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Town Of Newry
Building Code Ordinance

Amended December 7, 2009

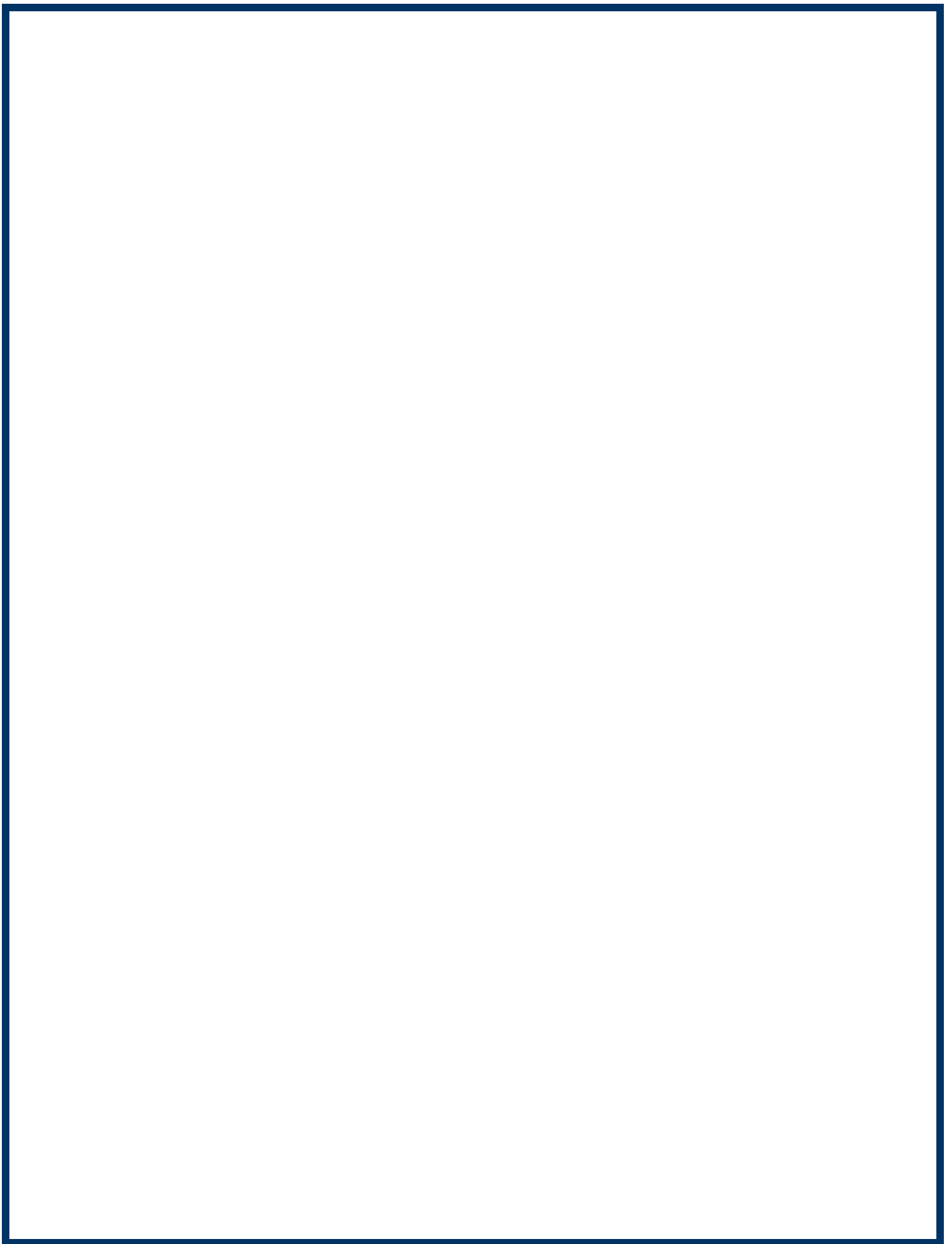
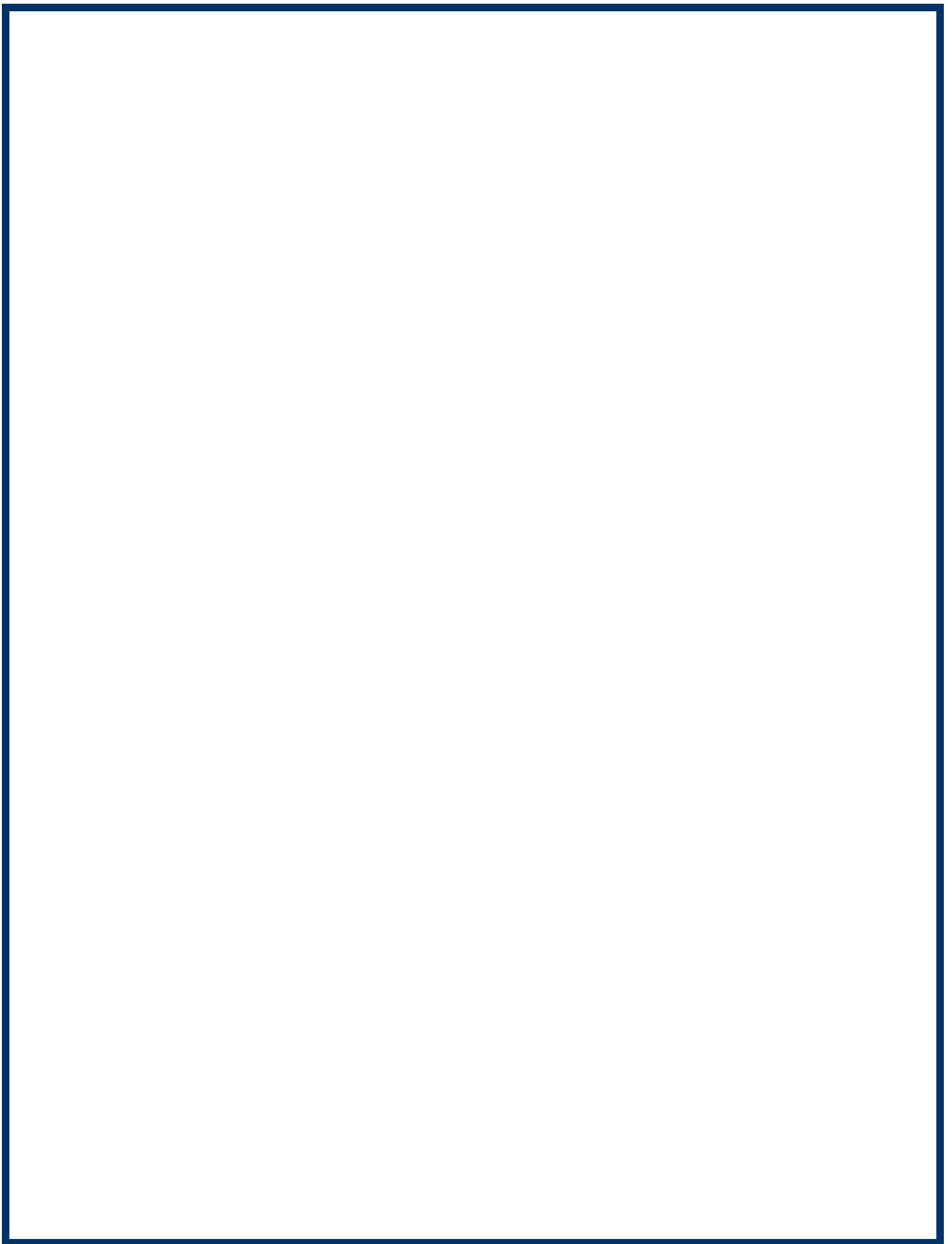


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Section 1: Scope

The provisions of this ordinance shall apply to the following.

- A. The construction or placement of a new structure (this shall included the replacement of an existing structure) whose value including labor and materials exceeds \$2,500.00.
- B. Relocation of an existing structure.
- C. The placement of a permanent foundation beneath and existing structure.
- D. The remodeling of a structure involving one or more of the following.
 - 1. The increase in the size of the structure (horizontally or vertically).
 - 2. Alteration of "load bearing" components.
 - 3. Any structural improvements, maintenance or repair to existing structures, except for 1.C. 1 and 2 above, that exceeds a value of \$25,000.00 in any 12 month period.

Section 2: Building Inspector

- A. This ordinance shall be administered by the Building Inspector or his or her designate, whom shall be appointed by the Selectmen.
- B. Inspection
 - 1. The Building inspector shall inspect all structures being constructed, placed, altered, repaired, replaced or relocated for the purpose of enforcing the provisions of the ordinance, and all other local and State Laws governing the construction, alteration, replacement or repair of structures.
- C. Right of Entry
 - 1. The Building Inspector, in performance of his or her duties, may enter any structure for the purpose of making the inspection required by this ordinance. If the owner refuses permission for entry by the inspector, the inspector must secure an administrative warrant at the District Court pursuant to Rule 80E of the Maine Rules of Civil Procedure.

Section 3: Building Permit

The purpose of a building permit is to provide the Town of Newry notice of construction or alteration of a structure in order to ensure compliance with Ordinances and Codes and equitable assessment.

- A. Before beginning any activity under the scope of this Ordinance, the owner, the owner's agent or lessee shall obtain from the Building Inspector a permit covering such purposed work.
- B. Application
 - 1. The application for Building Permit shall be submitted in writing to the Building Inspector.
 - 2. It shall include:
 - a. The name and address of the owner.
 - b. An address or map indicating the construction site location.
 - c. The Growth Management or Shoreland Zoning District in which the project is located.
 - d. A site plan showing the location of existing and proposed structure(s), sewerage disposal facilities, water supply, areas to be cut and filled' and lot dimensions including road frontage.
 - e. A statement of the intended use of the proposed structure(s).
 - f. Floor plans including the proposed number of bedrooms and bathrooms.
 - g. Copies of approved subsurface disposal system and internal plumbing permits.
 - h. Specifications of dimensions of the proposed construction.
 - i. Estimated cost to include materials and labor.
 - j. A disposal plan for construction debris for all projects exceeding \$25,000 in value.
 - k. For residential dwelling units in subdivisions approved on or after December 7, 2009 a copy of the State Sprinkler Permit application or b or c as contained in Section XIII. A. C. of the Unified Development Review Ordinance is in place and operational serving the dwelling unit applying for a building permit.

C. Permit Approval

1. The Building Inspector, after determining the application is complete and after proper examination of the application for conformance with the ordinance, shall either issue the requested permit or transmit notice of refusal within a two week period. Notice of refusal shall be in writing and shall state the reason thereof.

D. Life of Permit

1. All building permits shall be void unless work there under is commenced within six months of date of issuance.

E. Display of Permit

1. Prior to the beginning of construction every building permit shall be displayed in a conspicuous place on the premises, clearly visible from the principal traveled road, and shall not be removed until work covered by the permit has been completed.

Section 4: Fees

- A. A fee shall accompany the application for a building permit at rates established by the Selectmen.

