is to avoid the objectives of this section, or by transfer of any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purpose of this section."

"The term subdivision shall also include the division of a new structure or structures on a tract or a parcel of land into three (3) or more dwelling units within a five (5) year period and the division of an existing structure or structures previously used for commercial or industrial use into three (3) or more dwelling units within a five (5) year period."

"The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this paragraph.

Nothing in this section may be construed to prevent a municipality from enacting an ordinance under its Home Rule Authority which expands the definition of subdivision to include the division of a structure for commercial or industrial use or which otherwise regulates land use activities.

In determining whether a tract or parcel of land is divided into three (3) or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first two (2) lots and the next dividing of either of the first two (2) lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create the third lot, unless both those dividings are accomplished by a subdivider who shall have retained one of the lots for his own use as a single family residence or for open space land as defined in Title 36, Section 1102 for a period of at least five (5) years prior to that second dividing.

In determining the number of dwelling units in a structure, the provisions regarding the number of lots shall apply, including the exemptions from the definition of the subdivision of land.

For the purposes of these regulations, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that the lands located on opposite sides of 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.

A "dwelling unit" means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multi-family housing, condominiums, time-share units, and apartments. Notwithstanding the provisions of this paragraph, leased dwelling units are not subject to subdivision review if the units are otherwise subject to municipal review at least as stringent as that required under this section."

Pursuant to the Home Rule Provisions of Title 30 M.R.S.A., Section 1917 and 2151A, a subdivision in the Town of Montville is further defined to include recreational campgrounds, mobile home parks, and such projects in which land or structures are leased, owned in common, owned by shares, or owned by the subdivider.

WATERBODY or BODY OF WATER: Watercourses, such as streams, brooks or rivers that are perennial, and lakes or ponds.

WATERSHED: The area of land around or adjacent to a body of water which provides direct drainage of surface water into that body of water.

TOWN OF MONTVILLE, MAINE

APPLICATION FOR SUBDIVISION

PROPERTY OWNER:

Name: _____
Address: _____
Telephone: _____

APPLICANT:

Name: _____
Address: _____
Telephone: _____

If applicant is a corporation, check here if licensed in Maine and attach copy of State registration.

APPLICANT'S AUTHORIZED AGENT:

Name: _____
Address: _____
Telephone: _____

SURVEYOR, ENGINEER, ARCHITECT, or others preparing plan:

Name: _____
Address: _____
Telephone: _____ Registration # _____

Attach evidence of legal interest in property (deed, purchase and sales agreement, option, etc.) State interest _____

Does applicant or owner have interest in any abutting property? _____

Location of property _____

Book # _____ Page # _____ (from County Registry of Deeds)

Map # _____ Lot # _____ (from Town tax maps)

Name of proposed subdivision: _____

Total acreage: _____

Does property contain or border any stream, river or pond? _____

If so, name of body of water: _____

Is any portion of property within 250' of any body of water? _____

Name of body of water: _____ Distance in feet: _____

Indicate the nature of any restrictive covenants to be placed in the deeds: _____

Identify current use of land: _____
Has this land been part of a previously approved subdivision? _____
Or other divisions within the past 5 years? _____

List below names and mailing addresses of abutting property owners and owners across road:

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Proposed number of lots: _____ Dwelling units: _____
Anticipated date to commence construction: _____
Anticipated date to complete construction: _____
Will this subdivision require improvement of an existing Town road or drainage system? _____

Identify proposed method of water supply: _____
Identify proposed method of sewage disposal: _____

Identify proposed method of fire protection for subdivision: _____

To the best of my knowledge, all above stated information submitted in this application is true and correct.

Fee \$ _____ Signature: _____
Date Paid: _____ Date: _____

TOWN OF MONTVILLE WIND TURBINE GENERATOR ORDINANCE

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TOWN OF MONTVILLE WIND TURBINE GENERATOR ORDINANCE

1.0 Title

This Ordinance shall be known as the Town of Montville Wind Turbine Generator (WTG) Ordinance.

2.0 Purpose

The purpose of this Ordinance is to regulate Wind Turbine Generators to protect and safeguard the health, safety, and general welfare of the citizens of Montville by establishing reasonable and uniform regulations.

3.0 Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution (Municipal Home Rule), the provisions of Title 30-A M.R.S.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A. Section 4312, etc. seq. (*Comprehensive Planning and Land Use Regulation, or "Growth Management Act"*).

4.0 Conflicts with Other Ordinances, Laws and Regulations

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

5.0 Validity and Severability

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

6.0 Effective Date

6.1 This Ordinance shall become effective upon the date of its passage.

6.2 If this Ordinance is enacted within 90 days after the expiration of an ordinance entitled "Moratorium on Wind Power Development for the Municipality of Montville" (Moratorium) adopted March 28, 2009, the effective date of this Ordinance will be retroactive to the expiration date of the Moratorium. [If the Ordinance and the required public hearings, public notices, etc. cannot be completed within the moratorium timeframe, the Ordinance should be made retroactive to the date the moratorium expires.]

7.0 Applicability

This Ordinance applies to any wind turbine that is the subject of a permit or license application pending before, or filed with the Town of Montville, after the effective date of the Ordinance.

8.0 Definitions

Aerodynamic Sound – a noise that is caused by the flow of air over and past the blades of a WTG.

Ambient Sound – Ambient sound encompasses all sound present in a given environment, being usually a composite of sounds from many sources near and far. It includes intermittent noise events, such as, from aircraft flying over, dogs barking, wind gusts, mobile farm or construction machinery, and the occasional vehicle traveling along a nearby road. The ambient also includes insect and other nearby sounds from birds and animals or people. The nearby and transient events are part of the ambient sound environment but are not to be considered part of the long-term background sound.

American National Standards Institute (ANSI) – Standardized acoustical instrumentation and sound measurement protocol shall meet all the requirements of the following ANSI Standards:

- ANSI S1.43 Integrating Averaging Sound Level Meters: Type-1 (or IEC 61672-1)
- ANSI S1.11 Specification for Octave and One-third Octave-Band Filters (or IEC 61260)
- ANSI S1.40 Verification Procedures for Sound Calibrators
- ANSI S12.9 Part 3 Procedures for Measurement of Environmental Sound
- ANSI S12.18 Measurement of Outdoor Sound Pressure Level
- IEC 61400-11 WTG systems –Part 11: Acoustic noise measurements

Anemometer – a device for measuring the speed and direction of the wind.

Applicant – the legal entity, which includes an individual or business entity that seeks to secure a Permit or Operating License under this Ordinance.

A-Weighted Sound Level (dBA) – A measure of over-all sound pressure level designed to reflect the response of the human ear, which does not respond equally to all frequencies. It is used to describe sound in a manner representative of the human ear's response. It reduces the effects of the low with respect to the frequencies centered around 1000 Hz. The resultant sound level is said to be “A-weighted” and the units are “dBA.” Sound level meters have an A-weighting network for measuring A-weighted sound levels (dBA) meeting the characteristics and weighting specified in ANSI Specifications for Integrating Averaging Sound Level Meters, S1.43-1997 for Type 1 instruments, and be capable of accurate readings (corrections for internal noise and microphone response permitted) at 20 dBA or lower. In this document dBA means LAeq unless specified otherwise.

Background Sound (L90) – refers to the sound level present at least 90% of the time. Background sounds are those heard during lulls in the ambient sound environment. That is, when transient sounds from flora, fauna, and wind are not present. Background sound levels vary during different times of the day and night. Because WTGs operate 24/7 the background sound levels of interest are those during the quieter periods which are often the evening and night. Sounds from the WTG of interest, near-by birds and animals or people must be excluded from the background sound test data. Nearby electrical noise from streetlights, transformers and cycling AC units and pumps etc., must also be excluded from the background sound test data.

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

Measurement periods such as at dusk when bird and insect activity is high or the early morning hours when the 'dawn chorus' is present are not acceptable measurement times. Longer term sound level averaging tests, such as 24 hours or multiple days are not at all appropriate since the purpose is to define the quiet time background sound level. It is defined by the LA90 and LC90 descriptors. It may be considered as the quietest one (1) minute during a ten (10) minute test. LA90 results are valid only when LA10 results are no more than 10 dB above LA90 for the same period. LC10 less LC90 are not to exceed 10 dB to be valid.

The background noise environment consists of a multitude of distant sources of sound. When a new nearby source is introduced the new background noise level would be increased. The addition of a new source with a noise level 10 dB below the existing background would increase the new background 0.4 dB. If the new source has the same noise level as the existing background then the new background is increased 3.0 dB. Lastly, if the new source is 3.3 dB above the existing background then the new background would have increased 5 dB. For example, to meet the requirement of L90A + 5 dB = 31 dBA if the existing quiet nighttime background sound level is 26 dBA, the maximum wind turbine noise immission contribution independent of the background cannot exceed 29.3 dBA Leq at a dwelling. When adding decibels, a 26 dBA background combined with 29.3 dBA from the turbines (without background) results in 31 dBA.

Further, background L90 sound levels documenting the pre-construction baseline conditions should be determined when the ten (10) minute maximum wind speed is less than 2 m/s (4.5 mph) near ground level/microphone location 1.5 m height.

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

Blade Reflection – the intermittent reflection of the sun off the surface of the blades of a Wind Turbine.

C-Weighted Sound Level (dBC) – Similar in concept to the A-Weighted sound Level (dBA) but C-weighting does not de-emphasize the frequencies below 1k Hz as A-weighting does. It is used for measurements that must include the contribution of low frequencies in a single number representing the entire frequency spectrum. Sound level meters have a C-weighting network for measuring C-weighted sound levels (dBC) meeting the characteristics and weighting specified in ANSI S1.43-1997 Specifications for Integrating Averaging Sound Level Meters for Type 1 instruments. In this document dBC means LCEq unless specified otherwise.

Community Owned Wind – a WTG planned with wide community participation that meets any one of the following criteria: 1) a municipality owning 51% or more of the project, 2) the majority of the direct financial benefits of the project accruing to all of the residents of the municipality, exclusive of any tax considerations. Community Owned Wind may include or incorporate consumer-owned transmission and distribution utilities, rural electric cooperatives, municipal electric districts, or other electrical generation and transmission models established by State law to facilitate and encourage local electrical generation. Community Owned Wind does not include partial or minority municipal ownership of WTGs without the municipality or municipalities being the managing partner, and does not include WTGs located in Montville having majority ownership or control by private individuals,

private businesses, or non-profit organizations not under direct control of the municipality or municipalities.

Decibel (dB) – A dimensionless unit which denotes the ratio between two quantities that are proportional to power, energy or intensity. One of these quantities is a designated reference by which all other quantities of identical units are divided. The sound pressure level (L_p) in decibels is equal to 10 times the logarithm (to the base 10) of the ratio between the pressure squared divided by the reference pressure squared. The reference pressure used in acoustics is 20 MicroPascals.

DEP Certification – a certification issued by the Department of Environmental Protection pursuant to Title 35-A M.R.S.A. §3456 for a WTG that is subject to this Ordinance.

Emission – Sound energy that is emitted by a noise source (WTG) is transmitted to a receiver (dwelling) where it is immitted (see “immission”).

Enforcing Authority – the Code Enforcement Officer (CEO) designated by the Town of Montville. The CEO is responsible for enforcing the standards of this Ordinance after a permit is granted to a WTG.

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

Good Utility Practice – any of the practices, methods and acts with respect to the safe operation of the Wind Turbine or WTG engaged in or approved by a significant portion of the electric utility industry and, in particular, those portions of the industry with experience in the construction, operation, and maintenance of wind turbines during the relevant period; or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability and safety.

Height – the total distance measured from the grade of the property as existed prior to the construction of the wind energy system, facility, tower, turbine, or related facility at the base to its highest point. (See Turbine Height definition below)

Hertz (Hz) – Frequency of sound expressed by cycles per second.

Ice Throw – accumulated ice buildup on the blades of a Wind Turbine that is or can be thrown during normal spinning or rotation.

Immission – Noise immitted at a receiver (dwelling) is transmitted from noise source (WTG) that emitted sound energy (see “emission”).

Immission spectra imbalance – The spectra are not in balance when the C-weighted sound level is more than 20 dB greater than the A-weighted sound level. For the purposes of this requirement, the A-weighted sound level is defined as the long-term background sound level (LA90) +5 dBA. The C-weighted sound level is defined as the LCeq measured during the operation of the wind turbine operated so as to result in its highest sound output. A Complaint Test provided later in this document is based on the immission spectra imbalance criteria.