Section 5: Deleted

DELETED: 1968 (Certificate of Compliance)

Section 6: Minimum Requirements

A. Dimensional Requirements

1. All dimensional requirements shall comply with Section XXIII of the Unified Development Review Ordinance. [See appendix A]

B. Driveways

1. Each lot accessed by a public road shall be provided with a driveway of at least eight (8) feet in width. Driveway culverts shall be installed by the lot' owner, subject to Road Commissioner or Maine Department of Transportation approval.

Section 7: Chimneys, Fireplaces, Vents, and Solid Fuel Burning Appliances

The construction and installation of chimneys, fireplaces, vents and solid fuel burning appliances shall be in compliance with NFPA 211 Standard for Chimneys, Fireplaces, Vents, and Solid Fuel Burning Appliances 2003 Edition and as may be amended.

Section 8: Reserved

Section 9: Electrical Wiring

A. Standards

1. All wiring installation in any structure regulation by the Ordinance under this ordinance must conform to the provisions of the latest edition of The National Electrical Code published by the National Fire Protection Association.
2. All newly constructed and/or created dwelling units must have an exterior main electrical shutoff disconnect located on the exterior of the structure in which the dwelling unit is located in a convenient location with markings approved by the Building Inspector.

Section 10: Plumbing

A. In General

1. All plumbing and sewage disposal shall be in conformance with the State of Maine Law and the State Plumbing Code.

Section 11: Means of Egress

- A. Each structure or dwelling unit shall have means of egress that comply with the 2006 edition NFPA 101 sections 3.3.151 and 4.5.3.1.

Section 12: Sprinkler Systems [When Utilized]

- A. Test documentation from the installer shall be forwarded to the Building Inspector within 10 days of the completion of the installation.
- B. No owner or occupant shall modify an approved, installed, and tested sprinkler system without prior approval from the State Fire Marshall's Office and notification of the Building Inspector.

- C. The installation, modification or alteration of a sprinkler system shall be completed by a State of Maine Licensed Fire Sprinkler Contractor, after obtaining all necessary permits.
- D. Owners of occupied and unoccupied dwelling units or portions thereof having a sprinkler system in place shall maintain all sprinklers systems as required by NFPA 13.
- E. The forgoing requirements shall not prohibit conducting tests or repairs. Such tests or repairs must be carried out in such a way as to avoid the creation of a safety hazard. The State Fire Marshals Office shall be notified before such test, or repairs are begun.

Section 13: Smoke Detectors

All residential structures shall have a smoke detector system installed conforming to the requirements of Title 25 MRSA section 2464. 5/09]

Section 14: Amendments to Ordinance

- A. All amendments to this ordinance shall apply to outstanding permits issued before effective date of the amendment, unless the particular work governed by the amendment has been substantially commenced.

Section 15: Violations

- A. Any structure constructed or work performed in violation of the provisions of this ordinance, or any permit issued by the Building Inspector, shall be considered a nuisance, and the Building Inspector shall notify in writing the person responsible for the violation.
- B. Any person found liable of violating any provisions of this ordinance shall be subject to a penalty of a minimum of one hundred dollars (\$100.00) up to a maximum of two thousand five hundred dollars (\$2,500.00) for each offense, to be recovered on complaint for use of the Town. Each day after which a violation is found to exist shall constitute a separate offense.

Section 16: Appeals

- A. An administrative appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Building Inspector, except for enforcement related matters. Such appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from. The Board of Appeals shall 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 Building Inspector. The Board of Appeals shall hear and decide the appeal on a de novo basis.

Section 17: Other Ordinances

- A. Any applicant must comply with other Town of Newry ordinances and regulations including but not limited to:
1. Unified Development Review Ordinance
 2. Shoreline Zoning
 3. Floodplain Ordinance

Section 18: Validity and Severability

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

Section 19: Definitions

Beginning of Construction: The point in time when actual work covered by the Building Permit commences including footers, foundations or other structure supports.

Dwelling: A room or group of rooms designated and equipped exclusively for use as living quarters for one family including provisions for living, cooking and eating; includes single family houses and the units in a duplex, apartment houses, multi-family dwelling and residential condominiums.

Permanent Foundation: The supporting substructure of a structure including but not limited to basements, slabs, sills, or frost walls.

Relocation: The moving of a structure from one location or position to another.

Repair: To take necessary action to fix normal damage or storm damage.

Substantially Commenced: Completing of least 30% of the activity covered by the Building Permit measured as a percentage of total estimated cost.

Structure: Any building having a roof or partial roof supported by columns or walls used for shelter or enclosure of persons, animals, goods, or property of any kind. The term shall also include a foundation.

JAM

Appendix A

Dimensional Requirements

All lots, structures and uses shall meet or exceed the following dimensional requirements:

District	Minimum Lot Size/ Density	Minimum Road Frontage	Minimum Building Front Setback ¹	Minimum Building Side Setback	Minimum Building Rear Setback	Maximum Impervious Surface Ratio ² (percent)	Maximum Structure Height
Resort Development District	20,000 sq. ft. sewered 43,560 sq. ft. nonsewered Multiunit housing per unit 10,000 sq. ft. sewered 20,000 nonsewered	75 ft. sewered 100 ft. nonsewered	10 ft.	10 ft.	10 ft.	70	<i>Based of Fire Department Capability</i>
General Development District	20,000 sq. ft. sewered 43,560 sq. ft. nonsewered Multifunit housing per unit 20,000 sq. ft. sewered 43,560 nonsewered	100 ft.	25ft.	10 ft.	10 ft.	50%	<i>Based of Fire Department Capability</i>
Rural District	43,560 sq. ft. per lot or unit	150 ft.	50 ft.	25 ft.	25 ft.	25	40 ft. ³
Protection District	43,560 sq. ft.	150 ft.	50 ft.	25 ft.	25 ft.	25	40 ft. ³

NOTES:

- 1 Measured from the edge of the road right-of-way.
- 2 The total area of all structures, parking lots and other non-vegetated surfaces.
- 3 The vertical distance between the mean finish grade at the downhill side of the structure measured from the finished top floor level intended for human habitation.
- 4 Each lot must be able to completely contain within its boundaries an area as would be defined by a circle with a minimum diameter equal to the required minimum road frontage as required in the district.
- 5 Notwithstanding the space and bulk standards contained above, any allowable use located in and approved as a planned unit development in the Resort Development District shall instead comply with the terms of that approval.

Town Of Newry
Cemetery Ordinance

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Section 1: Definitions

A. Cemeteries:

The term cemeteries, as used in this ordinance shall be construed to include all lands now or hereafter deeded to and accepted by the Town of Newry for burial purposes, including the following locations:

1. Sunday River Cemetery
2. Powers Cemetery
3. Head of the Tide Cemetery

B. Selectmen:

The term shall mean the Board of Selectmen.

C. Grave:

Grave: An area suitable for the interment of one body, except in the case of a parent and child or two infants buried in one casket simultaneously. Further variations may be made in the case of cremations, with family lots, subject to the placing of markers and upon approval of (the Board of Selectmen)

D. Gravestones:

Any stone which marks a grave or grave site.

E. Marker:

Any stone flush with the ground.

F. Lot:

A plot of land approximately 4'x8' sufficient for one grave. Newry cemeteries have available one, two, four and eight grave lots.

G. Resident:

A person who has resided in the Town for at least 2 consecutive years during some point in his/her life, an infant of a resident, or is a current resident of the Town.

H. Non -Resident:

A person who has not resided in the Town for at least 2 consecutive years during some point of his/her life, an infant of a non-resident, or is not a current resident of the Town.

Section 2: Lot Ownership

1. Right of Burial:

The term owner of lot shall mean an individual who, through purchase, grant or transfer, acquired the right and privilege of burial of the dead, of erecting Monuments or ornaments in accordance with the provisions of this ordinance as it exists or may here after be amended.

2. Right of Burial:

The granting, transfer and sale of lots in municipal cemeteries shall be under the control of the Board of Selectmen, subject to the rules and regulations adopted by a vote of the Town and under the general supervision of the Administrative Assistant. Owners transferring, granting or selling lots in municipal cemeteries must obtain the consent, of the Board of Selectmen and a Certificate of Transfer from the Administrative Assistant.

3. Purchase:

Any individual wishing to purchase a cemetery lot shall apply to the Administrative Assistant and then select from those lots available the lot he/she desires to purchase. The Board of Selectmen may designate areas in each cemetery for single lot sales. Upon having made a lot selection, the lot sale will be made and a deed issued. A receipt from the Town Treasurer will serve as the right of burial. If the grave purchased requires ledge removal, the purchaser must pay any extra charges required, or the grave may be exchanged for another available grave.

Section 3: Selectmen to Supervise Care of Cemeteries

Care of Town cemeteries and lots therein shall be under the supervision of the Board of Selectmen and under the general supervision of the Administrative Assistant who will engage personnel to care for the Town cemeteries. The

payment of moneys to implement this section shall be made from Town Appropriation, sale of kits and perpetual care deposits.

Section 4: Cemetery Sexton

1.APPOINTMENT; The Cemetery Sexton shall be appointed by the Board of Selectmen. The Sexton will work closely with the, Administrative Assistant for the administration of the Cemetery Ordinance adopted by the Town of Newry.

2.AUTHORITY: The Sexton has the authority to enter upon any lot with the necessary equipment for the purpose of improving the appearance and condition of the lot and the general appearance of the cemetery; to remove any objectionable object that may have been placed contrary to the regulations of (lie cemetery ordinance; to remove any dead or dangerous tree, shrub, vine or neglected fence railing or enclosures; to remove any floral design or pieces which at the discretion of the Sexton have become unsightly. Any floral design or pieces not removed by end of the calendar year, each year, may be removed by the Sexton, or his designee.

Section 5: Care of Cemetery

1, ANNUAL CARE: Any person who purchases a lot and pays the Town Treasurer, in full, the established sum for said lot in accordance with this ordinance receives reasonable care of said lot/lots. Reasonable care of cemeteries shall include the cutting of the grass on the lot/lots at reasonable intervals, the raking and cleaning of the lot, and such work as may be necessary to keep the grave in a neat condition. Reasonable care shall not include maintenance or repair of any monuments, nor the planting of flowers or shrubs upon any lot.

Section 6: Regulations for Improving Lots

1.ENCLOSURES: No enclosure of any nature, such as fences, hedges or ditches shall hereafter be erected on any lot.

2.TREES, SHURBS, ETC.: No trees will be allowed. No shrubs in excess of 36" tall will be allowed.

3.GRAVESTONES: All headstones and monuments shall have a foundation. All markers shall be not more than 3 1/4 feet in length and shall be flush with the surface of the ground and do not require a foundation. Tree location of all gravestones and markers shall meet the approval of the Board of Selectmen.

4. MOTORCYCLES, SNOWMOBILES AND ATVS ARE PROHIBITED

Section 7: Interments

1. A twenty-four notice by the funeral director shall be given the Administrative Assistant before any interment,
2. A burial permit, issued by the Board of Health, must be left with the Administrative Assistant before the time of interment,

Section 8: Grandfathered

All fixtures existing prior to the adoption of this ordinance.

Section 9: Adoption & Amendments

1. This Ordinance shall become effective on passage at a Town Meeting.
2. This Ordinance may be amended in accordance with the general provisions of the Town governing all ordinances.
3. The invalidity of any portion of this Ordinance shall not invalidate any other part.