Infra-Sound – sound with energy in the frequency range of 0-20 Hz is considered to be infra-sound. It is normally considered to not be audible for most people unless in relatively high amplitude. However, there is a wide range between the most sensitive and least sensitive people to perception of

sound and perception is not limited to stimulus of the auditory senses. The most significant exterior noise induced dwelling vibration occurs in the frequency range between 5 Hz and 50 Hz. Moreover, levels below the threshold of audibility can still cause measurable resonances inside dwelling interiors. Conditions that support or magnify resonance may also exist in human body cavities and organs under certain conditions. Although no specific test for infrasound is provided in this document, the test for immission spectra imbalance will limit low frequency sound and thus, indirectly limit infrasound. See low-frequency noise (LFN) for more information.

Low Frequency Noise (LFN) – refers to sounds with energy in the lower frequency range of 20 to 200 Hz. LFN is deemed to be excessive when the difference between a C-weighted sound level and an A-weighted sound level is greater than 20 decibels at any measurement point outside a residence or other occupied structure.

Measurement Point (MP) – location where sound measurements are taken such that no significant obstruction blocks sound from the site. The Measurement Point should be located so as to not be near large objects such as buildings and in the line-of-sight to the nearest turbines. Proximity to large buildings or other structures should be twice the largest dimension of the structure, if possible. Measurement Points should be at quiet locations remote from street lights, transformers, street traffic, flowing water and other local noise sources.

Measurement Wind Speed – For measurements conducted to establish the background noise levels (LA90 10 min, LC90 10 min, and etc.) the maximum wind speed, sampled within 5m of the microphone and at its height, shall be less than 2 m/s (4.5 mph) for valid background measurements. For valid WTG noise measurements conducted to establish the post-construction sound level the maximum wind speed, sampled within 5m of the microphone and at its height, shall be less than 4m/s (9mph). The wind speed at the WTG blade height shall be at or above the nominal rated wind speed and operating in its highest sound output mode. For purposes of enforcement, the wind speed and direction at the WTG blade height shall be selected to reproduce the conditions leading to the enforcement action while also restricting maximum wind speeds at the microphone to less than 4 m/s (9 mph).

For purposes of models used to predict the sound levels and sound pressure levels of the WTG to be submitted with the Application, the wind speed shall be the speed that will result in the worst-case LAeq and LCEq sound levels at the nearest non-participating properties to the WTG. If there may be more than one set of nearby sensitive receptors, models for each such condition shall be evaluated and the results shall be included in the Application.

Mechanical Noise – sound produced as a byproduct of the operation of the mechanical components of a WTG(s) such as the gearbox, generator and transformers.

Meteorological Tower (MET Tower) – a meteorological tower used for the measurement of wind speed.

Mitigation Waiver – a legally enforceable, written agreement between the Applicant and a Non-participating Landowner in which the landowner waives certain setback, noise or other protections afforded in the Ordinance.

Nacelle – the frame and housing at the top of the tower that encloses the gearbox and generator.

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

Noise – any unwanted sound. Not all noise needs to be excessively loud to represent an annoyance or interference.

Non-participating Landowner – any landowner other than a Participating Landowner.

Notification Area – the entire land base within two (2) miles, measured horizontally from the Project Boundary. All landowners with any part of their property within the notification area, or residents living within the notification area must be notified as specified in the Ordinance.

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

Operational License – a license or a license renewal issued by the Planning Board to operate a WTG in accordance with this Ordinance.

Owner/operator – the person or entity with legal ownership of the WTG, including successors and assigns, that has the authority and responsibility to operate the WTG on a day-to-day basis. An Owner/operator must have the legal authority to represent and bind.

Participating Landowner – one or more persons that hold title in fee to the property on which the WTG is proposed to be located pursuant to an agreement with the development Owner/operator.

Permitting Authority – the Planning Board, designated as responsible for conducting the review of WTG applications.

Person – an individual, corporation, partnership, firm, organization or other legal entity.

Project Boundary – the external property boundaries of parcels owned by or leased by the WTG developers. It is represented on a plot plan view by a continuous line encompassing all WTG(s) and related equipment associated with the WTG project.

Property Line – the recognized and mapped property parcel boundary line.

Qualified Independent Acoustical Consultant – Qualifications for persons conducting baseline and other measurements and reviews related to the application for a WTG or for enforcement actions against an operating WTG include, at a minimum, demonstration of competence in the specialty of community noise testing. An example is a person with Full Membership in the Institute of Noise Control Engineers (INCE). There are scientists and engineers in other professional fields that have been called upon by their local community for help in the development of a WTG Noise Ordinance. Many of these scientists and engineers have recently spent hundreds of hours learning many important aspects of noise related to the introduction of WTG into their communities. Then with field measurement experience with background data and wind turbine noise emission, they have become qualified independent acoustical consultants for WTG siting. Certifications such as Professional Engineer (P.E.) do not test for competence in acoustical principles and measurement and are thus not, without further qualification, appropriate for work under this document. The Independent Qualified Acoustical Consultant can have no financial or other connection to a WTG developer or related company.

Scenic or Special Resource – a scenic resource of state or national significance, as defined in Title 35-A M.R.S.A. §3451(9), any site registered in the National Registry of Historic Places, or a scenic or special resource of local significance identified as such.

Sensitive Receptor – places or structures intended for human habitation, whether inhabited or not, public parks, state and federal wildlife areas, the manicured areas of recreational establishments designed for public use, including but not limited to golf courses, campgrounds and other non-agricultural state or federal licensed businesses. These areas are more likely to be sensitive to the exposure of the noise, shadow or flicker, etc. generated by a WTG or WTG Facilities. These areas include, but are not limited to: schools, daycare centers, elder care facilities, hospitals, places of seated assemblage, non-agricultural businesses and residences.

Setback – the minimal allowable horizontal distance as measured from the Project Boundary to a defined point (e.g. a property line or a road).

Setback Area – the entire land base that falls within a specified setback.

Setback Distance – the larger of one mile or 13 times the Turbine Height, measured horizontally from the Project Boundary to the nearest property line.

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

Shadow Flicker Receptor – any Occupied Building on a Non-participating Landowner's property plus an additional 100 foot boundary surrounding the exterior of the Occupied Building, the entire outdoor public area surrounding schools, churches and public buildings, and public roads with a posted speed limit greater than 25 mph.

Sight Line Representation – a line depicted in profile extending from an observer's eye to the lowest point of a viewed tower.

Sound – A fluctuation of air pressure which is propagated as a wave through air

Sound Power – The total sound energy radiated by a source per unit time. The unit of measurement is the watt. Abbreviated as Lw. This information is determined for the WTG manufacturer under laboratory conditions specified by IEC 61400-11 and provided to the local developer for use in computer model construction. There is known measurement error in this test procedure that must be disclosed and accounted for in the computer models. Even with the measurement error correction it cannot be assumed that the reported Lw values represent the highest sound output for all operating conditions. They reflect the operating conditions required to meet the IEC 61400-11 requirements. The lowest frequency is 50 Hz for acoustic power (Lw) requirement (at present) in IEC 61400-11. This Ordinance requires wind turbine certified acoustic power (Lw) levels at rated load for the total frequency range from 6.3 Hz to 10k Hz in one-third octave frequency bands tabulated to the nearest 1 dB. The frequency range of 6.3 Hz to 10k Hz shall be used throughout this Ordinance for all sound level modeling, measuring and reporting.

Sound Pressure – The instantaneous difference between the actual pressure produced by a sound wave and the average or barometric pressure at a given point in space.

Sound Pressure Level (SPL) – 20 times the logarithm, to the base 10, of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter. In equation form, sound pressure level in units of decibels is expressed as $SPL (dB) = 20 \log p/pr$.

Spectrum – The description of a sound wave's resolution into its components of frequency and amplitude. The WTG manufacturer is required to supply a one-third octave band frequency spectrum of the wind turbine sound emission at 90% of rated power. The published sound spectrum is often

presented as A-weighted values but C-weighted values are preferred. This information is used to construct a model of the wind farm's sound immission levels at locations of interest in and around the WTG. The frequency range of interest for wind turbine noise is approximately 6 Hz to 10k Hz.

Statistical Noise Levels – Sounds that vary in level over time, such as road traffic noise and most community noise, are commonly described in terms of the statistical exceedance levels L_NA, where L_NA is the A-weighted sound level exceeded for N% of a given measurement period. For example, L₁₀ is the noise level exceeded for 10% of the time. Of particular relevance, are: LA₁₀ and LC₁₀ the noise level exceeded for 10% of the ten (10) minute interval. This is commonly referred to as the average maximum noise level. LA₉₀ and LC₉₀ are the A-weighted and C-weighted sound levels exceeded for 90% of the ten (10) minute sample period. The L₉₀ noise level is defined by ANSI as the long-term background sound level (i.e. the sounds one hears in the absence of the noise source under consideration and without short term or near-by sounds from other sources), or simply the “background level.” Leq is the A or C-weighted equivalent noise level (the “average” noise level). It is defined as the steady sound level that contains the same amount of acoustical energy as the corresponding time-varying sound.

Structure – the total footprint of all of the physical attributes of the entire WTG as defined in Title 38 M.R.S.A. § 482.

Tonal sound or tonality – Tonal audibility. A sound for which the sound pressure is a simple sinusoidal function of the time, and characterized by its singleness of pitch. Tonal sound can be simple or complex.

Tower – the freestanding structure on which the wind measuring or energy conversion system is mounted.

Turbine Height – the distance measured from the surface of the tower foundation to the highest point of any turbine rotor blade measured at the highest arc of the blade.

Wind Turbine Generators (WTG) – equipment that converts and then transfers energy from the wind into usable forms of electrical energy. and includes all related and supporting items including but not limited to all buildings, structures, electrical equipment, substations, transmission lines, access roads, parking lots, areas to be stripped or graded, and areas to be landscaped or screened.

Wind Turbine – a wind energy conversion system that converts wind energy into electricity through the use of a WTG, and includes the nacelle, rotor, tower and pad transformer if any.

9.0 Classification of Wind Turbines and Meteorological Towers

For the purpose of clarification, all WTGs are classified according to the following definitions:

9.1 Wind Turbine Classifications:

9.1.1 Type 1 – Small Wind Turbine means a single wind turbine with a nameplate capacity less than 10 kW, and a turbine height less than 100 feet. This ordinance does not apply to these.

9.1.2 Type 2 – Intermediate Wind Turbine means a single wind turbine with a nameplate capacity less than 100 kW, and a turbine height less than 150 feet, and not requiring a Site Location of Development permit from the Maine Department of Environmental Protection (DEP) pursuant to Title 35-A M.R.S.A. §3456. This ordinance does not apply to these.

9.1.3 Type 3 – Large Wind Turbine means up to three wind turbines with a nameplate capacity less than 1 MW, and a turbine height less than 300'. A Location of Development permit from the Maine Department of Environmental Protection (DEP) pursuant to Title 35-A M.R.S.A. §3451, Title 35-A M.R.S.A. § 3456 and Title 38 M.R.S.A § 482 is normally required unless the Wind Turbine: 1) does not sell or convert electricity for off site use including net metering; and, 2) does not qualify as a Structure with a total land area in excess of 3 acres for the entire WTG.

For the purposes of this Ordinance, included in the Type 3 - Large Wind Turbine shall be any turbine(s) of nameplate capacity equal to or greater than 100 kW and a turbine height greater than 150 feet if the energy generated is for sale or use by a Person other than the generator.

9.1.4 Type 4 – Industrial Wind Turbine means one or more wind turbines each with a nameplate capacity of greater than or equal to 1 MW, or a turbine height greater than or equal to 300'; or more than three Type 3 Wind Turbines. A Location of Development permit from the Maine Department of Environmental Protection (DEP) pursuant to Title 35-A M.R.S.A. §3451, Title 35-A M.R.S.A. § 3456 and Title 38 M.R.S.A § 482 is normally required unless the Wind Turbine: 1) does not sell or convert electricity for off site use including net metering; and, 2) does not qualify as a Structure with a total land area in excess of 3 acres for the entire WTG.

9.2 Meteorological Towers (MET Towers)

MET towers shall be permitted under the Montville Site Plan Review Ordinance or the Personal Wireless Service Facilities Siting Ordinance, whichever best applies and at the discretion of the Planning Board, with no height limitations, other than those imposed under State or Federal law. A permit for a temporary MET tower shall be valid for a maximum of one year after which a single extension of up to one year may be granted. The site shall be restored to its original condition within 30 days following removal of the tower.

10.0 Permit and Operational License Requirement

10.1 Permit Requirement

10.1.1 A permit is required for each WTG built in the Town of Montville after the effective date of this Ordinance. However, single phase WTGs of under 150 feet and less than 100 kW name plate capacity are not regulated under this Ordinance.

10.1.2 The Planning Board will aggregate, to the fullest and most practical extent possible, and pursuant to Section 26.0 , all Wind Turbines held under common or related ownership into a single WTG. With the exception of Projects owned by the Town of Montville, separate corporate legal structures under common or joint ownership or under common or joint control will be deemed to be a single project for purposes of permit and licensing notwithstanding separate corporate legal ownership.

10.1.3 Receipt of a permit under this Ordinance does not relieve the Owner/operator from the responsibility to obtain any other such permits or approvals as required under the Town of Montville Site Plan Review Ordinance or pursuant to other State or Federal jurisdiction.

10.2 Operational License

An Operational License is required for the operation of all WTG. Applications for a WTG Operational License shall be submitted to the Planning Board.

10.2.1 Where an Applicant is applying for a new or amended WTG Permit, the application for a WTG Operating License, or amended license, shall be submitted to the Planning Board in conjunction with the Permit application, and shall include the application form and the separate fee specified in Section 10.2.10.

10.2.2 Where an Applicant is applying for a WTG Operational License renewal, a new License as the result of transfer of ownership or operation, or reinstatement or modification of an Operational License, the Applicant shall submit an application form, a copy of the existing WTG Permit and the fee specified in Section 10.2.10.

10.2.3 An Operational License shall be valid for five years.

10.2.4 The granting of an Operational License is conditional upon the following criteria:

10.2.4.1 Demonstration by the Applicant of compliance with performance standards of the Ordinance.

10.2.4.2 For the initial Operational License, the Wind Turbine Project must successfully pass an inspection for structural and operational integrity conducted by a Maine licensed professional engineer chosen by the Permitting Authority. The inspection shall be conducted after construction is completed but before operations begin. Success will be demonstrated by submission of a copy of the engineer's inspection report to the Planning Board. If the report specifies that repairs, maintenance or changes to safety procedures are necessary, the owner shall provide the Enforcing Authority with proof that the repairs have been completed, a written schedule for any recommended maintenance, and documentation of any updated safety procedures.

10.2.4.3 For a renewal of an Operational License, where there is no change of Ownership or operator, the inspection procedure and criteria specified in Section 10.2.4.2 shall be completed six months prior to the expiration of the current Operational License.

10.2.5 Applications for Operational License renewals where there is no change of ownership of operator shall be submitted to the Planning Board 6 months prior to their expiration.

10.2.6 An Operational License shall automatically terminate upon transfer of ownership or operation of the WTG. The proposed new owner or operator shall be required to obtain a new Operational License, which must be in place prior to the transfer of ownership or operation of the WTG. The application for renewal of the Operational License in the case of transfer of ownership or operation shall include the following items:

10.2.6.1 The Applicant's name, address and phone number, and the name, address and phone number of the Owner/operator, if different

10.2.6.2 An emergency directory for the Owner/operator sufficient to allow the Town to contact the Owner/operator at any time

10.2.6.3 Evidence of the Applicant's technical and financial ability to operate the WTG in accordance with this Ordinance, the Site Permit, and the Operational License

- 10.2.6.4 For any Project Parcel that is not owned by the Applicant, a copy of any agreement(s) between the owner of the Project Parcel and the Applicant
- 10.2.6.5 An updated safety plan in accordance the requirements of Section 14.2 .
- 10.2.6.6 An updated fire prevention and emergency response plan in accordance with the requirements of Section 15.6.1;
- 10.2.6.7 An updated emergency shutdown plan in accordance with the requirements of Section 21.4 ;
- 10.2.6.8 An updated decommissioning and site restoration plan in accordance with the requirements of Section 22.0 ;
- 10.2.6.9 Updated liability insurance information in accordance with the requirements of Section 14.4 ;
- 10.2.6.10 Updated Real Estate Property Value Assurance Plan in accordance with the requirements of Section 23.0 ;
- 10.2.6.11 A signed statement from the Applicant that the Applicant agrees to assume full responsibility for complying with the provisions of this Ordinance and the Site Permit, including agreeing to continue or complete any duties and obligations of the former Operational License holder under this Ordinance or former Operational License, including, but not limited to, the requirement for post-construction sound measurements, post-construction stray voltage testing, wind turbine inspections, and submission to inspections.
- 10.2.7 An Operational License shall automatically terminate upon any amendment to a permit.
- 10.2.8 Failure to comply with the provisions of this Ordinance may result in the suspension or revocation of the Operational License pursuant to Section 21.0 .
- 10.2.9 An Operational License shall be deemed abandoned if the WTG's operation has ceased for twelve consecutive months. An Operational License expires immediately upon abandonment.
- 10.2.10 Fees.
 - 10.2.10.1 The application fee for an Operational License is \$1,000.00.
 - 10.2.10.2 The annual fee for an existing Operational License is \$250.00.

11.0 Permitting Authority

- 11.1 The Town of Montville Planning Board is authorized to review all WTG applications and may approve, reject or conditionally approve such applications in accordance with the standards of the Ordinance.
- 11.2 The Maine Department of Environmental Protection (DEP) may be required to review WTG applications. The Planning Board shall consider, at a minimum and to the extent applicable, pertinent findings in the DEP certification when making its determination.
- 11.3 The following types of permits require final approval by a vote of the residents of the Town of Montville:

11.3.1 Any WTG to be built on property owned by the Town

11.3.2 Any WTG partially or totally owned by the Town.

12.0 Standards for Setbacks, Noise, Shadow Flicker, and Mitigation Waivers

This section addresses the interrelated standards of setbacks, noise, shadow flicker and mitigation waivers and applies to all WTGs.

Setbacks provide a number of important Ordinance functions, including but not limited to: 1) working in conjunction with noise standards as a primary means of mitigating potential and unforeseen noise complaints; 2) providing for public safety in the event of a catastrophic turbine failure or ice throw; 3) mitigating the effects of shadow flicker from larger turbines

In general, the taller the turbine, and the greater the number of turbines in a WTG, the greater the setback needed to mitigate noise, debris hazards, and shadow flicker. However, setbacks for noise must also be implemented in conjunction with specific wind turbine noise limits (see Section 12.2). Although larger wind turbines appear to generate the highest proportion of published noise complaints, poorly designed smaller turbines can also cause serious noise.

Setbacks to property lines are a minimum buffer of one mile from the Project Boundary. This is assuming a 1.5 MW industrial wind turbine, which has a Turbine Height of approximately 400 feet. However, larger wind turbines are louder, so a varying setback basis is required. A one mile setback is approximately equal to 13 times the turbine height for a 400 foot turbine. Therefore, the Setback Distance is defined as the larger of one mile or 13 times the Turbine Height, measured horizontally from the Project Boundary to the nearest property line.

Setbacks for public roads are based on an approximation of an 1800-foot debris field for ice throw. Four times the turbine height for a 440 foot Wind Turbine is equal to 1760 feet.

12.1 Setback Standards

12.1.1 Setback to Non-participating Landowner Property Lines – Given the abundant evidence that wind turbines sited too close to humans has deleterious effects on them, and given that the most effective means of preventing negative health effects is proper setbacks, WTGs must be located no closer than the Setback Distance from non-participating property lines. Property owners may waive this setback with a written Mitigation Waiver. (See Section 12.4).

12.1.2 Setback to Public Roads - Wind Turbines will be set back from any public road a distance no less than 4 times the turbine height, measured horizontally.

12.2 Noise Standards

For all wind turbines, the primary guiding principle is that their operation must not be disruptive at any time of day or night. Current sound limitations in the state of Maine regulating noise from WTG reflect sound limits applicable to urban residential and urban mixed neighborhoods instead of the deep quiet of rural areas such as Montville to which this Ordinance pertains.

12.2.1 Principles Governing Sound Measurements

- 12.2.1.1 Section 27.0 applies in addition to relevant paragraphs of Section 28.0 . Procedures in Section 27.0 and Section 28.0 are mandatory and additional to the relevant application procedures.
- 12.2.1.2 Sound measurements must be made to all non-participating property lines within and up to two (2) miles measured horizontally from the Project Boundary.
- 12.2.1.3 All sound measurements will be filtered for both dBA and dBC.
- 12.2.1.4 All sound measurements before construction, and after will be made by a Professional Engineer who is a Full Member of the Institute of Noise Control Engineering (INCE).
- 12.2.1.5 This engineer must be an independent contractor to the Town of Montville, and have no ties to wind developers or related conflicts of interest.

12.2.2 Noise Limits at Non-participating Property Lines

No WTG turbine shall be located so as to cause an exceedence of the pre-construction/operation background sound levels by more than 5 dBA or dBC. The background sound levels shall be the L90 dB sound levels sound descriptor (both A and C weighing) measured during a pre-construction noise study during the quietest time of evening or night. Measurements shall be for ten (10) minutes or more. L90 results are valid when L10 results are no more than 15 dB above L90 for the same time period. Noise sensitive sites are to be selected based on the WTG's predicted sound emissions (in dBA, dBC and 1/3 octaves to blade passage frequency), which are to be provided by the Applicant.

- 12.2.2.1 Audible noise levels (dBA) due to wind turbine operation will not exceed the pre-construction ambient noise level by more than 5 dBA as measured at any property line. Property owners may waive this noise restriction with a written Mitigation Waiver. (See Section 12.4 .)
- 12.2.2.2 Low frequency noise levels (dBC) due to wind turbine operation as measured inside or at any Property Line will not exceed:
1. 20 decibels (measured as dBC) above the pre-development ambient noise level (measured as dBA).
 2. A maximum not-to-exceed level of 50 dBC.
- Property owners may waive this noise restriction with a written Mitigation Waiver. (See Section 12.4 .)
- 12.2.2.3 Noise measurement standards and procedures are described in Section 27.0 .

12.2.3 Violations and Enforcement

- 12.2.3.1 Sound Regulations Compliance. A WTG shall be considered in violation of the conditional use permit unless the applicant demonstrates that the project complies with all sound level limits using the procedures specified in this ordinance. Sound levels in excess of the limits established in this ordinance shall be grounds for the Town of Montville to order immediate shut down of all non-compliant Wind Turbine units.

12.2.3.2 A serious noise violation is defined as three (3) verified noise complaints attributed to the operation of a Wind Turbine within a period of one month or less with a measurable noise level greater than 10 dBA above pre-construction ambient noise levels or 50 dBC inside or at an Occupied Building. For serious violations the Owner/operator will respond within five (5) days of the complaint. Testing, if necessary, will be paid for by the Owner/operator and hired independently by the Town, and will commence within ten working days of the complaint. Testing will be conducted for a minimum of a one-month period according to the measurement standards and procedures in Section 27.0 . The Owner/operator is responsible for mitigating the problem within ten (10) days from a final determination of any cause attributed to the operation of the Wind Turbine. Failure to mitigate the problem will result in the Wind Turbine being declared unsafe and emergency shutdown procedures will be implemented per Section 21.4 .

12.2.3.3 Noise violations not determined to be an emergency pursuant to Sections 12.2.3.1 and 21.4 , or not determined to be a serious violation pursuant to Section 12.2.3.2 , shall be managed pursuant to Section 21.6 . Testing, if necessary, will be paid for by the Owner/operator and hired independently by the Town. Testing will be conducted for an appropriate period of time and conducted according to the measurement standards and procedures set forth in Section 27.0 . The Owner/operator is responsible for mitigating the problem within 30 days from a final determination of any cause attributed to the operation of the WTG. Mitigation involving significant construction or physical modification may have up to 90 days to be completed pursuant to Section 15.4.1.

12.3 Shadow Flicker and Blade Reflection

12.3.1 WTGs shall be designed and sited so that shadow flicker and/or blade reflection will not fall on a receptor as defined in Section 8.0 . Exceptions to this standard may be made based on the following condition only if the flicker or reflection does not exceed 10 hours per year for any given receptor. Property owners may waive the Shadow Flicker and Blade Reflection restriction with a written Mitigation Waiver. (See Section 12.4 .)

12.3.2 Violations and Enforcement

12.3.2.1 A serious shadow flicker or blade reflection violation is defined as: 1) three (3) days of significant nuisance shadow flicker or blade reflection, in any one month falling on a receptor that, if annualized, will be estimated to be more than 10 hours per year; or 2) any complaint of shadow flicker or blade reflection from vehicles on Route 220. The predictive annualized calculation shall assume clear weather, but take into account seasonal tracking of the sun. For serious violations the Owner/operator will respond within five (5) days of the complaint. The Owner/operator is responsible for mitigating the problem within ten (10) days from a final determination of any cause attributed to the operation of the WTG. Failure to mitigate the problem will result in the WTG being declared unsafe and emergency shutdown procedures will be implemented per Section 21.4 .