Section 10: Price Schedule

	RESIDENT	NON-RESIDENT
4'X8' SINGLE GRAVE	\$50.00	\$100.00
8'X8' TWO GRAVES	\$100.00	\$200.00
8'X16' FOUR GRAVES	\$200.00	\$400.00
16'X16' EIGHT GRAVES	\$300.00	\$600.00

Tile cost of all plots is determined by the Board of Selectmen and will be reviewed on a yearly basis.

Adopted June 30, 1997

Town Of Newry

**Flood Plain Management
Ordinance**

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Article 1: Purpose and Establishment

Certain areas of the Town of Newry, 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 Newry, 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 Newry, 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 Newry has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-AMRSA, Sections 3001-3007, 4352 and 4401-4407.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Newry 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 Newry, Maine.

The areas of special flood hazard, Zones A and AE, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Newry, Maine Oxford County," dated 5-5-03 with accompanying "Flood Insurance Rate Map" dated 5-5-04, which are hereby adopted by reference and declared to be a part of this Ordinance.

Article 2: 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 Newry, Maine.

Article 3: 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 sits;
- 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), or to a locally established datum in Zone A only, of the:

1. base flood at the proposed site of all new or substantially improved structures, which is determined:

a. in Zones AE, from data contained in the "Flood Insurance Study - Town of Newry, Maine," as described in Article I; or,

b. in Zone A:

(1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VLK. and VIE.D.;

(2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,

(3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.

2. highest and lowest grades at the site adjacent to the walls of the proposed building;
3. lowest floor, including basement; and whether or not such structures contain a basement; and,
4. level, in the case of non-residential structures only, to which the structure will be floodproofed;

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, 08/99, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article m.H.4.; Article VLG.; 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 VLL2.a.;
3. a certified statement that bridges will meet the standards of Article VIM.;
4. a certified statement that containment walls will meet the standards of Article VINT.;

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 4: Application Fee and Expert's Fee

A non-refundable application fee of \$25 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 5: Review Standards for Flood Hazard Development Permit Application

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 Study - Town of Newry, Maine," as described in Article I;
2. in special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article V1II.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.I.b, the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.

C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;

D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state

law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;

E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:

1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a second 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.I.a.,b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

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

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 HI, VI, and VII of this Ordinance.

Article 6: Development Standards

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

A. All Development - All development shall:

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

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

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

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

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

F. Residential - New construction or substantial improvement of any residential structure located within:

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

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

G.Non Residential - New construction or substantial improvement of any non-residential structure located within:

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

a.be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;

b.have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

c.be certified by a registered professional engineer or architect that the 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 VI.G.1 and shall include a record of the elevation above mean sea level to which the structure is floodproofed,

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

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

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

1. Zone AE shall:

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

b.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,

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

(1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,

(2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

(3) all components of the anchoring system described in Article VI.H.I.c.(1)&(2) shall be capable of carrying a force of 4800 pounds

2. Zone A shall:

a. be elevated on a permanent foundation, as described in Article VI.H.1.b.3 such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.; and

b. meet the anchoring requirements of Article VI.H.I .c.

I. **Recreational Vehicles** - Recreational Vehicles located within: 1. Zone AE shall either:

a. be on the site for fewer than 180 consecutive days,

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

J, **Accessory Structures** - Accessory Structures, as defined in Article XIII, located within Zones AE and 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 \$3 000;
2. have unfinished interiors and not be used for human habitation;
3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
4. be located outside the floodway;
5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. Floodways –

1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's "Flood Insurance Rate Map/" unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones AE and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the-cumulative effect of the proposed development, when combined with all other existing development and anticipated development;
 - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," Flood Insurance Study - Guidelines and Specifications for Study Contractors, (FEMA 37/ January 1995, as amended).

3. In Zones AE and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. Enclosed Areas Below the Lowest Floor - New construction or substantial improvement of any structure in Zones AE and 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 Zones AE and 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; 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 VIK; and

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

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

1. Zones AE and A shall:

a. have the containment wall elevated to at least one foot above the base flood elevation;

b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article ELK.

O. Wharves, Piers and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE and 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 7: Certification 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 8: 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 9: Appeals and Variances

The Board of Appeals of the Town of Newry may³ 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;"¹ 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 10: 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 11: 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 12: 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 13: Definitions

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

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

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

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

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

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

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

Code Enforcement Officer - any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

Development - means any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

Elevated Building - means a non-basement building

- a. built, in the case of a building in Zones AE or A, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts";¹¹ 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 Zones AE or 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 VLL..

Elevation Certificate - An official form (FEMA Form 81-31, 07/00, 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.I. of this definition.

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

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

Flood Insurance Study - see Flood Elevation Study,

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

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

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

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

Floodway - see Regulatory Floodway.

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 VII. 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 16 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 1 SO 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.

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
- c. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway -

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

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

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

Start of Construction - means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within ISO 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 14: Abrogation

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 9Q-4S8, as amended).

60,3 (c)

Town of Newry, Maine

Shoreland Zoning Ordinance

Adopted: August 27, 1996
Amended June 18, 2007

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Shoreland Zoning Ordinance Newry, Maine

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; 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 the 100 year floodplain of the Bear River from Branch Brook to the Newry/Bethel line and Sunday River and all land areas within 250 feet, horizontal distance, of the
 - normal high-water line of any river,
 - upland edge of a freshwater wetland,
 - and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

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

4. Effective Date

- A. Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was adopted by the municipal legislative body on August 27, 1996, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved. Upon approval of this Ordinance all previously adopted Shoreland Zoning Ordinance are repealed.

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

- B. Repeal of Municipal Timber Harvesting Regulation.** The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. Until that date that timber harvesting standards contained in Section 15.O are in effect. On the date established under 38 M.R.S.A section 438-A(5), the following provisions of this Ordinance are repealed:

- Section 14. Table of Land Uses, Column 3 (Forest management activities except for timber harvesting) and Column 4 (Timber harvesting);
 - Section 15(O) in its entirety; and
 - Section 17. Definitions, the definitions of “forest management activities” and “residual basal area”.
- 5. Availability.** A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.
- 6. Severability.** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
- 7. Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.
- 8. Amendments.** This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.
- 9. Districts and Zoning Map**
- A. Official Shoreland Zoning Map.** The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:
- (1) Resource Protection
 - (2) Limited Residential
 - (3) Limited Commercial
 - (4) Stream Protection
- B. Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated, a legend indicating the symbols for each district, and a north arrow shall be placed on the map.
- C. Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.
- D. Changes to the Official Shoreland Zoning Map.** If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days

after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

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

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

12. Non-conformance.

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

B. General

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

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

C. Non-conforming Structures

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

(a) After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure.

If a replacement structure conforms with the requirements of Section 12(C)(3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.

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

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

- (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.
- Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.
- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
- (3) Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or

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

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

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

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

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

D. Non-conforming Uses

- (1) Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1)(a) above.
- (2) Resumption Prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use,

may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

- (3) Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses, 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 the effective date of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- (a) Each lot contains at least 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 and/or the 100 year floodplain, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial District 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 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 rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a river, and have a surface elevation at or below the water level of the river during the period of normal high water. "Wetlands associated with rivers" are considered to be part of that river.
- (2) Floodplains along the Sunday River defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.
- (3) Floodplains along and Bear River from Branch Brook to the Newry/Bethel line defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.
- (4) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- (5) 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.
- (6) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement,

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

C. Limited Commercial District. The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

D. Stream Protection District. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

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

Key to Table 1:

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

No - Prohibited

PB - Allowed with permit issued by the Planning Board.

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection

LR - Limited Residential

LC - Limited Commercial

SP - Stream Protection

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

LAND USES	TABLE 1. LAND USES IN THE SHORELAND ZONE				DISTRICT
	SP	RP	LR	LC	

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

¹ Reserved

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)(4).

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.

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

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

NOTE: A person performing any of the following activities shall require a permit from the 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, 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; 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	43,560 (1 acre)	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure	60,000 (1.37 acres)	300
(c) Public and Private Recreational Facilities	43,560 (1 acre)	200
<p>(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.</p>		
<p>(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.</p>		
<p>(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.</p>		
<p>(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.</p>		

B. Principal and Accessory Structures

- (1) All new principal and accessory structures shall be set back at least seventy-five (75) feet, horizontal distance, from the normal high-water line of 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, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
- (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils.
- (4) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed.
- (5) Retaining walls that are not necessary for erosion control, as determined by a qualified person, 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 (*the height of one or more walls*), are no more than 24 inches;
 - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, and tributary streams, as designated on the Federal Emergency Management Agency's

(FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

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

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

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

- (1) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (2) The location shall not interfere with existing developed or natural beach areas.
- (3) The pier, wharf, or dock shall be located so as to minimize adverse effects on fisheries.
- (4) The pier, wharf, or dock 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.

- (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) 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 seventy-five (75) feet, horizontal distance, from the normal high-water line of 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 seventy-five (75) feet, horizontal distance, from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland.
- (3) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (4) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- (5) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing

Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

- (6) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

F. Commercial and Industrial Uses. The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to 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. Roads for projects regulated

under the Unified Development Review Ordinance shall comply with the standards contained in that Ordinance.

- (1) Roads and driveways shall be set back at least seventy-five (75) feet, horizontal distance from the normal high-water line of 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 15% or less for not more than 150 feet.
- (6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

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

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

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60

(b) Drainage dips may be used in place of ditch relief culverts only where the grade is five (5) 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.

(9) All road and driveway construction shall require soil erosion and sedimentation control plan in accordance with Section 15.Q.

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

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

In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

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

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

- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing lights.
- (8) Signs shall comply with the sign standards contained in the Unified Development Review Ordinance except for (1) – (7) above.

J. Storm Water Runoff

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

K. Subsurface Wastewater Disposal

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

L. Essential Services

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

M. Mineral Exploration and Extraction. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety. Any exposed ground area shall be permanently stabilized within one (1) week from the time the exploration is completed, by use of sod, seed, and mulch, or other effective measures.

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)(4) below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within seventy-five (75) feet, horizontal distance, of the normal high-water line of any water body, tributary stream, or the upland edge of a wetland.
- (3) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
 - (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (4) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture

- (1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within seventy-five (75) feet horizontal distance, of 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 seventy-five (75) feet, horizontal distance, from water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and **freshwater** wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance, of water bodies nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

O. Timber Harvesting (This Section is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone.)

(1) 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 seventy-five (75) feet, horizontal distance, of the normal high-water line of 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 seventy-five (75) feet, horizontal distance, of the normal high-water line of 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)(1)(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.
- (e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- (f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- (g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

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

- (1) In 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 seventy-five (75) feet, horizontal distance, from any 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 stream flowing to a great pond, 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 seventy-five (75) feet, horizontal distance, from the normal high-water line of any 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 which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

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

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

16. Administration

A. Administering Bodies and Agents

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

B. Permits Required.

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

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

C. Permit Application

- (1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.
- (2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

- (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface wastewater 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 floodplain along rivers, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year 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. 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. At this time the Board of Appeals may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

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

If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

(4) Appeal Procedure

(a) Making an Appeal

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

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

(b) Decision by Board of Appeals

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

Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

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

I. Enforcement

(1) Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.

(2) Code Enforcement Officer

(a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

(b) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

(c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

(3) Legal Actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

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

17. Definitions.

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

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

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

Aquaculture - the growing or propagation of harvestable freshwater 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.

Clearcut Opening – a relative minor interruption in a well distributed stand of trees. An opening of more than 250 square feet is considered a clearcut opening unless such opening was created by the removal of a single tree.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, 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, waterfront dock, or retaining walls 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.

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

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

Increase in nonconformity of a structure - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or

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

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

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

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

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 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 during the period of normal high-water are considered part of the river.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsurface wastewater 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.

Tree:- Woody vegetation two (2) inches and more in diameter at four and one half (4 ½) feet above ground level, except as otherwise defined.

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.

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

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

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

Water body - any great pond, river or stream.

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

Wetland - a freshwater wetland.

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

Adopted: August 27, 1996

Amended: June 18, 2007

Town Of Newry

Sign Ordinance

APPROVED:

JULY 25, 2005

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Section 1: Purpose

The purpose of this Ordinance is to permit reasonable advertising and informational signs, while preserving the natural and scenic beauty of the Town and preventing a proliferation of signs that would despoil this beauty and create hazards to traffic.

Section 2: Authority & Administration

A. This Ordinance is adopted and hereafter amended pursuant to and consistent with the State of Maine Revised Statutes M.R.S.A. 30-A sections 3001, 3002 and 3004.

B. This Ordinance shall be administered by the Town Selectmen or Planning Board on projects coming under their review and enforced by the Code Enforcement Officer.

Section 3: Applicability

This Ordinance applies to all signs in the Town of Newry visible from a public way.

Section 4: Amendments, Validity, Effective Date, Repeal of Existing Sign Specifications

A. Amendments

1. Initiation of Amendments: An amendment to this Ordinance may be initiated by:

- a. The Planning Board, provided a majority of the Board has so voted;
- b. Request of the Selectmen; or
- c. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial election.

2. The Selectmen shall hold a public hearing on the proposed amendment at least 10 days prior to the Town Meeting at which it is to be considered.

Notice of the hearing shall be posted at least ten (10) days in advance in a newspaper of general circulation in the area.

3. Adoption of Amendment; an amendment to this Ordinance may be adopted by a majority vote of any Town Meeting.

B. Validity and 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.

C. Conflict With Other Ordinances

This Ordinance shall not be construed to repeal any existing bylaws or ordinances, or to impair the provisions of private restrictions placed upon property, provided, however, that where this Ordinance imposes greater restrictions, its provisions shall control.

D. Effective Date

The effective date of this Ordinance shall be the date of the Town Meeting at which time this Ordinance is adopted.

Section 5: Enforcement

A. Nuisances

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

B. Enforcement

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 shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. A copy of such notices shall be maintained as a permanent record.

C. Legal Actions

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

D. Penalties

Any person who violates any of the provisions of this Ordinance after receiving notice of such violation shall be liable of a civil violation, and, on judgment shall be subject to a minimum penalty of penalty violation, which penalty shall be recovered on complaint to the use of the Town. Each day the violation exists shall be considered a separate violation. Such persons shall also be liable for court costs and attorney fees incurred by the municipality.

Section 6: Permit Required

A. No person, firm or corporation shall erect a sign or sign structure of any kind without a permit issued by the Code Enforcement Officer, upon payment of a permit fee of \$10.00 per sign.

B. Application for a permit shall include the name and address of the sign owner, the proposed location relative to lot lines and building (s) on the lot, a scale drawing indicating colors to be used and the design, dimensions and position of the sign or sign (s) and such other information as the Code Enforcement Officer may require to insure compliance with this Ordinance.

C. A sign permit shall become null and void if the work for which the permit was issued has not been substantially completed within three (3) six (6) months from the date of the permit, provided, however, that the Code Enforcement Officer may, upon a showing in writing by applicant of extenuating circumstances, issue extensions covering a period not to exceed six (6) twelve (12) months from the date of issue of the original permit.

Section 7: Excepted Signs

The following signs are excepted from the provisions of this Ordinance:

A. Any sign which was lawfully in existence prior to the effective date of this Ordinance, provided, however, any change in lettering, size, construction, location or lighting of said sign shall constitute a new sign and such change shall be governed by the terms of this Ordinance. Nonconforming signs may receive normal maintenance and repairs.

B. House addresses, family signs, decorative flags, "No Trespassing" and similar signs.

C. Traffic control signs

D. Traffic flow informational signs

E. One open flag per premises not to exceed three feet by five feet in size in addition to other sign allowed. Not applicable to residential use.

F. The flags of any nation, state, town, or military or service organization.

G. Temporary signs:

1. Political and campaign signs (eight square feet in area or less). Any sign one foot square or less exempt.
2. Private and charitable/nonprofit special events, e.g., yard sales, bake sales, and suppers.
3. Real estate signs (on premises). (Off-premises real estate signs do require a non-fee permit for each sign.
4. Contractor/engineer/architect signs.
5. Season agricultural signs.

H. Land use signs, such as "No Hunting"

I. Safety signs

J. Transit system

Section 8: General Restrictions

A. No sign shall be attached to any tree, utility pole or be painted upon or otherwise directly affixed to any rock, ledge or other natural feature.

B. No sign shall be erected:

(i) at any location where, by reason of position, shape, wording or color, it interferes with or obstructs the view of pedestrian or vehicular traffic; or

(ii) Which may be confused with any authorized traffic sign, signal or device.

C. All signs and their supporting structures shall be properly maintained to prevent rust rot, peeling or similar deterioration.

D. Any outdoor sign which advertises, identifies or pertains to any activity no longer in existence shall be removed by its owner or persons otherwise responsible within 30 days from the time the activity ceases. This provision does not apply to seasonal activities during the regular periods in which they are closed. Signs associated with political campaigns shall be removed with seven (7) days of the end of the campaign.

E. No sign shall:

(i) be internally lighted;

(ii) consist of pennants, ribbons, streamers, sheets, spinners, other moving devices, strings of light bulbs or similar devices;

(iii) have blinking, flashing or fluttering lights or other illuminating devices which have a changing light intensity, brightness or color;

(iv) be illuminated by other than a stationary white or off-white steady light or sodium vapor light;

(v) be mechanically operated by wind;

(vi) be painted directly on, placed directly on or project from a roof;

(vii) be movable or portable.

F. No sign shall be closer than:

(i) 20 feet to a side lot line, or

(ii) closer than the stricter of 25 feet to the centerline of any public way which has a right-of-way less than 60 feet in width, or 15 feet to the outside edge of the paved portion of any public way with a total paved portion of more than 15 feet in width, provided that in no case shall any sign be located within or project over the right-of-way, as determined by a legal authority.

Section 9: General Standards

The following standards designate the maximum allowable specification for signs covered by this Ordinance.

A. In all areas other than Shoreland Zone:

(i) The number of outdoor signs shall not exceed two (2).

(ii) No individual sign shall contain more than fifty (50) square feet of a sign area or have a height greater than twenty (20) feet from the ground level upon which it is located to the top of the sign.

(iii) Outdoor signs may be displayed as ground signs, wall signs, projecting signs or combination of these, provided that the total sign area of all such signs displayed shall not exceed one hundred (100) square feet.

(iv) Ground signs are limited to a maximum sign area of fifty (50) square feet.

(v) Wall signs shall occupy no more than 40 percent of the wall to which they are attached or affixed, and in any case shall not contain more than fifty (50) square feet of sign area. The wall is the façade of a building up to the roof line, excluding windows, doors and major architectural features.

B. In Shoreland Zone, the above standards apply except where stricter standards may apply from the Shoreland Zone Ordinance.

Section 10: Waivers, Variances and Appeals

A. Waivers and Variances

1. Where the Planning Board or Selectmen make written findings of fact that the applicant will suffer an undue hardship if the requirements of this Ordinance are strictly applied, it may waive the necessity for strict compliance with the requirements of the Ordinance in order to provide relief from the hardship question and to permit a more practical and economical development provided, however, that the public health, safety and welfare will not be compromised and further provided that the waivers in question will not have the effect of nullifying the intent of this Ordinance.
2. In granting waivers to any provision of this ordinance in accordance with Section XI. A.1., the Planning Board or Selectmen shall require such conditions as that will assure the objectives of this Ordinance are met.

B. Administrative Appeals

The Board of Appeals, may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Planning Board or Selectmen in the administration of this Ordinance. Such hearings shall be held in accordance with State laws. Following such hearing, the Board of Appeals may reverse the decision of the Planning Board or Selectmen only upon a finding that the decision is clearly contrary to specific provisions of this Ordinance.

C. Meetings

The Board of Appeals shall conduct its meeting in accordance with the provisions of 30 M.R.S.A. Section 2411, as the same may be amended.

D. Appeal to Superior Court

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

Section 11: Definitions

AWNING: A non-illuminated sign painted on or attached to a fabric cover on a metallic frame. Only individual letters and/or logos may be attached to, painted, stenciled, or otherwise placed on these devices. A letter on an awning or canopy can be no more than six inches high. A logo shall not exceed 10% of the awning area or six feet, whichever is less.

BANNER: Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National, state, or municipal flags, or the official flag or any institution or business, shall not be considered banners.

BILLBOARD: Any off-premises advertising sign on public or private property regardless of size is not allowed under current Maine law. Billboards are prohibited in the State of Maine.

BUSINESS: A commercial or mercantile activity engaged in as a means of livelihood and that has been assigned a tax identification number by the Internal Revenue Service.

ERECT: To construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish.

EVENT FULFILLMENT SIGN: Any sign, associated with a special event that specifies an event sponsor by either a name and/or logo.

FLAG: Any fabric or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

FREESTANDING SIGN: A sign self-supported by a pole or post and not attached to any building, wall, or fence but in a fixed location.

GLARING ILLUMINATION: A light of such brilliance and so positioned as to blind or impair the vision of pedestrians and/or motorists.

GROUND SIGN: An outside sign identifying housing developments, businesses, services, or homes (such as a shopping area or housing development) made of brick, masonry or stone the bottom of which is attached directly and permanently to the ground and physically separated from any other structure.

KIOSK: A freestanding structure designed to provide space for advertising two or more activities or businesses on a single premises or group of contiguous premises as follows:

A. In areas where the speed limit is less than 35 miles per hour the part of the kiosk bearing the name of the building or business complex shall not exceed 16 square feet and the top of the kiosk shall not be higher than 13 feet above the ground. Each business sign shall be identical in shape and shall not exceed five square feet in size.

B. In areas where the speed limit is 35 miles per hour or greater the part of the kiosk bearing the name of the building or business complex shall not exceed 32 square feet and the top of the kiosk shall not be higher than 16 feet above the ground. Each business sign shall be identical in shape and shall not exceed 10 square feet in size.

INTERNAL ILLUMINATION: An internally illuminated graphic representation whose light source is concealed or contained within the graphic itself and which becomes visible in darkness by shining through a surface.

LOGO: A single or multicolored symbol or design used by a business as a means of identifying its products or services.

MAJOR PARKING AREA: A paved area to accommodate 35 or more vehicles.