12.3.2.2 Shadow flicker and blade reflection not determined to be a serious violation pursuant to Section 12.3.2.1 , shall be managed pursuant to Section 21.6 . Field verification and modeling, if necessary, will be paid for by the Owner/operator and hired independently by the Town. The Owner/operator is responsible for mitigating the

problem within 30 days from a final determination of any cause attributed to the operation of the WTG. Mitigation involving significant construction or physical modification may have up to 90 days to be completed pursuant to Section 15.4.1.

12.4 Mitigation Waivers

Non-participating Landowners may modify or waive certain specified protections in this Ordinance using a written, legally enforceable Mitigation Waiver negotiated between the Applicant and the Non-participating Landowner. Copies of executed Mitigation Waivers must be included with the application. The Mitigation Waiver must be recorded in the Register of Deeds office appropriate for the affected property. The deed must advise all subsequent owners of the burdened property.

12.4.1 The requirements permitted in Mitigation Waivers are:

12.4.1.1 Property line setbacks – Section 12.1.1.

12.4.1.2 Audible noise levels – Section 12.2.2.1 .

12.4.1.3 Low frequency noise levels – Section 12.2.2.2 .

12.4.1.4 Shadow Flicker and Blade Reflection – Section 12.3.1.

12.4.1.5 No Mitigation Waivers on other requirements set forth in this Ordinance are permitted.

12.4.2 The Mitigation Waiver must contain a separate paragraph for each specific requirement being modified or waived. Each paragraph must specify:

12.4.2.1 The requirement as set forth in this ordinance.

12.4.2.2 The modified requirement to which the affected property owner is now agreeing.

13.0 **General Standards**

All WTGs shall comply with the appropriate Standards of this Ordinance. No WTG shall cause unreasonable health or safety conditions.

13.1 Building Codes. All components of the WTG shall conform to local, state and national building codes.

13.2 Electrical Components and Interconnections. All electrical components of the Wind Turbine and WTG shall conform to relevant and applicable local, state, and national codes.

13.3 Controls and Brakes. Each Wind Turbine shall be equipped with a redundant braking system that includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall operate in fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.

13.4 Blade Clearance. The minimum distance between the ground and all blades of a Wind Turbine shall be 100 feet as measured at the lowest arc of the blades.

13.5 Signal Interference. WTGs will be designed and sited to prevent the disruption or loss of radio, telephone, television, or similar signals. (See Section 15.7 .)

- 13.6 Guy Wires, Blade Feathering and Bird Sensing Radar. Monopole towers with no guy wires are preferred to minimize bat and migratory bird fatalities, and bird fatalities in general.. To further minimize such fatalities, Wind Turbines will be equipped with bird sensing radar, and the Wind turbine blades will be feathered. Bird flight diverters must be installed on any tower with guy wires.

14.0 Appearance and Safety Standards

14.1 Appearance and Visibility Standards

- 14.1.1 Wind Turbines shall be a non-obtrusive color such as white, off-white or gray, or as may otherwise be required by another governmental agency with jurisdiction over the WTG.
- 14.1.2 The design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the site to the natural setting and existing environment.
- 14.1.3 Wind Turbines shall not be artificially lighted, except to the extent consistent with Federal Aviation Administration recommendations or other applicable authority that regulates air safety or as is otherwise required by another governmental agency with jurisdiction over the WTG. Additional lighting standards must be met for Wind Turbines (see Section 15.2.7).
- 14.1.4 Wind Turbines shall not be used to support signs and shall not display advertising except for reasonable and incidental identification of the turbine manufacturer, facility owner and operator, emergency contact information, and for any appropriate warnings.
- 14.1.5 Each Wind Turbine shall be located to reasonably maximize the effectiveness of existing vegetation, structures and topographic features to screen views of the Wind Turbine(s) from Occupied Buildings of Non-participating Land Owners, Scenic Resources and public roads.
- 14.1.6 When existing features do not screen views of a Wind Turbine from Occupied Buildings of Non-participating Landowners, Scenic Resources and public roads, screening shall be provided, where feasible and effective, through the planting of trees and/or shrubs. Generally, such plantings should be of native varieties. In order to maximize the screening effect and minimize wind turbulence near the Wind Turbine, plantings should be situated as near as possible to the Occupied Buildings, Scenic Resources and/or public roads.

14.2 Safety Standards

- 14.2.1 Design. The design of the Wind Turbines and WTG shall conform to applicable industry standards, including those of the American National Standards Institute, (ANSI) and shall comply with standards promulgated by Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies or other similar certifying organizations appropriate for the turbines' size and classification.
- 14.2.2 Access. All ground-mounted electrical and control equipment and all access doors to a Wind Turbine shall be labeled and secured to prevent unauthorized access. A Wind Tower shall not be climbable up to fifteen (15) feet above ground surface.
- 14.2.3 Warnings. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

14.3 Inspections

Wind Turbines shall be inspected after construction is completed but before becoming operational, and at least every year thereafter, for structural and operational integrity by a Maine licensed professional engineer chosen by the Permitting Authority, and the Owner/operator shall submit a copy of the inspection report to the Enforcing Authority. If such report recommends that repairs or maintenance are to be conducted, the owner shall provide the Enforcing Authority a written schedule for the repairs or maintenance. Failure to complete the repairs or maintenance in accordance with the schedule shall be deemed a violation of this Ordinance.

14.4 Liability Insurance

The Applicant shall maintain a current general liability policy for the WTG that covers bodily injury and property damage in an amount commensurate with the scope and scale of the Turbine or Project. The Applicant or its designee shall provide certificates of insurance to the Planning Board, and provide a copy of each annual renewal to the Planning Board. (See Section 28.2.35.)

15.0 **Financial, Environmental and Operational Standards**

15.1 Financial Performance Standards

The Applicant must demonstrate that the WTG is financially viable and that the Owner/operator has the financial ability to complete the project.

15.2 Environmental Impact Standards

15.2.1 Montville Site Plan Review Ordinance. Proposed WTGs shall meet the applicable standards of the Montville Site Plan Review Ordinance

15.2.2 Environmentally Sensitive Area. The plan for the WTG will reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to wetlands, steep slopes, watersheds, floodplains, significant wildlife habitats, fisheries, habitat for rare or endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers will be maintained and preserved to the maximum extent. The Applicant shall demonstrate appropriate measures for protecting these resources, including both during construction and post construction.

Given that areas within the Town of Montville are wildlife management areas and that protected bird species and migratory birds are regularly observed within the boundaries of the Town, the applicant must comply with the “Guidelines for Wind Project Ecological Study” by the Maine Department of Environmental Protection and Maine Department of Inland Fisheries and Wildlife.

15.2.3 Wildlife Protection

15.2.3.1 The Applicant will demonstrate that the WTG will not have a significant adverse effect on area wildlife and wildlife habitat. Such analysis shall include but not be limited to adverse effects to birds, bats, game animals, and habitat fragmentation. In addition, the Applicant must demonstrate that the WTG will have no significant adverse effect on rare, threatened or endangered wildlife. The wildlife and habitat analysis must include appropriate pre-construction field studies and at least three sets of corresponding post-

construction field studies conducted at periodic intervals within 3 years after the Wind Turbines become operational. These studies will be conducted by a qualified wildlife biologist hired by the Town of Montville and paid for by the Applicant.

15.2.3.2 If the post-construction field studies demonstrate significant adverse effect to birds, bats, game animals or habitat fragmentation, the Town, the Owner/operator and the Maine Department of Inland Fisheries and Wildlife (MDIFW) shall develop an appropriate mitigation plan. The Owner/operator will be responsible for the full cost of implementing the mitigation plan under the supervision of MDIFW.

15.2.4 Raptor Habitat. To the extent practicable, the creation of artificial habitat for raptors or raptor prey shall be minimized. In making its determination under this subsection the Planning Board shall consider comments and recommendations, if any, provided by the Maine Department of Inland Fisheries and Wildlife.

15.2.5 Erosion Control. The WTG will be designed, constructed and maintained in accordance with accepted erosion and sedimentation control methods. The acceptability of the proposed methods will be judged utilizing the “Maine Erosion Control Handbook for Construction: Best Management Practices”, March 2003. Whenever sedimentation is caused by stripping vegetation or grading it shall be the responsibility of the Owner/operator to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at the Owner/operator’s expense as quickly as possible.

15.2.6 Groundwater Protection. The WTG will not adversely affect the quality or quantity of groundwater. The Applicant shall have to demonstrate to the Planning Board’s satisfaction that there are no unusual risks to the groundwater, including underground rivers, created by the project. The Board may require as a condition of permit approval, that spill prevention and control measures be installed, and that all activities involving potentially permeable pollutants, including at delivery and transfer points, be conducted under cover and over an impervious surface surrounded by dikes. If a Wind Turbine foundation is proposed in a bedrock area, a baseline of all wells, springs and certified public water sources within a two-mile radius of the foundation shall be established. If degradation or contamination occurs, permanent remedies shall be the responsibility of the Owner/operator.

15.2.7 Light Pollution. The WTG shall be designed to minimize the amount of nighttime light pollution. The Applicant shall provide a plan showing lighting on and around all Wind Turbines and associated facilities. Lighting on Wind Turbines shall be illuminated to Federal Aviation Administration (FAA) minimal standards using only red rather than white lights, if possible. The minimum number of Wind Turbines will be illuminated, per FAA rules. Lighting shall be shielded from ground view to FAA maximum standards.

15.2.8 Relation to DEP Certification and Permitting. If DEP has issued a Site Location of Development Act permit for a WTG there is a rebuttable presumption that the development meets the requirements of Sections 15.2.2 and 15.2.3. If a DEP Site Location of Development permit is required, the Planning Board will require the permit to be issued before the application is deemed complete and may take the recommendations under advisement to determine compliance with Sections 15.2.2 and 15.2.3.

15.3 Scenic or Special Resource Standards

15.3.1 Except as otherwise provided in this subsection, if a WTG is proposed for a location in, or is visible from, a Scenic or Special Resource, the Applicant shall provide the Planning Board with a visual impact assessment that addresses the evaluation criteria in subsection 15.3.3. There is a rebuttable presumption that a visual impact assessment is not required for those portions of a WTG that are located more than 3 miles, measured horizontally, from a Scenic or Special Resource. The Planning Board may require a visual impact assessment for portions of the WTG located more than 3 miles and up to 8 miles from a Scenic Resource if it finds that a visual impact assessment is needed to determine if there is the potential for significant adverse effects on the Scenic or Special Resource. Any interested Person must submit information intended to rebut the presumption to the Planning Board within 30 days of acceptance of the application as complete. The Planning Board shall determine if the presumption is rebutted based on a preponderance of evidence in the record.

15.3.2 The Planning Board shall determine, based on consideration of the evaluation criteria in subsection 15.3.3, whether the WTG significantly compromises views from or of a designated Scenic or Special Resource such that the proposed facility has an unreasonable adverse effect on the scenic character or existing uses related to scenic character of that Scenic or Special Resource.

15.3.3 In making its determination pursuant to subsection 15.3.2, and in determining whether an Applicant for a WTG located more than 3 miles from a Scenic Resource must provide a visual impact assessment in accordance the Montville Site Plan Review Ordinance, the Planning Board shall consider:

15.3.3.1 The significance of the potentially affected Scenic or Special Resource;

15.3.3.2 The existing character of the surrounding area;

15.3.3.3 The expectations of the typical viewer;

15.3.3.4 The WTG Project's purpose and the context of the proposed activity;

15.3.3.5 The extent, nature and duration of potentially affected public uses of the Scenic or Special Resource and the potential effect on the public's continued use and enjoyment of the Scenic or Special Resource; and

15.3.3.6 The scope and scale of the potential effect of views of the WTG on the Scenic or Special Resource, including but not limited to issues related to the number and extent of Wind Turbines visible from the Scenic or Special Resource, the distance from the Scenic or Special Resource and the effect of prominent features of the WTG Project on the landscape.

15.4 Construction/Design Standards

15.4.1 General Construction Standards. All Wind Turbines shall be constructed in compliance with Good Utility Practice for Wind Turbines. In the event that, after inspection by a qualified expert in Good Utility Practice, the Town concludes that any of the Wind Turbines were not constructed in compliance with Good Utility Practice or constitutes a danger to persons or property, then upon notice being provided, the Owner/operator shall have 90 days to bring the non-compliant Wind Turbine(s) into compliance with such standards. If 90 days is insufficient time to cure the non-compliance, the Owner/operator shall present a plan

to the Town describing the reason for the delay and the time frame for the cure to be put in place.