MARQUEE: A sign painted on, attached to or consisting of interchangeable letters on the face or a permanent overhanging shelter which projects from the face of a building. Letters or symbols shall not exceed six inches in height. A minimum clearance of 10 feet above the sidewalk level shall be required.

NAME SIGN: The name of a person residing on the premises or operation of a business out of the premises, such as a professional office. Example: "John Brown, CPA".

OFFICIAL BUSINESS DIRECTIONAL SIGN: A sign erected and maintained within the public right-of-way to indicate to the traveling public the route and distance to public accommodations, facilities, commercial services and points of scenic, historical, cultural, recreational, educational or religious interest. Such signs shall conform to all applicable state regulations regarding the placement of signs in public rights-of-way.

ON-PREMISIS SIGN: A sign which is erected upon the same real property that the business, facility or point of interest is located. The sign shall only advertise the business, facility or point of interest conducted thereon or the sale, rent, or lease of the property upon which it is located.

PENNANT: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

POLITICAL SIGN: Any sign that advertises a candidate or an issue which is to be voted on in a local, state or federal election process. Area limit is 80 square feet.

PORTABLE SIGN: A temporary sign, such as a sandwich board sign or freestanding sign, not designed or intended to be permanently affixed into the

ground or to a structure. Said sign must be constructed of rigid materials (preferably wood) and be anchored firmly to the ground.

PROJECTING/BLADE SIGN: An outdoor sign not exceeding 12 square feet in size which is attached to a wall at a right angle.

PROMOTIONAL SALE SIGN: A banner, balloon or similar sign promoting products, goods or services.

PUBLIC WAY: Any way designed for vehicular or pedestrian use and opened for public use. The public highway shall be deemed the full width of the road as laid out by the state, the county or the Town of Newry and in any case shall be deemed to extend 33 feet each side of the center line of the traveled or built-up portion of the way.

REAL ESTATE SIGN: A sign used by a real estate agency to advertise the sale or rent/lease of real estate.

SAFETY CONTROL SIGN: Warning, control, OSHA, or required public safety signs.

SIGN: An object, device, or structure, or part thereof, situated outdoors, visible from a public way, which is used to advertise, identify, display, or direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, advertising flags, fixtures, colors, illuminations or projected images. Each substantially different face of a sign shall constitute a separate sign. Whenever dimensions of a sign are specified, they shall include the frame.

SIGN AREA: The facing of a sign, including copy, insignia, background, structural supports, and borders. The structural supports shall be excluded if they do not constitute a major part of the sign or if the structure is not used to identify or attract attention to the business or product.

SPECIAL EVENT: An event that is held for the civic or public benefit of the Town of Newry.

TEMPORARY SIGNS:

(1) A temporary sign, as defined in this Ordinance, shall not exceed six square feet in sign area and shall not be illuminated.

(2) A sign permit shall be required for any sign erected longer than 90 days within any 12-month period, except real estate signs, which may be left in place without a permit until the sale of the property, and construction

signs, which shall be allowed without a permit for the duration of the project.

(3) New construction requiring Site Plan Review, shall be allowed one construction sign of up to 16 square feet for the duration of the project.

***Unified Development
Review Ordinance
For The Town Of
Newry, Maine***

***Adopted June 15, 1992
Amended September 25, 2000
Amended July 5, 2005
Amended December 7, 2009
Amended December 19, 2011
Amended March 4, 2013
Amended March 3, 2015***



**UNIFIED DEVELOPMENT REVIEW ORDINANCE
FOR THE TOWN OF NEWRY, MAINE**

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UNIFIED DEVELOPMENT REVIEW ORDINANCE FOR THE TOWN OF NEWRY, MAINE

SECTION I: GENERAL PROVISIONS

SECTION USER'S GUIDE: *This section contains general information related to the title of the Ordinance, the statutory authority under which it was prepared and adopted, the municipal officials charged with its administration, the area of jurisdiction, the date of its adoption, and the procedure for its amendment.*

A. TITLE

This Ordinance shall be known and be cited as the "Unified Development Review Ordinance for the Town of Newry, Maine."

B. AUTHORITY

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

C. APPLICABILITY

The provisions of this Ordinance shall apply to the following land uses and buildings within the boundaries of the Town of Newry (Additional requirements and restrictions may be imposed by the Town of Newry Shoreland Zoning Ordinance):

1. Subdivisions as defined by Title 30-A, M.R.S.A. Section 4401.
2. Site Uses: Building(s), structure(s) and use(s) of land for commercial, industrial, office, multiple dwelling residential that is not a subdivision as defined, municipal, institutional, utility, fraternal, and recreational purposes, including:
 - a. New buildings and structures;
 - b. New uses of existing buildings, structures and land;
 - c. Resumption of uses which have been discontinued for at least two years; and
 - d. Existing uses which seek to expand by either 1000 square feet or 25% in area, whichever is lesser, within any 10 year period, in floor space, parking area, or outdoor storage area.
3. Detached single family and two family dwelling units and lots therefore shall comply with Section XXIII, Growth Management Districts and Nonconformance.

D. EXEMPTIONS

This Ordinance does not apply to the following:

1. Existing uses or uses which were legally established prior to the adoption of this Ordinance;
2. Subdivision lots exempted by Title 30-A, M.R.S.A. Section 4401;
3. Detached single family and two family dwelling units, when not part of a new subdivision or new development proposal except that detached single family and two family dwelling units and lots therefore shall comply with Section XXIII, Growth Management Districts and Nonconformance.
4. Agricultural land management practices, forest management activities, timber harvesting activities and timber harvesting; and
5. Home occupations which meet the following conditions do not need Site Plan approval.
 - a. The home occupation is incidental and secondary to the primary residential use of the premises;
 - b. Do not employ any persons who do not make the residence their permanent home;
 - c. Do not display any exterior sign larger than eight (8) square feet, exterior exhibits, exterior storage of materials or any other exterior indications of the home occupation or variation from the residential character of the principal dwelling or accessory structure;
 - d. Do not generate any nuisance, waste discharge, noise, vibration, smoke, dust, odors, heat, glare, radiation, fumes, or electrical interference detectable to the normal senses or which interferes with normal radio or television reception, data transmission or causes other nuisances which extend beyond the limits of the subject property; and
 - e. Are not likely to generate regular daily or seasonal traffic not associated with residential uses.
 - f. Home Occupations which do not meet the criteria in Section D.5 a-e above shall comply with Section XIII.A.C.

E. CONFLICT WITH OTHER ORDINANCES

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, ordinance, the more restrictive standards shall govern.

F. SEPARABILITY

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

G. AMENDMENTS

This Ordinance may be amended by a majority vote of a regular or special town meeting. Amendments may be initiated by a majority vote of the Board of Selectmen, by request of the Planning Board, or by a petition signed by a number of registered voters greater than 10% of the votes cast in the last gubernatorial election in the Town. The Board of Selectmen shall conduct a public hearing on the amendments.

H. EFFECTIVE DATE

The provisions of this Ordinance shall become effective on June 15, 1992 and as amended on:

- September 25, 2000
- July 5, 2005
- December 7, 2009
- December 19, 2011

SECTION II: PURPOSES

SECTION USER'S GUIDE: This section presents the broad goals of this Ordinance. These goals are not intended to be specific standards used by the Planning Board in its consideration of applications but rather as a guide for provisions contain herein.

The purposes of this Ordinance are as follows:

A. PROTECT GENERAL WELFARE

To assure the comfort, convenience, safety, health and welfare of the citizens of Newry;

B. PROTECT ENVIRONMENT

To protect the natural resources from unacceptable adverse impacts and to integrate new development harmoniously into the Town's natural environment;

C. PROMOTE COMMUNITY DEVELOPMENT

To promote the development of an economically sound and stable community;

D. BALANCE PROPERTY RIGHTS

To protect property rights and values by balancing the rights of landowners to use their land for the purposes regulated by this Ordinance with the corresponding rights of abutting and neighboring landowners to enjoy their property without undue disturbance from noise, smoke, dust, fumes, odor, glare, traffic, storm water run-off or the pollution of ground or surface water resources;

E. REDUCE FISCAL IMPACT

To provide the means for assessing development proposals for their fiscal impacts on the municipality's ability to provide and improve necessary public facilities and services;

F. IMPLEMENT THE COMPREHENSIVE PLAN

To implement the goals and policies of Newry's comprehensive plan

G. ESTABLISH PROCEDURES AND STANDARDS

To establish procedures whereby the Town Officials may review the developments regulated by this Ordinance by providing fair and reasonable standards for evaluating such developments, to provide a public hearing process through which Town residents may raise questions and receive answers regarding how such developments may affect them and to provide procedures whereby aggrieved parties may appeal decisions made under this Ordinance to the Appeals Board.

To establish standards that:

1. Encourage orderly growth and development in appropriate areas of the community, while protecting the Town's rural character, making efficient use of public services and preventing development sprawl;
2. Plan for, finance and develop an efficient system for public facilities and services to accommodate anticipated growth and economic developments;
3. Promote economic climate which increases job opportunities;
4. Encourage and promote affordable, decent housing opportunities;

5. Protect the quality and manage the quantity of the Town's water resources, including ground water extraction from aquifers and rivers;
6. Protect the other critical natural resources, including, without limitations, wetlands, wildlife, and fisheries habitat, shorelands, scenic vistas, and unique natural areas;
7. Safeguard agricultural and forest resources from development which threatens those resources;
8. Preserve historic and archaeological resources; and
9. Promote and protect the availability of outdoor recreation opportunities, including access to surface waters.
10. Seek to retain landowner permission for use of traditional trail systems and back county recreation opportunities from development which would reduce such opportunities.

SECTION III: ADMINISTRATION

SECTION USER'S GUIDE: This section contains provisions for the administration of this Ordinance including specific provisions for certificates of compliance, conditions of approval, and public hearings.

A. ADMINISTERING BODY

The Planning Board of the Town of Newry shall administer this Ordinance. No building permit or plumbing permit shall be issued by the Selectmen or Code Enforcement Officer for any use or development within the scope of this Ordinance until an application required by this Ordinance has been reviewed and approved by the Planning Board.

B. APPROVAL REQUIRED

After the effective date of this Ordinance or amendment thereto, no person shall engage in any activity requiring a permit under this Ordinance without first obtaining the approval of the Planning Board or Code Enforcement Officer as required.

C. APPLICATION REQUIRED

Applications for approval shall be submitted in writing to the Planning Board, on forms provided by it. The Planning Board has the right to require the submission of whatever additional information is necessary to determine compliance with the provisions of this Ordinance.

D. OTHER PERMITS REQUIRED

Applications for approval under this Ordinance will be considered separately and concurrently with all other required local, state, and federal permits which have been applied for. Evidence that they have been applied for and/or acquired must be provided to the Planning Board at the time of application. These may include but not be limited to the following:

1. Maine Department of Environmental Protection, under the Site Location of Development Act, Natural Resources Protection Act, or if a waste water discharge license is needed.
2. Maine Department of Human Services, if the applicant proposes to provide a public water system.
3. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.
4. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
5. An approved Driveway or Entrance permit issued by the Maine Department of Transportation if a driveway or entrance will enter onto Routes 2 and 26 or the Sunday River Road to the Ski Way Road.

No building or use permits for a development approved under this Ordinance shall be granted until proof is provided that any and all state and federal permit have been obtained.