15.4.2 Electrical Design Standard. On-site power and transmission lines shall be placed underground to a depth consistent with Good Utility Practice. Wind Turbines shall be engineered according to Good Utility Practice to prevent transient ground currents and stray voltage. The Applicant shall demonstrate that there will be no significant adverse effect upon the environment or individuals from transient ground currents and stray voltage.

15.4.3 Transmission Line Standards. The Applicant must, in conjunction with the Maine Public Utility Commission (PUC), prepare a written report documenting all anticipated changes, modifications or upgrades to the public utility grid within the Town of Montville due to the WTG. The written report must include necessary approvals from the PUC, proof of leases or required right of ways for transmission lines, and any alternatives to the final plan considered. The report must document the residual capacity remaining in the local utility grid that is available for use by other local electrical generating projects.

15.4.4 Geological Stability. Wind Turbines shall not be constructed on areas of geological instability. The Applicant shall demonstrate that this standard is met.

15.5 Operational Performance Standards

15.5.1 General Performance Standards. All Wind Turbines shall be operated and maintained consistent with Good Utility Practice for comparable facilities.

15.5.2 Repairs and Maintenance. The Owner/operator shall be required to repair and replace the WTG and associated equipment consistent with Good Utility Practice as needed to keep the Wind Turbine and Associated Facilities in good repair and operating condition.

15.6 Public Safety and Health Standards

15.6.1 Fire Protection. The Applicant shall prepare a plan in consultation with the Town of Montville fire department as part of the permitting process. The plan shall address all activities at the WTG from the start of construction through the end of power generation and the final removal and restoration of the site, and shall describe a response plan to address all identified potential fire, rescue and hazardous materials scenarios. The Owner/operator shall ensure that the WTG complies with the following control and prevention measures and assumes responsibility for all associated incremental costs:

15.6.1.1 Use of fireproof or fire resistant building materials and buffers or fire retardant landscaping around WTGs as appropriate.

15.6.1.2 Incorporation of a self-contained fire protection system to address nacelle fires including but not limited to redundant fire quenching systems in the nacelle..

15.6.1.3 Maintenance of firebreak areas as appropriate, cleared of vegetation and maintained as a fire/fuel break as long as the Wind Turbine is in operation.

15.6.1.4 Provision for any additional fire fighting or rescue personnel, services, training, materials, or vehicles as may be required to address any emergency related to the WTG that is beyond the current capabilities and duties of the local fire department.

15.6.2 Hazardous Wastes. The Owner/operator shall be responsible for compliance with all ordinances, state regulations and laws applicable to the generation, storage, cleanup, and disposal of hazardous wastes generated during any phase of the project's life. The Town of Montville may require that a plan be submitted by the Applicant demonstrating the ability and intent to meet such compliance.

15.6.3 Blasting. Owner/operator shall not undertake any blasting in connection with the construction of the WTG unless Applicant has notified the Town and submitted a blasting plan consistent with applicable laws and regulations. The plan must be reviewed and approved by the Planning Board before any blasting may take place. No blasting shall be undertaken without 48 hour notification to all residents within a two mile radius, measured horizontally, from the blasting area. All blasting operations will cover the blasting area with mattresses to prevent debris from falling on nearby properties.

15.7 Communications and Electromagnetic Interference Standards

15.7.1 WTGs shall be sited and operated so that they do not interfere with emergency (fire, police/sheriff, ambulance) radio two-way communications (base stations, mobile, and hand held radios, including digital) and/or paging, television, telephone (including cellular and digital), microwave, satellite (dish), navigational, internet or radio reception to neighboring areas. The Owner/operator of the project shall be responsible for the full cost of any remediation necessary to provide equivalent alternate service or correct any problems, including relocation or removal of the Wind Turbine, and any and all related transmission lines, transformers, and other components related to the interference.

15.7.2 The Owner/operator of the WTG shall respond within one day to any request for communications interference investigation by any emergency agency (fire, police/sheriff, ambulance). Testing will commence within two days of the request. The Owner/operator is responsible for mitigating within two days from the determination of interference attributed to the operation of the Wind Turbine.

15.7.3 The Owner/operator of the WTG shall respond within five business days to any request for communications interference investigation by a property owner or resident within a three-mile radius, measured horizontally, of the WTG. Testing will commence within five business days of the request. The owner/operator is responsible for mitigating within ten business days from the determination of interference attributed to the operation of the Wind Turbine.

15.8 Ground Transportation Standards

15.8.1 The Applicant shall identify all public ways to be used within the Town of Montville to transport equipment and parts for construction, operation or maintenance of the Wind Turbines.

15.8.2 A qualified third party engineer, hired by the Planning Board and paid for by the Applicant, shall document road conditions prior to construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.

15.8.3 The Town of Montville may bond the road(s) in compliance within state regulations.

15.8.4 Any road damage caused by the Applicant or its contractors shall be promptly repaired at the Owner/operators expense.

15.8.5 The Applicant shall demonstrate that it has appropriate financial insurance to ensure the prompt repair of damaged roads.

15.9 Plan and Risk Assessment for Road and Property Use

15.9.1 An Application for a WTG Site Permit shall include a road and property use and risk assessment plan containing the following information and meeting the following requirements.

15.9.1.1 A description and map of all public ways, and other property, in the Town to be used or affected in connection with the construction of the WTG, including a description of how and when such ways and property will be used or affected.

15.9.1.2 A description of the type and length of vehicles and type, weight and length of loads to be conveyed on all public ways in the Town.

15.9.1.3 A complete assessment of the proposed use of public ways in the Town in connection with the construction of the WTG, including: the adequacy of turning radii; the ability of the public ways to sustain loads without damage; the need to remove or modify (permanently or temporarily) signs, trees, utilities, or anything else; any reasonably foreseeable damage to public ways or other property, public or private; any reasonably foreseeable costs that the Town may incur in connection with the use of property in the Town, including but not limited to costs relating to traffic control, public safety, or damage to public ways, or to other public or private property.

15.9.1.4 A traffic control and safety plan relating to the use of public ways in the Town in connection with the construction of the WTG.

15.9.1.5 Any additional relevant information that the Planning Board may request relating to the use of public ways or other effects on public and private property that may occur in connection with the construction and operation of the WTG.

15.9.2 The Planning Board will evaluate the risk assessment plan with assistance from such consultants that it deems appropriate, including without limitation a third-party engineer chosen by the Planning Board, the cost to be solely borne by the Applicant. The Planning Board may document the condition of public ways and other property to be used in connection with the construction of the WTG in such manner as it deems appropriate. The Planning Board may require changes to the risk assessment plan that it deems to be appropriate to protect public safety, to protect public and private property, and to address anticipated costs to the Town associated with construction of the WTG.

15.9.3 If the Applicant requires the temporary closure of any public way, the Planning Board may require the Applicant to enter into an agreement relating to the use of the public way.

15.9.4 The Applicant shall be responsible for paying for any damage to any public way. If the risk assessment anticipates damage to any public way, the Planning Board may require the Applicant to provide a surety in an amount that the Planning Board determines appropriate to secure any obligation under the agreement, including but not limited to any obligation

relating to alterations or modifications to public ways made in connection with the Applicant's activities.

15.10 Reporting Requirements:

15.10.1 Extraordinary Events. The Owner/operator shall notify the Town of any extraordinary event within 24 hours of that event. "Extraordinary events" shall include but not be limited to tower collapse, catastrophic turbine failure, fires, leakage of hazardous materials, unauthorized entry to the tower base, thrown blade or hub, any injury to a Facility worker or other person that requires emergency medical treatment, or other event that impacts the public health and safety of the Town or its residents.

Additionally, the Owner/Operator will provide the Town and its residents with a hotline phone number for reporting of any such extraordinary events to a manned facility on call 24 hours a day, 365 days a year.

15.10.2 Change of Owner/operator. The Owner/operator will notify the Town of Montville of a pending change of ownership in writing 30 days before the effective change. New owners will apply for a transfer of permits to be reviewed by the Town Of Montville and will assume all the obligations of the selling Owner/operator.

15.10.3 Reports from annual safety inspections pursuant to Section 14.3 .

15.10.4 Annual proof of liability insurance pursuant to Section 14.4 .

16.0 Application Submission Requirements and Procedural Time Frames

16.1 Pre-application Meeting

A pre-application meeting with the Planning Board will be scheduled at a regularly scheduled public Planning Board meeting. At the meeting the Applicant will review the type and scope of the project and the Planning Board will review Ordinance Standards and submission requirements. The Planning Board will establish an application file at this time.

16.2 Site Inspection

The Planning Board reserves the right to establish a time for a site inspection at any time during the application process. Planning Board and Applicant will set a mutually agreeable time for the Planning Board to inspect the site. Site visits will normally be postponed if there is more than one foot of snow on the ground. The site inspection will be treated as a public meeting of the Planning Board with appropriate notices given to the community. While the Planning Board may set additional requirements for the site inspection at the pre-application meeting, the Applicant shall, at minimum, flag the location of the proposed WTG and relevant property boundaries. The Applicant or a representative will accompany the Planning Board to describe the project and answer any questions.

16.3 First Public Hearing

The Planning Board will schedule a public hearing to be held within 60 days of the pre-application meeting process for the WTG.

16.4 Notice to Abutters and residents within the Notification Area

In addition to any required public notices for the site inspection and first public hearing, the Planning Board will prepare a notice to property owners and residents within the Notification Area. The notice will briefly describe the proposed WTG and notify the recipient of the dates, times and places of the site inspection and first public hearing. The notice will be sent by certified mail with mailing costs paid for by the Applicant. The town will give residents no less than 14 days' notice of such a meeting.

16.5 Determine Submission Requirements

Within 60 days of the pre-application meeting the Planning Board shall inform the Applicant in writing of the submission requirements for the application. The submission requirements for WTGs are listed in Section 28.0 . If the Applicant wishes to have any of the submission requirements waived, the Applicant must make the request in writing to the Planning Board. The Planning Board will notify property owners and residents within the Notification Area. The notice will be sent by certified mail with mailing costs paid for by the Applicant. The Planning Board will send the notice at least 14 days prior to the Planning Board meeting at which the Applicant's request will be considered.

16.6 Application Submission

The Applicant has up to 180 days after the determination of submission requirements to submit a completed application with the required fees to the Town clerk. The application shall be deemed abandoned unless the application has been received within 180 days of the determination of submission requirements. The Town Clerk will forward the application to the Planning Board.

16.7 Completeness Review

The Planning Board will notify the Applicant within 90 days from the date of submission whether the application is complete. Specific studies may be required for a consideration of completeness including but not limited to noise studies, DEP certification and permitting, and environmental impact studies. If the application is deemed to be incomplete the Planning Board shall indicate the additional information needed. The application shall be deemed abandoned unless the Applicant provides the information requested, demonstrates that additional time is needed to complete required studies, or submits in writing the reason for any delay within 30 days from the date of notice indicating the application is incomplete.

16.8 Second Public Hearing

The Planning Board will schedule a second public hearing to be held within 60 days of the determination of completeness of the Application for the WTG.

16.9 Notice to Town of Montville

In addition to any required public notices for the second public hearing, the Planning Board will prepare a notice to all residents and property owners in the Town of Montville and to property owners and residents within the Notification Area. The notice will briefly describe the proposed WTG and notify the recipient of the date, time and place of the second public hearing. The notice will be sent by certified mail with mailing costs paid for by the Applicant. The town will give residents no less than 14 days' notice of such a meeting.

16.10 Final Planning Board Determination

A decision to approve or reject the application, or to approve the application with conditions, will be made by the Planning Board within 60 days from the date of the second public hearing.

16.11 Final Town Approval

Final Town approval is required if the WTG is located on Town property or if the WTG is wholly or partially owned by the Town.

17.0 Professional Services

In reviewing an application for compliance with this Ordinance, the Permitting Authority may retain professional services as necessary to assist with its review, including but not limited to those of an attorney, engineer, biologist, or land use planner. Within fourteen (14) days of filing an application the Applicant shall deposit in a joint escrow account with the Town the sum of \$25,000 as partial payment for the appropriate Town expenses in hiring consultants and experts, as the Permitting Authority shall, at its discretion, deem necessary. If at any time the balance of the fund falls below \$5,000, the Applicant upon notice shall submit an additional \$25,000 so that the Town's full and actual expenses of examining and verifying the data presented by the Applicant can be paid in full by the Applicant. If at any time the balance of this fund falls below \$5000 for a period of 30 days after notification the application shall be considered to have been withdrawn. The balance of the escrow account shall be returned to the Owner/operator after all expenses have been paid, and after a permit is granted or the Applicant has withdrawn.