E. START AND COMPLETION OF CONSTRUCTION

Construction and alteration activities for which approval has been granted under this Ordinance shall commence within twenty-four (24) months of the date of issuance of Planning Board approval for projects under Local review or shall commence within thirty-six (36) months of the date of issuance for projects under State or Federal review and shall be substantially complete within eighteen (18) months of the date of commencement.

At the time the Planning Board grants Final Plan approval, it may permit the Plan to be divided into two or more phases subject to any conditions the Planning Board deems

necessary in order to ensure the orderly development of the Plan. If any municipal, quasi-municipal department head, or superintendent of schools notified of the proposed Plan informs the Planning Board that their department or district does not have adequate capital facilities to service the proposed Plan, the Planning Board may require the Plan to be divided into two or more phases subject to any conditions the Planning Board deems necessary in order to allow the orderly planning, financing and provision of public services to the proposed Plan.

If a project is subject to phasing, a phasing time line for commencement of each phase shall be negotiated between the Planning Board and developer. The Planning Board may extend the phasing schedule to commence up to but no longer than ten (10) years.

Activities which are not commenced or substantially completed within the time limits provided above shall be subject to new application and the original approval issued under this ordinance shall be considered void. The new application shall be accompanied by a re-application fee of \$25 or 1/50 of 1% of the remaining cost of the project, whichever is larger. In the event the new application differs substantially from the original submission, the Planning Board, at its discretion, may require the applicant to pay an additional fee to aid the Planning Board in its review of the new submission. Said additional fee shall be either 50% of the application fee or \$2500 whichever is greater and shall be held in a non-interest bearing account ("The Account"). If the balance of The Account is drawn down by 75%, the Board shall require 50% of the original additional fee to be paid by the applicant. Any unused portion of additional fees will be returned to the Applicant.

Activities may be extended for up to one (1) year by the Planning Board if the application for extension is submitted not later than thirty (30) days prior to expiration. Activities may be approved in phases of longer periods of time if pre-approved by the Planning Board. When future phases do commence, those phases must meet health and life safety town ordinances in effect at that time.

F. CONDITIONS OF APPROVAL

The Planning Board may in approving applications attach such conditions of approval, in addition to those required elsewhere in this Ordinance, that it finds necessary to further the purposes of this Ordinance. Such conditions of approval may include, but are not limited to, specifications for:

1. Type of vegetative cover;
2. Increased setbacks or dimensional requirements;
3. Specific sewage or other waste disposal facilities;
4. Specific water supply facilities;
5. Landscaping and planting screen;
6. Periods of operation;
7. Operational controls;
8. Professional inspection and maintenance;

9. Specific storage and display requirements;
10. Sureties and bonds;
11. Restrictive covenants;
12. Location of piers, docks, parking areas and signs;
13. Type of construction; and
14. Any other term or condition of approval necessary to fulfill the purposes of this Ordinance.
15. The planning board may, as a term or condition of approval, establish any reasonable requirement to ensure that the Applicant has made adequate provision for the control of noise from the facility and to reduce the impact of noise on Protected Locations. Such conditions may include, but are not limited to, enclosing equipment or operations, imposing limits on hours of operation, or requiring the employment of specific design technologies, site design, modes of operation, or traffic patterns.

The sound level limits prescribed in this ordinance shall not preclude the planning board from requiring an Applicant to demonstrate that sound levels from a facility will not unreasonably disturb wildlife or adversely affect wildlife populations. In addition, the sound level limits shall not preclude the planning board as a term or condition of approval, from requiring that lower sound level limits be met to ensure that the Applicant has made adequate provision for the protection of wildlife.

Violation of any conditions of approval shall be considered a violation of this Ordinance.

G. PUBLIC HEARINGS

In scheduling public hearings under this ordinance, the Planning Board shall publish notice of the hearing at least seven (7) days in advance of the hearing in a newspaper of general circulation in the area at least two (2) times and shall post such notice in at least two (2) conspicuous public places at least seven (7) days in advance of the hearing.

The Planning Board shall notify, by mail, the applicant and all property owners within one thousand feet (1,000') of the property involved, including owners of property on the opposite side of the road, at least ten (10) days in advance of the hearing, of the nature of the application and of the time and place of the public hearing. In the case of non subdivision applications the Planning Board may instead notify the directors of condominium associations. The owners of property shall be considered to be those against whom taxes are assessed.

At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause. The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman of the Planning Board or designated public officer. Within thirty (30) days of the public hearing, or within any other time limit that is otherwise mutually

agreed to, the Planning Board shall reach a decision on the proposed development plan and shall inform the applicant and the Selectmen in writing within seven (7) days of its decision stating its reasons. The Planning Board shall prepare detailed, written findings of fact, based on; sufficient evidence presented at the public hearing, as well as its conclusions and the reasons or basis thereof; and said findings shall not be based on feelings or unsubstantiated allegations, but upon all reasonable evidence.

H. PERMIT TRANSFERS

A permit received pursuant this Ordinance is freely transferable provided that:

1. If the project was subject to the Site Location of Development Law, 38 M.R.S.A. Sec.481, the transferee has satisfied the Department of Environmental Protection that the financial and technical criteria to undertake the project has been met; and
2. The transferee has submitted information to the Planning Board which demonstrates adequate technical and financial capacity to complete the proposed project.

SECTION IV: RESERVED

SECTION V: CRITERIA OF APPROVAL

SECTION USER'S GUIDE: This section contains the criteria by which the Planning Board will judge all applications submitted pursuant to this Ordinance.

In approving applications submitted pursuant to this Ordinance, the Planning Board shall consider the following criteria, and find that the proposed development:

A. POLLUTION

The proposed development will not result in undue water or air pollution. In making this determination, it shall at least consider:

1. The elevation of the land above sea level and its relation to the flood plains;
2. The nature of soils and subsoils and their ability to adequately support waste disposal;
3. The slope of the land and its effect on effluents;
4. The availability of streams for disposal of effluents; and
5. The applicable state and local health and water resource rules and regulations;

B. SUFFICIENT WATER

The proposed development has sufficient water available for its reasonably foreseeable needs;

C. PUBLIC WATER SUPPLY

The proposed development will not cause an unreasonable burden on an existing public water supply, if one is to be used;

D. EROSION

The proposed development will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

E. TRAFFIC

The proposed development will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed. If the proposed development requires driveways or entrances onto a state or state aid highway (Route 2, Route 26 and the Sunday River Road to the Ski Way Road) the Maine Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23 section 704 and any rules adopted under that section;

F. SEWAGE DISPOSAL

The proposed development will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;

G. MUNICIPAL SOLID WASTE DISPOSAL

The proposed development will not cause an unreasonable burden on the Town's ability to dispose of solid waste, if Town services are to be utilized;

H. AESTHETIC, CULTURAL AND NATURAL VALUES

The proposed development will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the Town, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

I. CONFORMITY WITH LOCAL ORDINANCES AND PLANS

The proposed development conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the Planning Board may interpret these ordinances and plans;

J. FINANCIAL AND TECHNICAL CAPACITY

The applicant has adequate financial and technical capacity to meet the standards of this Ordinance;

K. SURFACE WATERS

Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B1, the proposed development will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water;

L. GROUND WATER

The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;

M. FLOOD AREAS

Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps and information presented by the applicant whether the development is in a flood-prone area. If the development, or any part of it, is in such an area, the developer shall determine the 100-flood elevation and flood hazard boundaries within the development. The proposed development plan must include a condition of plan approval requiring that principal structures in the development will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

N. FRESHWATER WETLANDS

All freshwater wetlands within the proposed development have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;

O. RIVER, STREAM OR BROOK

Any river, stream or brook within or abutting the proposed development has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, Section 480-B, subsection 9;

P. STORM WATER

The proposed development will provide for adequate storm water management;

Q. SPAGHETTI-LOTS PROHIBITED

If any lots in the proposed development have shore frontage on a river, stream, or brook as these features are defined in Title 38, section 480-B, none of the lots created within the development have a lot depth to shore frontage ratio greater than 5 to 1;

R. MUNICIPAL SERVICES

The proposed development will not place unreasonable burden on the town's municipal services including but not limited to the Newry Fire Department or the local school system;

S. LAKE PHOSPHORUS CONCENTRATION

The long term cumulative effects of the proposed development will not unreasonably increase Howards Pond phosphorus concentration during the construction phase and life of the proposed development;

T. IMPACT ON ADJOINING MUNICIPALITY

For any proposed development that crosses municipal boundaries, the proposed development will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public roads in an adjoining municipality in which part of the development is located; and

U. LANDS SUBJECT TO LIQUIDATION HARVESTING

Timber on the parcel being developed has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the planning board must determine prior to granting approval for the development that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel.

SECTION VI: INSPECTION, VIOLATION AND ENFORCEMENT

SECTION USER'S GUIDE: This section contains specific provisions outlining the inspection of infrastructure improvements and those actions which shall be considered violations of this Ordinance and provisions for enforcement. It also provides that contractors and property owners shall be held liable for their actions which are in violation of this Ordinance.

A. INSPECTION

1. Notification of Construction: At least five (5) days prior to commencing construction of infrastructure improvements, the applicant shall.
 - a. Notify the Code Enforcement Officer in writing of the time when (s)he proposes to commence construction so that the municipal officers can arrange for inspection to be made. The Inspecting Official shall assure that all municipal specifications, requirements and conditions of approval shall be met during the construction and shall assure the satisfactory completion of infrastructure improvements required by the Planning Board.
 - b. Deposit with the municipal officers a check for the amount of 2% of the estimated costs of infrastructure improvements to pay for the costs of inspection. This deposit shall not be required should the Code Enforcement Officer be the Inspecting Official. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus funds shall be refunded to the applicant within 30 days. If the inspection account shall be drawn down by 90%, the applicant shall deposit an additional 1% of the estimated costs of construction and improvements.
2. The Inspecting Official shall be responsible for observing all on-site and off-site construction of infrastructure improvements. The inspecting official shall prepare periodic reports and provide the same to the selectmen, Planning Board and Code Enforcement Officer. The Inspecting Official shall have no enforcement authority but is authorized to request the Code Enforcement Officer to take enforcement actions as necessary to ensure compliance including "Stop Work" orders.
3. Noncompliance With Plan: Upon finding that the improvements have not been constructed in accordance with the approved plans and specifications, the Inspecting Official shall so report in writing to the Municipal Officers, Planning Board, Code Enforcement Officer and applicant. The Municipal Officers shall take any steps necessary to assure compliance with approved Plans.

4. **Modification During Construction:** If at any time it appears necessary or desirable to modify the required improvements before or during construction of the of the required improvements, the Inspecting Official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The Inspecting Official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Municipal Officers, Planning Board and Code Enforcement Officer. Revised plans shall be filed with the Planning Board for the record. For major modifications, such as relocation of rights-of-way, changes in grade by more than 1%, etc., the applicant shall submit to the Planning Board an amended application for review and approval.

B. RECORDING OF SUBDIVISION PLAN WITHOUT APPROVAL PROHIBITED

No plan of a division of land or structure within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Planning Board in accordance with this Ordinance.

C. CONVEYANCE WITHOUT APPROVAL PROHIBITED

No person may convey any land or dwelling in a subdivision which has not been approved as required by this Ordinance.