18.0 Application Changes

18.1 Throughout the permit process, the Applicant shall promptly notify the Permitting Authority of any changes to the information contained in the permit application.

18.2 Material changes may not be made to a WTG after an application is determined to be complete, without initiating a new application process. Material changes include, but are not limited to, increasing the number of Wind Turbines, increasing the nameplate capacity of the Wind Turbines, increasing Turbine Height, changes to the location of Wind Turbines, or material changes to Associated Facilities. Non-material changes require a permit modification as determined by the Permitting Authority. The Permitting Authority shall have sole discretion for determining what is a material or non-material change.

19.0 Cumulative Effect of Multiple Permits

The Town of Montville reserves the right to limit the total number of WTG permits that are under review for approval at any given time. The Permitting Authority will process no more than one application at any one time, or the deadline for submission and review may be modified correspondingly to reflect the increased workload of multiple permits.

20.0 Appeals

20.1 The Board of Appeals shall have the power to hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Reviewing Authority.

Any order, requirement, decision or determination made, or failure to act, in the enforcement of this Ordinance is not appealable to the Board of Appeals.

- 20.2 The Board of Appeals may reverse the decision of the Permitting Authority only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Permitting Authority. The Board of Appeals may only review the record of the proceedings before the Permitting Authority. The Board of Appeals shall not receive or consider any evidence that was not presented to the Permitting Authority, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Permitting Authority's proceedings is inadequate, the Board of Appeals may remand the matter to the Permitting Authority for additional fact finding.
- 20.3 For the purposes of hearing appeals, at a minimum, all property owners and residents within the Notification Area shall be deemed to have interested party standing. The Appeals Board may grant other individuals interested party standing as special circumstances warrant. All interested parties must be sent notice by certified mail with mailing costs paid for by the Applicant. The Appeals Board will give interested parties a reasonable and appropriate amount of time to present information and rebuttals.
- 20.4 A final Town vote as outlined in Section 16.11 shall not be subject to Appeals Board review.

21.0 Complaints/ Violations/ Enforcement

- 21.1 General Standard. It shall be unlawful for any person, firm or corporation to violate or fail to comply with or take any action that is contrary to the terms of this Ordinance, or any permit or Operational License issued under this Ordinance, or cause another to violate or fail to comply or take any action which is contrary to the terms of this Ordinance or any permit or Operational License issued under this Ordinance.
- 21.2 Enforcing Authority. The CEO will serve as the Enforcing Authority for WTGs. The Enforcing Authority will:
 - 21.2.1 Have the authority to conduct investigations, resolve complaints, ensure compliance with and enforce standards, and levy penalties if required.
 - 21.2.2 Appoint qualified representatives to investigate complaints. The reasonable costs and fees for the qualified representative will be paid by the Owner/operator and may include engineers, consultants, and other professionals.
 - 21.2.3 Recommend to the Planning Board amendments to this Ordinance deemed necessary to address health or safety concerns not currently addressed in this Ordinance.
 - 21.2.4 Have access to Town legal counsel as required.
- 21.3 Enforcement. Standards in this Ordinance will be enforced through a series of enforcement options including but not limited to: 1) Emergency shutdown; 2) 5 day response to serious violations with a 10 day mitigation period; 3) 30 day complaint resolution with a 30 day mitigation period; 4) financial penalties; and 5) other remedies.
- 21.4 Emergencies and Emergency Shutdown

The Owner/operator shall be required to immediately cease operations for the duration of any Emergency. Emergency shall mean a proven condition or situation caused by the WTG that presents an imminent physical threat of danger to life or significant threat to property. A WTG that is found to present an imminent physical threat of danger to life or significant threat of damage to property shall be immediately shut down and repaired or otherwise made safe and certified so by a professional engineer in good standing prior to resumption of operation. The Town shall have the right to access all Wind Turbines to verify conditions and/or repair progress with reasonable notice to the Wind Turbine owner/operator. Within 24 hours of an occurrence of a tower collapse, turbine failure, property damage or contamination, fires, thrown blade or hub, collector or feeder line failure, injured Wind Turbine worker or private person, the Owner/operator shall notify the Town of the occurrence and proposed remedial action.

21.5 Serious Violations of Standards

The Owner/operator of the WTG shall respond within five business days to any complaint or complaints deemed by the Enforcing Authority to have merit. Testing, paid for by the Owner/operator, will commence within ten working days of the complaint. Except as noted for interference with emergency communications, the Owner/operator is responsible for mitigating the problem within ten business days from the final determination of any cause attributed to the operation of the WTG. Pursuant to Section 15.7.2, interference with emergency communications must be responded to in one day and mitigated within 2 days.

21.6 Other Violations

If the Enforcing Authority determines that a violation of the Ordinance or the permit has occurred, and the violation is determined neither to be an emergency pursuant to Section 21.4 , nor a serious violation pursuant to Section 21.5 , the Enforcing Authority shall provide written notice to the Owner/operator alleged to be in violation of this Ordinance or permit. The Enforcing Authority and the involved parties shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within thirty (30) days of the written notice of violation. The Owner/operator shall pay for any necessary testing if the Owner/operator is subsequently determined to be in non-compliance. The Owner/operator is responsible for mitigating the problem within 30 days from the final determination of any cause attributed to the operation of the WTG. Mitigation involving significant construction or physical modification may have up to 90 days to be completed pursuant to Section 15.4.1.

21.7 Penalties

Any Person or Applicant who fails to comply with any provision of this Ordinance by failing to reach agreement with the Enforcing Authority, or after the expiration of the mitigation periods defined in Section 21.5 and Section 21.6 , shall be fined at least five hundred dollars (\$500) but no more than one thousand dollars (\$1000) for each WTG. A separate offense shall be deemed to be committed on each day during which a violation occurs or continues to occur.

21.8 Other Remedies

If the Owner/operator has not corrected the violation within the timeframes contained in Section 21.5 or Section 21.6 , the Enforcing Authority shall order the WTG to cease operation until the WTG can prove compliance with the standards of this Ordinance. At the discretion of the Enforcing Authority, penalties and fines may continue to accrue during this period. If after 6

months of being ordered to cease operations the Owner/operator has not demonstrated good faith and significant effort in resolving the issue, the Enforcing Authority shall initiate the decommissioning procedure pursuant to Section 22.0 .

21.9 Identifying Violations and Registering Complaints

21.9.1 Pursuant to Section 15.10.1, the Owner/operator will report to the Town all extraordinary events within 24 hours of their occurrence.

21.9.2 For Wind Turbines the Town will maintain, at the Owner/operator's expense, a system for recording and investigating all complaints related to the WTG. The system must be able to receive complaints 24 hours a day, 365 days a year. A permanent record of all complaints, investigations and outcomes will be maintained. The Owner/operator will designate a representative and method to receive and respond to complaints from the Town 24 hours a day, 365 days a year. Complaints for WTGs will be referred to the Enforcing Authority in a timely manner.

22.0 Decommissioning Standards

- 22.1 The Owner/operator shall, at its expense, complete decommissioning of the WTG within: 1) twelve (12) months after the end of the useful life of the WTG, or; 2) as specified in the materials provided at the time of application or; 3) pursuant to remedies described in Section 21.8 . The WTG will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.
- 22.2 Decommissioning shall include removal of wind turbines and foundations to a depth of 36 inches. All buildings, cabling, electrical components, roads, and any other associated facilities shall be removed unless, at the end of the Wind Turbine or WTG's useful life, as determined in accordance with Section 22.1 , the Applicant provides written evidence of plans for continued beneficial use of these components of the WTG, and this evidence is approved by the Planning Board.
- 22.3 Except as otherwise provided by Section 22.2 , disturbed earth shall be graded and re-seeded, unless the Participating Landowner of the affected land requests otherwise in writing.
- 22.4 An independent and certified Professional Engineer shall be retained to estimate the total cost of decommissioning without regard to salvage value of the equipment ("Decommissioning Costs"), and the cost of decommissioning including the salvage value of the equipment ("Net Decommissioning Costs"). Said estimates shall be submitted to the Town of Montville after the first year of operation and every other year thereafter.
- 22.5 The Owner /operator shall post and maintain decommissioning funds in an amount equal to Net Decommissioning Costs; provided that at no point shall decommissioning funds be less than one hundred percent (100%) of Decommissioning Costs. The decommissioning funds shall be posted and maintained with a bonding company or Federal or State-chartered lending institution chosen by the Owner/operator and Participating Landowners posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the State and is approved by the Town of Montville. No work can begin on the WTG before the decommissioning bond is issued and approved.

- 22.6 Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, or other form of financial assurance as may be acceptable to the Town of Montville.
- 22.7 If the Owner/operator fails to complete decommissioning within the period prescribed by Section 22.1 , then the Participating Landowner shall have an additional six (6) months to complete decommissioning.
- 22.8 If neither the Owner/operator, nor the Participating Landowner completes decommissioning within the periods prescribed by Sections 22.1 and 22.7 the Wind Turbine or WTG shall be deemed to be in violation of this Ordinance and the Town of Montville may take such measures as necessary, including court action, to ensure the completion of decommissioning. The entry into and submission of evidence of a Participating Landowner agreement to the Town of Montville shall constitute agreement and consent of the Parties to the agreement, their respective heirs, successors and assigns that the Town of Montville may take such action as necessary to implement the decommissioning plan.
- 22.9 The escrow agent shall release the decommissioning funds when the Owner/operator has demonstrated and the Enforcement Authority concurs that the decommissioning has been satisfactorily completed, or upon written approval of the Town in order to implement the decommissioning plan.

23.0 Real Estate Property Value Assurance Plan

The WTG Owner/operator must provide the Real Estate Property Value Assurance Plan (REPVAP) to all Non-Participating landowners who: 1) own property within one mile, measured horizontally, from the Project Boundary, and 2) have not signed any mitigation waivers. This is a legally binding contract with the Owner/operator and its successors and the landowners. Each one of these contracts must be submitted with the application.

The elements of the Real Estate Property Value Assurance Plan are as follows:

23.1 Establishing the Current Value of the Home

- 23.1.1 Three neutral real estate agents will be selected from a list of agents licensed in the State of Maine and conducting business in the general project area.
- 23.1.2 Each agent shall perform a Comparative Market Analysis (CMA) of the property – in its current state – which will compare the property size and improvements to no less than three similar properties that are listed for sale, using generally accepted CMA methods.
- 23.1.3 The two highest property valuations determined from each CMA will then be averaged to determine the “baseline” property value for REPVAP purposes only. The CMAs will be performed at the Applicant’s expense. The property owner hereby agrees to permit access to the property as required to perform the CMA inspection. Furthermore, the property owner hereby agrees to provide full disclosure of known defects of the property as may be required under Maine State Law.
- 23.1.4 The agents preparing the CMAs will provide a written copy of their report to both the property owner and the Applicant. Both the Applicant and the land owner reserve the right to reject CMA results only in the instance of a clear mistake by the agent.

23.2 Establishing the Future Value of the Home if Listed for Sale.

23.2.1 If at any time during the three year period after a permit to erect the WTG, the property owner lists the property for sale with a qualified realtor from the Board of Realtors, then an “updated” Comparative Analysis will be prepared, again at the Applicant’s expense, using the same procedure outlined above. The updated CMA will explicitly take into account any changes in local market conditions for comparable properties unaffected by the wind project, as well as any improvements to the home and/or lot.

23.2.2 In the event that the property has been listed for at least 12 months and sells for less than the market value determined by the updated CMA average, the Applicant will pay the difference in value within 30 days after closing of the sale of the property. The 12 month listing requirement may be waived by Applicant if requested by the property owner at the Applicant’s sole discretion.

23.3 Other stipulations

23.3.1 The property owner hereby grants the Applicant the right to purchase the property at the greater amount of the updated CMA average market value or the highest bona fide offer.

23.3.2 In the event the property was offered for sale and did not sell or generate any acceptable bona fide offers within 12 months, the Applicant will pay the difference in value between the updated CMA averaged market value and the highest bona fide offer, but only upon reasonable certification by the property owner’s selling agent that the lack of an acceptable offer or sale was attributable solely to the close proximity of the property to the WTG, and not due to any other reason whatsoever including but not limited to market conditions or specific deficiencies related to the property that was otherwise assumed to be satisfactory.

23.3.3 If the property does not sell within an 18 month period, the Applicant will have to purchase the property at the updated CMA average market value..

23.4 Subject to the Applicant’s right to waive any or all these exclusions, the plan outlined herein does not cover a sale or transfer of the property under any of the following conditions.

23.4.1 If the property owner does not have clear and marketable title.

23.4.2 If the property has not been listed for sale for at least 12 months as a continuous period.

23.4.3 If the property is gifted or assigned to another person.

23.4.4 If the property is not listed for sale in accordance with Section 23.4.2 at some point.

23.4.5 If the property is not reasonably maintained in its current condition, reasonable wear and tear excepted.

23.5 Additional Conditions:

23.5.1 A property owner can participate voluntarily in this plan, under the terms and conditions established herein, but the benefit is not assignable to new or subsequent property owners.

23.5.2 If the Applicant sells or transfers ownership of the WTG, it must assign, transfer, pledge, or otherwise dispose of its obligations and interests under this agreement in a form acceptable to the contracting landowners, unless released in writing by contracting landowners . If no agreement can be reached, then the Applicant shall, before sale of the

WTG, place into an escrow account, in favor of the landowner(s) the full value of the property, to be accessed by the landowner(s) if no sale is finalized within the time allocated in Section 23.4.2.

23.5.3 In the event any landowner experiences health problems directly attributable to the operation of the WTG, such that the home is rendered uninhabitable, and unsellable, the listing period will be waived, and the Applicant will be responsible for all medical expenses incurred, including but not limited to doctor visits, hospital visits and stays, medical procedures, medication and cost of lodging away from the home, up until such time as the Applicant purchases the affected property at its full value before the approval and operation of the WTG reduced the property's worth.

24.0 Tax Valuation Agreement and Tax Impact Statement

24.1 Tax Valuation Agreement

24.1.1 WTGs that have a taxable property value of greater than \$10 million dollars; or, if the project will be qualified as a "designated business" for the purposes of state tax incremental financing as defined in Title 30-A M.R.S.A. §5241, are required to have a written agreement between the Town of Montville and the Owner/operator designating the financial methodology that will be used for tax valuation purposes ("Tax Valuation Agreement").

24.1.2 The Tax Valuation Agreement must be in a format approved by the Town attorney and comply with all applicable state and federal tax codes and laws.

24.1.3 The Tax Valuation Agreement must include a financial projection of the tax valuation for the useful life of the project and be prepared by a qualified CPA and reviewed by a qualified tax attorney selected by the Town and paid for by the Applicant.

24.2 Tax Impact Statement

A Tax Impact Statement must be prepared and presented to the Town. It will contain year-by-year for 10 years estimates of Montville resident's tax burden using the following data: 1) re-appraised values for all residents within 2 miles of the WTG, 2) State re-assessment for school tax amounts (assume constant school budget and constant contributions from Towns other than Montville), 3) other residents properties are presumed to stay at their same value. This Tax Impact Statement will be prepared by an Accountant hired by the Town at Owner/operator's expense. The Tax Impact Statement will be presented to the Town for information.

25.0 Jurisdiction Across Multiple Municipalities

This section addresses issues unique to the geography of the Town of Montville and its neighboring towns with which it shares a common boundary. In the event that potential sites for WTGs share multiple municipal jurisdictions, project permits should be coordinated to the fullest extent possible across town boundaries, while at the same time maintaining each individual Town's right to individual Home Rule.

25.1 This Ordinance applies to WTGs located wholly or partially in the Town of Montville to the fullest extent allowable by municipal, state, and federal law.

- 25.2 Approval to build or operate a WTG applies only to that portion of the WTG located within the boundaries of the Town of Montville. However, the application must take into account the entire WTG across municipal boundaries, including but not limited to the total number of Wind Turbines, Turbine Height, Wind Turbine location and all other relevant facts and data that may directly or indirectly effect the operation and viability of that portion of the WTG located in the Town of Montville.
- 25.3 Setback, Noise, Shadow Flicker and Mitigation Waiver standards for WTGs located and operated in the Town of Montville shall apply to property lines and roads irrespective of Town boundaries. For the purpose of this section a resident of such abutting towns is afforded the same protections as a resident of Montville.
- 25.4 This subsection applies to WTGs that are located partially in Montville and partially in neighboring Towns. To receive a permit from the Town of Montville for that portion of the WTG located in the Town of Montville, the Owner/Operator shall agree in writing that the most protective setback and noise ordinance standard from any Town located within the WTG area shall control. The controlling ordinance must be in effect at the time the permit is granted.
- 25.5 The Town Clerk shall forward notice of WTG permit applications within 10 days of receipt, and notice of hearings and public meetings 14 days in advance, to the Selectmen and Planning Boards of adjacent communities for all WTGs if the neighboring community is located within a defined Setback of this Ordinance.

26.0 Ethical Standards

26.1 Transparency, Public Participation and Highest Ethical Standards

All public deliberations and decisions regarding WTGs and Community Owned Wind shall be conducted in an open, transparent manner that encourages the broadest public participation and adherence to the highest ethical standards.

26.2 Public Access

All deliberations concerning WTGs and Community Owned Wind, whether in writing or conducted verbally, by the Planning Board, Selectmen, Appeals Board, and any subcommittees or working groups of the aforementioned bodies shall fully comply with the letter and spirit of State law regarding Freedom of Access pursuant to Title 1; Chapter 13; Subchapter 1. Specifically, all deliberations regarding WTGs between members of the Planning Board, Selectmen, Appeals Boards and any subcommittees and working groups shall be conducted at public meetings, which have been duly posted. Exceptions will be made only for: 1)appropriately recorded and executed executive sessions, and 2)communicating the minimal information necessary to set up and facilitate public meetings. Detailed minutes of deliberations and decisions concerning WTGs and Community Owned Wind will be recorded and posted. Copies of all correspondence and e-mails will be made available to the public with the exception of those publicly identified and disclosed as being subject to “attorney-client privilege” by the Town attorney. All documents, correspondence and e-mails generated by consultants on behalf of the Planning Board, the Selectmen, Appeals Board, their subcommittees and working groups shall be part of the public record.

26.3 Conflicts of Interest

The process to develop, permit and administer WTGs or Community Owned Wind shall be governed by a strict ethical code for conflicts of interest. No elected or appointed Town official or Town employee, their immediate family members, or their employees, who has a conflict of interest shall be directly or indirectly involved in the planning process or decision-making process for WTGs. Conflicts of interest include but are not limited to:

1. having a lease as a Participating Landowner for a Wind Turbine or a lease for a transmission right-of-way,
2. having an identified financial arrangement with a wind development company including a signed Mitigation Waiver with financial remuneration,
3. serving as a paid representative of a wind development company, or a written or verbal promise for future employment or contracts from a wind development company;
4. being directly or indirectly affiliated or related to an Applicant with a pending application for a WTG, and,
5. knowing there is a substantial opportunity to accept bids, receive remuneration, or employment valued at greater than \$10,000 on behalf of a wind development company or as a subcontractor or employee of the Community Owned Wind.

Individuals with a conflict of interest must identify the conflict of interest and recuse themselves from all direct and indirect planning and decision making regarding WTGs or Community Owned Wind, with the exception of voting and debating as a private citizen at any public meetings and public hearings.

26.4 Bidding and Contracting

All bidding, contracts and employment for Community Owned Wind projects must be awarded through a process of public notice and competitive bidding. The Town of Montville reserves the right to design the bidding process to favor local contracts and local employment.

26.5 Code of Ethics for Wind Companies and Municipal Employees

26.5.1 Wind companies will not hire municipal employees or their relatives, give gifts of more than \$10 during a one-year period, or provide any other form of compensation that is contingent on any action before a municipal agency

26.5.2 Wind companies will not solicit, use, or knowingly receive confidential information acquired by a municipal officer in the course of his or her official duties.

26.5.3 Wind companies will establish and maintain a public Website to disclose the names of all municipal officers or their relatives who have a financial stake in WTG development.

26.5.4 Wind companies will submit, in writing to the municipal clerk for public inspection, and additionally will publish in the local newspaper, the nature and scope of the municipal officer's financial interest.

26.5.5 All wind easements and leases will be in writing and filed with the County Clerk for public inspection.

27.0 Noise Measurement Standards and Procedures

- 27.1 A qualified independent acoustical consultant who is a Full Member of the Institute of Noise Control Engineering (INCE) shall conduct all noise studies. The acoustical consultant shall be hired by and report to the Permitting Authority. The Applicant will pay for the studies.
- 27.2 The WTG Applicant/Licensee shall provide all technical information and wind farm data required by the qualified independent acoustical consultant before, during, and/or after any acoustical studies required by this document and for acoustical measurements.
- 27.3 Sound level meters and calibration equipment must comply with the latest version of the American National Standards Institute “ American Standard Specifications for General Purpose Sound Level Meters” (ANSI Standard S1.4) and shall have been calibrated at a recognized laboratory within one month prior to the initiation of the study.
- 27.4 Except as specifically noted otherwise, measurements shall be conducted in compliance with ANSI Standard S12.18-1994 “Outdoor Measurements of Sound Pressure”.
- 27.5 Along with information about the make, model, and name plate capacity of all turbine potentially used in the proposed WTG, the Applicant will also supply their sound power levels (L_w) for each 1/3 octave band from 6.3 Hz to 10k hz.
- 27.6 A sound propagation model predicting the sound levels immitted into the community computed using at minimum 1/1 octave band sound power levels to compute the LCeq and LAeq levels to generate LAeq and LCeq contours in 5 dB increments overlaying an aerial view and property survey map from the WTG property out to a distance to include all residential property lines within two (2) miles measured horizontally from the Project Boundary.
- 27.7 Prior to permit application approval, a pre-construction ambient noise level study shall be conducted at each property line within 2 miles measured horizontally from the Project Boundary.
- 27.8 The tests shall be conducted using both an A-weighting scale (dBA) and low frequency C-weighting scale (dBC).
- 27.9 Predictions shall be made at all property lines within and outward for two (2) miles measured horizontally from the Project Boundary for the wind speed, direction and operating mode that would result in the worst case WTG nighttime sound emissions.
- 27.10 Tests shall be reflective of seasonal changes to vegetation and atmospheric conditions. At a minimum one set of tests should be performed during each of the four (4) calendar seasons of the year.
- 27.11 All measuring points shall be located in consultation with the property owners and such that no significant obstruction blocks noise and vibration to the site.
- 27.12 Outdoor noise level measurements must be taken at 6 feet above the ground and at least 15 feet from any reflective surface.
- 27.13 Duration of measurements shall be a minimum of ten continuous minutes for each criteria at each location.
- 27.14 Measurements must be made when the wind levels are less than 4.5 mph and with appropriate wind screening for the recording device.

- 27.15 When conducting their pre-construction noise prediction analysis, the Applicant shall make specific reference to: 1) the unique aspects of the mountainous contours and terrain of the area and its effect on noise predictability and; 2) line source noise predictions (emanating from a line of Wind Turbines) in addition to the traditional single point source predictions.
- 27.16 Measurements should be obtained during representative weather conditions when the Wind Turbine noise is most noticeable, including periods of temperature inversion most commonly occurring at night.
- 27.17 Measurements shall be taken at each of the following three time periods:
- 27.17.1 Day (10 a.m. – 2p.m.)
 - 27.17.2 Evening (7p.m. -11 p.m.)
 - 27.17.3 Night (12 midnight – 4 a.m.)
- 27.18 Each measurement shall be replicated during the same time period over three different days within the same season for a total of 9 measurements per location per season (e.g., three daytime measurements in the winter, three evening measurements in the winter, and three night time measurements in the winter). The lowest of the three measurements per time period, per season, will be used to determine the pre-construction ambient noise for that time period and season.
- 27.19 For each measurement the following minimum criteria will be recorded:
- 27.19.1 Lmax, Leq, L10 and L90 in dBA
 - 27.19.2 Lmax, Leq, L10 and L90 in dBC
 - 27.19.3 A narrative description of any intermittent noises registered during each measurement
 - 27.19.4 Wind speed and direction at time of measurement
 - 27.19.5 Description of weather conditions at time of measurement
 - 27.19.6 Description of topography and contours relative to proposed or actual Wind Turbines
- 27.20 A comparison of the expected sound levels from the proposed WIG with the sound level limits of this regulation shall be submitted. Per Maine TA Bulletin #4, a written report comparing the expected sound levels with the pre-development ambient sound levels will help determine compliance with the standard.
- 27.21 A 5 dBA and/or a 5 dBC penalty shall be applied for short duration repetitive noise or repetitive impulse noise. This is a characteristic “thumping” or “whooshing” sometimes exhibited by larger Wind Turbines. Per Maine TA Bulletin #4, intermittent noise is a more serious nuisance than constant noise.
- 27.22 A 5 dBA penalty shall be applied for tonal noise. This is a single or limited frequency noise (vs. broadband noise) associated with mechanical noise artifacts (i.e. high pitched whining, screeching, buzzing). Per Maine TA Bulletin #4, noise over a narrow frequency is more serious nuisance than broadband noise.
- 27.23 For sites being measured with existing Wind Turbines two sets of measurements are required: 1) one set with the Wind Turbine(s) off and; 2) one set with the Wind Turbine(s) running.