D. CONVEYANCE WITHOUT RECORDING PROHIBITED

No person may convey any land or dwelling unit in a subdivision which has not been approved by the Planning Board and recorded in the Registry of Deeds.

E. CONVEYANCE OF LOTS or DWELLING UNITS NOT SHOWN ON FINAL PLAN PROHIBITED

No person may convey any land or dwelling units in an approved subdivision which is not shown on the Final Plan as a separate lot or dwelling.

F. UTILITY HOOKUPS PRIOR TO APPROVAL PROHIBITED

No public utility, water district, sanitary district or any utility company of any kind shall serve any lot or dwelling unit in a subdivision or building in a development for which a Final Plan has not been approved by the Planning Board, except for utilities needed for testing and exploration.

G. ROAD COMPLETION PRIOR TO CONVEYANCE REQUIRED

No lot or dwelling in a subdivision may be sold, leased, occupied or otherwise conveyed before the road upon which the lot fronts and access is gained is completed for the entire frontage of the lot in accordance with this Ordinance as determined by the Inspecting

Official. This provision shall not apply when a performance guarantee has been issued and accepted by the Municipality.

H. FAILURE TO COMPLY WITH CONDITIONS OF APPROVAL

Failure to comply with any conditions of approval shall be construed to be a violation of this Ordinance and may be grounds for revoking the approved development plan, initiating legal proceedings to enjoin construction development or any specific activity violating the conditions of permit approval or applying the legal penalties provided herein.

I. OWNER RESPONSIBLE FOR OFF-SITE SEDIMENTATION

Whenever sedimentation is caused by stripping vegetation, re-grading or other development, it shall be the responsibility of the owner to remove sediment from all adjoining surfaces, intermittent drainage systems and to repair any drainage, at his expense. Failure to do so within two (2) weeks after official notification by the Planning Board or the Code Enforcement Officer shall be considered a violation of this Ordinance.

J. NUISANCES

Any violation of this Ordinance shall be deemed a nuisance.

K. CODE ENFORCEMENT OFFICER

1. 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.
2. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
3. 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.

L. 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.

M. FINES

Any person who continues to violate any provision of this Ordinance after receiving written notice of such violations shall be guilty of a Civil Violation and subject to a minimum fine of one hundred dollars (\$100.00) up to a maximum fine to two thousand five hundred dollars (\$2,500.00) for each violation. Each day such violation is continued is a separate offense. All such fines shall accrue to the Town. If remedial action has commenced within two (2) weeks of receiving such written notice, there shall be no fine.

N. CONTRACTOR LIABILITY

Any contractor involved in any activity regulated by the provisions of this Ordinance may be held liable for violating this Ordinance if the necessary permits for such activity have not been obtained by himself or his employer.

SECTION VII: APPEALS

SECTION USER'S GUIDE: This section contains specific provisions regarding variance and administrative appeals to the Board of Appeals and appeals to Superior Court.

A. POWERS AND DUTIES OF THE BOARD OF APPEALS

The Board of Appeals shall have the following powers:

1. **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.

2. **Variance Appeals**

To authorize variances upon appeal, within the limitations set forth in this Ordinance.

B. VARIANCE APPEALS

Variances may be granted only under the following conditions:

1. Variances may be granted from the restrictions imposed by this Ordinance.
2. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
3. The Board of Appeals shall not grant a variance unless it finds that 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.
4. Notwithstanding Section VII.B.3.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.
 5. 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.

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

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

D. APPEAL PROCEDURE

1. Making an Appeal
 - a. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section VI.J and K 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.
 - b. Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - 1) A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - 2) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
 - c. Upon 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.
 - d. 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. Hearings shall be conducted in accordance with Section III.G
2. Decision by Board of Appeals
 - a. A majority of the full voting membership of the Board shall constitute a quorum for a meeting.
 - b. A majority of the membership of the Board present and voting shall be required for the purpose of deciding an appeal.
 - c. The person filing the appeal shall have the burden of proof.
 - d. 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.
 - e. 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.

E. 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

SECTION VIII: ADMINISTRATIVE PROCEDURES

SECTION USER'S GUIDE: This section contains provisions related to the procedure required to have applications placed on the Planning Board's agenda.

A. PURPOSE

The purpose of this Section is to establish an orderly, equitable and expeditious procedure for reviewing applications for developments requiring Planning Board approval under this Ordinance.

B. AGENDA

In order to avoid unnecessary delays in processing applications, the Planning Board prepares an agenda for each regularly scheduled meeting.

1. To be considered for placement on the agenda, notification of such must be communicated by the applicant to the Chairperson, vice-chairperson or Secretary a minimum of two (2) weeks prior to a Planning Board meeting.
2. Applicants who attend a meeting but who are not on the Planning Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Planning Board so votes.

SECTION IX: PRE-APPLICATION CONFERENCE (OPTIONAL)

SECTION USER'S GUIDE: This section contains specific information related to the procedures to be followed during a pre-application conference, the required submissions, the setting of the contour intervals required on subsequent plans, the scheduling of required on-site inspections, and establishes that rights are not vested by the pre-application review: Both Subdivision and site review.

A. PROCEDURE

The procedures to be followed for a pre-application conference are as follows:

1. Applicant submission of sketch plan.
2. Question and answer period. Planning Board makes specific suggestions to be incorporated by the applicant into subsequent submissions.
3. Scheduling of on-site inspection.

B. SUBMISSION

The pre-application submission shall show, in simple sketch form, the proposed layout of roads, lots, structures and other features in relation to existing conditions. The Sketch Plan, which may be a freehand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed subdivision or development. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located. The Sketch Plan shall be accompanied by a copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision or development.

C. CONTOUR INTERVAL AND ON-SITE INSPECTION

Within thirty days, the Planning Board may hold an on-site inspection of the property and shall determine and inform the applicant in writing of the required contour interval on subsequent plans.

D. RIGHTS NOT VESTED

The submittal or review of the pre-application 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., Section 302.

SECTION X: APPLICATION PROCEDURE AND SUBMISSION REQUIREMENTS

SECTION USER'S GUIDE: *This section outlines the procedures and submissions required for the review and approval of Applications submitted to the Planning Board.*

A. GENERAL

The Planning Board may require, where it deems it necessary for the protection of public health, safety, and welfare, that a Minor Subdivision comply with all or any of the submission requirements for a Major Subdivision.

B. PROCEDURE

1. **Pre-application conference:** The applicant may request a pre-application conference. The Planning Board may request a pre-application conference.
2. **Application:** The applicant shall submit an application for approval at a scheduled meeting of the Planning Board.
3. **Documenting the date of submission:** All documents submitted to the Planning Board shall include a title denoting the date submitted.
4. **Receipt:** At the meeting where the application is received, the Planning Board shall give a dated receipt to the applicant.
5. **On-Site Visits:** The Planning Board may schedule on-site visits at their discretion. The Planning Board shall give public notice of on-site visits.
6. **Fees:** All applications shall be accompanied by an application fee as established by the selectmen payable to the Town of Newry. Such fee shall not be refundable. The Planning Board, at its discretion, may require the applicant to pay an additional fee to aid the Planning Board in its review of the applicant's submissions. Said additional fee shall be either 50% of the application fee or \$2,500.00, whichever is greater and shall be held in a non-interest bearing account ("The Account"). If the balance of The Account is drawn down by 75%, the Board shall require 50% of the original additional fee to be paid by the applicant. Any unused portion of additional fees shall be returned to the applicant.
7. **Representation:** The Applicant, or his duly authorized representative, shall attend all meetings of the Planning Board to discuss the application.
8. **Abutter notification:** Upon receipt of an application the Planning Board or its designee shall notify by mail all abutting property owners within 1,000 feet of the proposed project. For the purpose of this section when an abutter is a condominium, the President of the Condominium Association shall be notified.
9. **Notification 30 days from application:** Within thirty (30) days of receiving an application and fee, the Applicant will be notified in writing that either that the application is complete or, if it is incomplete, the specific material needed to complete it.
10. **When application is determined Complete:** Upon determination by the Planning Board that a complete application has been submitted for review, the Planning Board shall issue a dated receipt to the Applicant and determine whether to hold a public hearing on the application.
11. **Public hearings:** Public hearings are required for Major Subdivisions. For other applications, the Planning Board may require a public hearing at its discretion. Public hearings shall be held within thirty (30) days from the date of the vote that a complete application has been received. The Planning Board shall give public notice of such hearing.
12. **Approval/Denial: Criteria:**
 - a. Applicant shall meet the performance guarantee requirements contained in this Ordinance.
 - b. Applicant shall prove receipt of all applicable State, Federal and other required permits.

- c. Within thirty (30) days of a public hearing, or within sixty (60) days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to, in writing, by the Planning Board and the Applicant, the Planning Board shall approve, approve with conditions, or deny the Final Plan.
 - d. The Planning Board shall specify the party (Code Enforcement Office and/or a third party Inspecting Official) responsible for the inspection of infrastructure improvements and the nature and level of the inspection required when applicable.
 - e. Planning Board shall ensure all Conditions of Approval are documented on the Final Plan.
13. **Findings of Fact & Conclusions:** The Planning Board, within thirty (30) days of voting to approve, approve with conditions, or deny, shall make written findings of fact, and conclusions relative to:
- a. for subdivisions, the standards contained in Title 30-A M.R.S.A. Section 4404
 - b. for all applications, the provisions of this Ordinance.

C. SUBMISSIONS

I. Plan(s)

A. Initial Submission & Interim Submissions

- 1. Ten (10) copies shall be submitted
- 2. Plans shall be drawn to a scale of one hundred (100) feet to the inch shall be submitted. Plans containing more than one hundred (100) acres may be drawn at a scale of two hundred (200) feet to the inch provided all necessary detail can easily be read.
- 3. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two (2) inches outside of the border along the remaining sides.
- 4. Plans may be submitted at a reduced legible sized scale, if the applicant also provides three (3) full scale sets of drawings.

B. Final Submission

- 1. Two (2) reproducible, stable based transparent originals, of each sheet required, one to be recorded at the Registry of Deeds, and the other to be filed at the Town Office
- 2. One paper copy of one or more maps or drawings drawn to a scale of one hundred (100) feet to the inch.
- 3. The Plan(s) shall be provided in a digital format as specified by the Planning Board.
- 4. Space shall be provided for endorsement by the Planning Board in a format specified by the Planning Board.

II. The application shall include the following information. An Application Form is available at the Town Office and online.

- A. Ten (10) copies shall be submitted.