- 27.24 For noise complaints after the Wind Turbines are operational, the measurement points, season, time, and duration of measurements shall be selected in consultation with the affected property owner. If requested by the property owner, continuous measurements may be taken for longer periods of time to capture intermittent nuisance noise patterns.
- 27.25 Within twelve months of the date when the project is fully operational, and within four weeks of the anniversary date of the pre-construction background noise measurements, repeat the existing sound environment measurements taken before the project approval. Post-construction sound level measurements shall be taken both with all WTG's running and with all WTG's off.
- 27.26 The post-construction measurements will be reported to the Town of Montville (available for public review) using the same format as used for the preconstruction sound studies. Post-construction noise studies shall be conducted by a firm chosen and hired by the Town of Montville. Costs of these studies are to be paid by the Licensee.
- 27.27 Any noise level falling between two (2) whole decibels shall be deemed the higher of the two.
- 27.28 When testing for WTG noise compliance, all measurements at the test location must be the pre-turbine background noise measurement location nearest to the home of the complainant in line with the WTG and nearer to it. The time of day for the testing and the wind farm operating conditions plus wind speed and direction must replicate the conditions that generated the complaint. Procedures of ANSI S12.9-Part 3 apply. The effect of instrumentation limits for wind and other factors must be recognized and followed.

28.0 WTG Submission Standards and Fees

28.1 Fees and Bonds.

28.1.1 Application Fee: \$5000.00.

28.1.2 Professional Fees Escrow: one half of one percent of the estimated cost of the project, minimum balance of \$25,000.00 at all times.

28.1.3 Decommissioning Bond: See Section 22.0 .

28.1.4 Road Damage Bond: See Section 15.9.4.

28.2 Submission standards.

All information in this application, unless specified, will become part of the public record. Information submitted by the Applicant must be continuously updated throughout the application process as changes are made or new information becomes available.

The Applicant shall include a written application, which shall include:

28.2.1 Applicant's name and contact information.

28.2.2 Legal Owner/operator and contact information.

28.2.3 Description of the legal structure of the WTG including a corporate organizational chart, ownership and equity structure, and all investors.

28.2.4 Description of the proposed WTG that includes the number of Wind Turbines, the nameplate capacity of each Wind Turbine, Turbine Height and manufacturer's specifications

for each Wind Turbine, the aggregate generating capacity of the entire project, and a description of associated facilities.

- 28.2.5 Location map of the project showing the location of the each Wind Turbine, associated facilities, all property under partial or total control of the Applicant including easements and those under lease with Participating Landowners, roads, municipal boundaries, proximity to all Scenic or Special Resource features in the Town of Montville and major geographical features.
- 28.2.6 Detailed site plan showing the location of each Wind Turbine and Associated Facility and any of the following features located within 1.5 times the required setback: property boundaries, required setbacks, topographic contour lines (maximum 20-foot interval), buildings (identify use), roads, driveways, right-of-ways, overhead utility lines, Scenic or Special Resources, tree cover, wetlands, streams, water bodies, areas proposed to be cleared of vegetation or re-graded, and areas proposed to be significantly excavated or blasted.
- 28.2.7 Copies of all Participating Landowner agreements and easement agreements. Dollar amounts may not remain confidential.
- 28.2.8 Copies of any deeds or purchase agreements for land owned or under option by the Owner/operator.
- 28.2.9 Receipt showing payment of application fees and escrow for professional and public hearing fees.
- 28.2.10 A copy of the most current business plan for the WTG.
- 28.2.11 A copy of all collected and available relevant wind data for the WTG. This information is a critical indicator of the long-term financial viability of the project.
- 28.2.12 Proof of financing.
- 28.2.13 Reference list of all previous WTGs with which the Owner/operator has been affiliated.
- 28.2.14 Proof of compliance with all required setbacks. The Applicant shall work with the Permitting Authority to complete a pre-construction noise study per Section 27.0 . This study must be completed before the permit can be approved.
- 28.2.15 A detailed noise prediction model for worst-case noise scenarios based on wind speed and wind direction for the WTGs. The study shall be projected onto a contour map for a minimum of two miles from each Wind Turbine. Worst-case scenarios for each property line within the 2-mile radius, measured horizontally from the Project Boundary, shall be reported in table form. The model will address the unique mountainous terrain of the area. Noise predictions will include both single source and line source origination. All underlying assumptions and algorithms in the model will be documented.
- 28.2.16 As part of the review process, the Applicant will, per Maine TA Bulletin #4, provide written demonstration that the noise standards in this Ordinance will be met.
- 28.2.17 The Wind Turbine manufacturer's noise emission specifications for each Wind Turbine model.
- 28.2.18 A shadow flicker and blade reflection model for the proposed WTG. The model will provide a worst-case scenario (100%) seasonal representation for each Occupied Building

within two miles of any Wind Turbine. The model will calculate maximum hours of shadow flicker and blade reflection in table form for each Occupied Building. A worst-case scenario shall also be constructed for vehicle traffic on Route 220.

- 28.2.19 Copies of all executed Mitigation Waiver agreements concerning Setbacks, Noise and Shadow Flicker/Blade Reflection. Dollar amounts may not remain confidential.
- 28.2.20 Written demonstration that the Wind Turbine Plan is consistent with the Montville Site Plan Review Ordinance.
- 28.2.21 Documentation showing compliance with Section 15.2.2, both during construction and post construction.
- 28.2.22 Documentation showing compliance with Section 15.2.3 and with Section 15.2.4.
- 28.2.23 Documentation showing compliance with Section 15.2.5. Documentation must include a construction site erosion plan and storm water runoff control plan that minimizes potential adverse impacts on streams and wetlands.
- 28.2.24 Documentation showing compliance with Section 15.2.6.
- 28.2.25 Documentation showing compliance with Section 15.2.7.
- 28.2.26 Written evidence that the Environmental Coordinator of the Maine Department of Inland Fisheries and Wildlife and the Maine Natural Areas Program have both been notified of the pending application and the location and Turbine Height of all proposed Wind Turbines.
- 28.2.27 A Location of Development permit from the Maine Department of Environmental Protection (DEP) pursuant to Title 35-A M.R.S.A. §3451, Title 35-A M.R.S.A. § 3456 and Title 38 M.R.S.A § 482 is required unless the Wind Turbine: 1) does not sell or convert electricity for off site use including net metering; and, 2) does not qualify as a Structure with a total land area in excess of 3 acres for the entire WTG.
- 28.2.28 A visual impact assessment pursuant to Section 15.3 .
- 28.2.29 Photographs of existing conditions of each Wind Turbine and associated facility site.
- 28.2.30 Sight line, photographic, and elevation information shall be provided from: 1) each Occupied Building within the Setback; 2) from any Scenic or Special Resource location and other locations as the Permitting Authority deems necessary.
 - 28.2.30.1 A Sight Line Representation shall be drawn that shows the lowest point to the Wind Turbine visible from each location. Each sight line shall be depicted in profile, drawn at one-inch equals 40 feet. The profiles shall show all intervening trees and physical structures.
 - 28.2.30.2 Each Sight Line shall be illustrated by one four-inch by six-inch color photograph of the current view.
 - 28.2.30.3 Each of the existing condition photographs shall have the proposed Wind Turbines superimposed on it to accurately simulate the WTG when built.
 - 28.2.30.4 Elevations of the tops of any structures on the subject property relative to the elevation of the Wind Turbines(s)

- 28.2.30.5 The height and elevation relative to the Wind Turbine(s) of trees, both existing and proposed, that are to provide visual buffering. In the case of trees to be planted, the proposed height at the time of planting as well as the projected mature height is to be provided.
- 28.2.31 Demonstrate compliance with Section 13.3 . Provide a written description of emergency and normal shutdown operations.
- 28.2.32 Demonstrate compliance with Section 14.1 . Submit required permits from the Federal Aviation Administration.
- 28.2.33 Demonstrates compliance with Section 14.2 .
- 28.2.34 Submit contract with Maine licensed professional engineer to conduct post construction structural and operational inspection and written agreement by Applicant to submit proof of successful inspection as a condition of permitting before operating WTG
- 28.2.35 Proof of Liability Insurance in the amount of five million dollars (\$5,000,000.00) per occurrence.
- 28.2.36 Time-line showing all aspects of the construction.
- 28.2.37 Photographs and detailed drawings of each Wind Turbine, including foundation design. Details must be provided of all significant excavation and blasting.
- 28.2.38 Demonstrate compliance with Section 15.4.3. A map shall be provided showing all transmission lines and rights-of-way that will need to be built or upgraded to accommodate the WTG. Applicant shall submit copies of signed letters of intent to grant easements, long-term leases or other property rights from involved landowners and any governmental unit responsible for access, approval or construction of electric transmission and distribution lines, whether part of the WTG or part of the local electrical distribution grid. The Applicant shall submit an affidavit stating that no property will need to be taken by eminent domain to facilitate transmission lines necessary to support the project.
- 28.2.39 A geological report from a registered geotechnical engineer demonstrating that the soils can support the Wind Turbines and the underlying ground is geologically stable. The report shall include a slope stability analysis and any underlying fault zones.
- 28.2.40 A written summary of all routine operation and maintenance procedures for the WTG.
- 28.2.41 Demonstrate compliance with Section 15.6 . Provide an estimate of required new equipment and training to be provided.
- 28.2.42 Document all potential hazardous wastes that will be used on the WTG, including but not limited to any chemicals used to clean the Wind Turbine blades, and how these wastes will be transported, handled, stored, cleaned up if spilled, and disposed of during any phase of the project's life.
- 28.2.43 A communication/electromagnetic interference study prepared by a registered professional engineer showing that the proposed WTG will comply with Section 15.7 . The Owner/operator will sign an affidavit stating that the Owner/operator shall be responsible for the full cost remediation to remain in compliance with this Section.

- 28.2.44 Demonstrate compliance with Section 15.8 . Before and after photographs or videos of the roadways, in a format approved by the Permitting Authority, shall be submitted as part of the documentation process.
- 28.2.45 A road and property use and risk assessment plan in compliance with Section 15.9 .
- 28.2.46 An affidavit agreeing to comply with all provisions in Section 15.10 .
- 28.2.47 An affidavit agreeing to comply with all provisions in Section 21.0 .
- 28.2.48 A decommissioning plan in compliance with Section 22.0 .
- 28.2.49 Copies of executed contracts as per Section 23.0 .
- 28.2.50 An Tax Valuation Agreement must be submitted, if required under Section 24.1 .
- 28.2.51 If the WTG crosses multiple municipal jurisdictions the Applicant shall demonstrate compliance with Section 25.4 .
- 28.2.52 Copies of all written agreements and disclosure of all verbal promises, for contracts, subcontracts, employment, consulting fees, gifts or other remuneration in excess of \$10 (cash or in-kind) to residents or businesses in Montville, either previously made or contingent on permitting of this project.
- 28.2.53 An Affidavit agreeing to comply with all provisions of Section 26.5 .
- 28.2.54 Applicant shall deliver a letter by certified mail to the owner of any property that the Applicant proposes to be restricted by the permit. The letter will state that the Applicant has filed an application, list future development that will be restricted, and to what extent it will be restricted, on abutting properties by virtue of the permit being granted. Examples of restrictions include, but are not limited to, building Occupied Buildings within the setback area without a Mitigation Waiver, building structures (i.e. Wind Turbines or cell towers that the WTG would interfere with), zones in which future telecommunication installations can expect interference from the WTG. Applicant must provide fair compensation to any non-participating landowners within the setback areas for restricting future development of their property.
- 28.2.55 Proof that the Applicant has notified the following agencies via certified mail and received any necessary permits or permissions for the project:
- 28.2.56 Federal Aviation Administration.
- 28.2.57 U.S. Department of Defense facilities located within 50 miles from the proposed WTG.
- 28.2.58 Other relevant studies, reports, certifications and approvals as may be reasonably requested by the Permitting Authority to ensure compliance with this Ordinance.
- 28.2.59 Signed affidavit from the Owner/operator that Applicant has read the Town of Montville Wind Turbine Ordinance and agrees to abide by its provisions, as may be amended from time to time.