- B. Proposed name of the project (Subdivision, Commercial venture) approved by the E-911 Addressing Officer.
- C. Information about the Applicant
 - 1. Name, address and telephone number of Applicant.
 - 2. Name address and telephone number of property owner (if other than applicant).
 - 3. If Applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of Secretary of State's registration.
 - 4. Name, address and telephone number of the applicant's authorized representative.
 - 5. If applicable, letter(s) from all appropriate parties authorizing the representative must be submitted with the application.
 - 6. Address to which all correspondence from the Planning Board should be sent.
 - 7. A statement describing the interest the applicant has in the parcel to be developed (option, land purchase contract, record ownership, etc.)
 - 8. A statement describing the interest the applicant has in any property abutting the parcel to be developed
- D. Information about the Parcel of land
 - 1. Location of property: Address
 - 2. Location of property: Book and page (from Registry of Deeds).
 - 3. Location of property: Map and lot (from Town Office).
 - 4. Zoning/Land Management District(s).
 - 5. A statement describing whether the parcel covers the entire contiguous holdings of the applicant.
 - 6. Total acreage of parcel to be developed.
 - 7. For Subdivisions, the number of lots or dwelling units
 - 8. For Site Plan review, the total floor area and ground coverage of each proposed building and structure and percentage of lot covered by each building or structure.
 - 9. A statement indicating if the parcel or structure is part of a prior approved subdivision, or any other division of land within the past five years.
 - 10. A copy of the deed or deeds from which the survey was based.
 - 11. A copy of all covenants, deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property, including book and page of abutter deed(s).
 - 12. Proposed deed restrictions or covenants.
 - 13. Names and addresses of property owners and Condominium Associations within one thousand (1000) feet of the property boundaries involved, including owners of the property on the opposite side of the road. The owners of the property shall be considered to be those against whom taxes are assessed. In the

- case of condominium ownership, the names and addresses of the President(s) of condominium association(s).
14. A written statement indicating if the parcel to be developed has changed ownership within the past five years, if timber has been harvested within the past five years and if such harvesting resulted in a violation of the applicable State of Maine laws.
 15. A copy of the approved Driveway or Entrance permit issued by the Maine Department of Transportation if a driveway or entrance will enter onto Route 2 or 26 or the Sunday River Road (from its intersection with Route 2 to the Ski Way Road).
 16. If density credits are to be applied for, a statement providing details.
 17. A description of the type of sewage disposal to be used.
 - i. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a Licensed Site Evaluator, shall be provided. A map showing the location of all test pits dug on the site shall be submitted. There shall be a minimum of one (1) test pit per lot.
 - ii. When sewage disposal is to be accomplished by connection to a common system, provide a written statement that plans have been submitted to the Department of Human Services, Division of Health Engineers or the Department of Environmental Protection.
 18. A copy of a high-intensity soils map covering the parcel to be developed and a written soils report, both prepared by a Maine Registered Soils Scientist. The Board may waive or modify this requirement for lots greater than two (2) acres in size or for Minor Subdivisions.
 19. Description of the type of water supply system(s) to be used.
 - i. Any common supply systems shall be mapped and described.
 - ii. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydro-geologist familiar with the area.
 20. Description of method of fire protection proposed.
 21. Description of method of solid waste disposal.
 22. If the applicant proposes to dedicate recreation or common land to the public, provide a written description of proposal.
 23. Provide a list and proof of application of required State and Federal permits.
 24. Traffic Data (the Board may waive this requirement for Minor Subdivisions). Traffic data shall include the following:
 - i. The estimated peak-hour traffic to be generated by the proposal.

- ii. Traffic accident data covering the most recent three-year period for which such data is available.
 - iii. The capacity of surrounding roads and any improvements which may be necessary on such roads to accommodate anticipated traffic generation.
 - iv. When a Maine Department of Transportation traffic Movement Permit is required, existing traffic counts and volumes on surrounding roads must be submitted.
25. A statement showing no current tax liens, suits, or other conflicts exist on property or buildings involved.

E. Information on the Development Plan

- 1. Name, address and number of licensed professional engineer, Professional Land Surveyor, or planner who prepared the plan.
- 2. Proposed name of Development or identifying title; and the name of the Town.
- 3. Date, magnetic north point, graphic map scale.
- 4. A field survey of the boundary lines of the parcel, giving complete descriptive data bearings and distances, made and certified with the embossed seal of the Professional Land Surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
- 5. For Subdivisions:
 - i. Lot or unit numbers.
 - ii. Lot lines with dimensions and areas.
- 6. Suggested locations of subsurface sewage disposal systems, and wells.
- 7. Contour lines at 5' intervals or other intervals as specified by the Board, showing elevation in relation to Mean Sea Level (NGVD).
- 8. If any portion of the parcel is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation.
- 9. The title and boundary lines of any zoning or Land Management District boundaries.
- 10. Setback lines of all applicable building setbacks.
- 11. Location, ground floor area and height of buildings and other structures within 500 feet of the site.
- 12. Location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of ingress and egress of vehicles to and from the site on to public roads and curb and sidewalk lines.
- 13. Landscape plan showing location, type and approximate size of plantings and location and dimensions of all fencing and screening.
- 14. Location and size of existing sewers and water mains, and culverts and drains.
- 15. The location of freshwater wetlands.

16. The location of all Farmland within the proposed project. Farmland is defined as a parcel consisting of five (5) or more acres of land that is:
 - i. Classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service within the United States Department of Agriculture; or
 - ii. Used for the production of agricultural products as defined in Title 7, section 152, subsection 2. ("Agricultural products" means those plants and animals and their products that are useful to humans and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, bees and bees' products, livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses and other similar products, or any other plant, animal or plant or animal products that supply humans with food, feed, fiber or fur. "Agricultural products" does not include trees grown and harvested for forest products.)
17. The location of all rivers, streams and brooks within or adjacent to the parcel to be developed.
18. Areas within or adjacent to the parcel which have been identified as significant wildlife habitat by the Maine Department of Inland Fisheries and Wildlife. If any portion of the proposed project is located within an area designated as a unique natural area by the Maine Natural Areas Program, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
19. The location of all parcels of land proposed to be dedicated to public use and the conditions of such dedication.
20. The location of any open space to be preserved and a description of proposed ownership, improvement and management.
21. The location of open drainage courses, wetlands, significant wildlife habitat, known or potential archaeological resource, historic buildings and sites, significant scenic areas, mapped sand and gravel aquifers, rare and endangered, other important natural features with a description of how such features will be maintained or impacts upon them minimized.
22. The location, names, and present right of way widths of existing roads, highways, easements, building lines, parks and other open spaces on or adjacent to the parcel to be developed.
23. Location and names of proposed streets
24. The location of all existing and proposed overhead and underground utilities.
25. For Site Plan review, the location, dimensions, design and exterior materials of all proposed buildings and structures.

26. The location and dimensions of existing and proposed signs.
27. The size, location and direction and intensity of illumination and method of installation of all major outdoor lighting apparatus.
28. The type, size and location of all incineration devices.
29. The type, size and location of all machinery likely to generate appreciable noise at the lot lines. Technical Information required pertaining to Noise (sound level analysis): Technical information shall be submitted describing the Applicant's plan and intent to make adequate provision for the control of noise. The applicant's plan shall contain information such as the following, when appropriate:
 - i. Maps and descriptions of the land uses, local zoning and comprehensive plans for the area potentially affected by sounds from the facility.
 - ii. Preconstruction Ambient sound levels
 - iii. A description of major sound sources, including tonal sound sources and sources of short duration repetitive sounds, associated with the construction, operation and maintenance of the proposed facility, including their locations within the proposed facility.
 - iv. A description of the daytime and nighttime hourly sound levels and, for short duration repetitive sounds, the maximum sound levels expected to be produced by these sound sources at Protected Locations.
 - v. A description of proposed major sound control measures, including their locations and expected performance.
 - vi. A comparison of the expected sound levels from the proposed facility with the sound level limits of this regulation.
30. Suitable space to record on the approved plan, the date and conditions of approval if any. This space shall be similar to the example in Exhibit C.

F. Accompanying Documents

1. Ten (10) copies shall be submitted.
2. Copies of letters to the Newry Fire Chief, Newry Road Commissioner and Oxford County Sheriff's Department notifying them of the proposed development project and requesting their comments.
3. A list of construction items including but not limited to storm drainage, water supply and sewers, with cost estimates, that will be completed by the applicant
4. Written evidence from financial institutions that the applicant has financial commitments or resources to cover these costs.
5. A separate list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the Town, or construction and maintenance items, with both

capital and annual operating cost estimates, that must be financed by the Town, or quasi-municipal districts. These lists shall include but not be limited to:

- i. Schools, including bussing.
 - ii. Recreation facilities.
 - iii. Road maintenance and snow removal.
 - iv. Storm water drainage.
 - v. Police and fire protection.
 - vi. Solid waste disposal.
 - vii. The applicant shall provide the Planning Board with an assessment of the financial impacts of the proposed development on the above public facilities and services.
6. A storm water management plan, prepared by a registered professional engineer in accordance with the most recent edition of Storm Water Management for Maine: BMPS Technical Design Manual, published by the Maine Department of Environmental Protection 2006.[Note: The applicant need only to submit one copy of storm water calculations]
 7. An erosion and sedimentation control plan prepared in accordance with the Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices.
 8. If the proposed Development is in the direct watershed of Howards Pond, a phosphorus control plan shall be submitted.
 9. Road and roadway plan and profile drawings drawn to a scale 1" = 100' horizontal and 1" = 1' vertical, prepared by Licensed Professional Engineer. The Planning Board may allow for a variation of scale based on readability.
 10. Typical cross section views of all proposed roads.
 11. Other information not indicated above, as specified by the Planning Board on the application.

G. Submission Waivers.

1. Where the Planning Board makes written findings of fact that there are special circumstances of a particular application, it may waive portions of the submission requirements, unless otherwise indicated in this Ordinance, provided that the applicant has demonstrated that the standards of this Ordinance have been or will be met, the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan and this Ordinance.

H. Easements

1. The Planning board may require easements for sewage, drainage, or other utilities.

I. Additional information for Commercial Wind Energy Facilities

1. Location map showing the boundaries of the proposed facility site and all contiguous property under total or partial control of the

- Applicant or Participating Landowner(s) and any Scenic Resource or Historic Site within one (1) mile of the proposed development.
2. Description of the proposed Wind Energy Facility that includes the number and aggregate generating capacity of all Wind Turbines, the Turbine Height and manufacturer's specifications for each Wind Turbine (including but not limited to the make, model, maximum generating capacity, sound emission levels and types of overspeed controls) and a description of Associated Facilities.
 3. Site plan showing the proposed location of each Wind Turbine, its flicker sector, Associated Facilities and any of the following features located within 1,000 feet of any Wind Turbine: parcel boundaries, required setbacks, topographic contour lines (maximum 20-foot interval), roads, rights-of-way, overhead utility lines, buildings (identified by use), land cover, wetlands, streams, water bodies and areas proposed to be re-graded or cleared of vegetation.
 4. Written evidence that the provider of electrical service to the property has been notified of the intent to connect an electric generator to the electricity grid.
 5. Description of emergency and normal shutdown procedures.
 6. Photographs of existing conditions at the site.
 7. Site line, photographic and, if applicable any screening information.
 - i. Sight Line Representations of each Wind Turbine from the nearest Occupied Building, Planned Residence, or other approved but not yet developed facility and from at least one other representative location within 1,000 feet of the Wind Turbine, such as a Scenic Resource or another Occupied Building. Each Site Line Representation shall be drawn at a scale sufficiently large to make it legible. If screening is proposed, the proposed screening device, such as trees, shrubs or fencing, shall be depicted on the drawing along with the sight line as altered by the screening.
 - ii. A current four-inch by six-inch color photograph of the proposed site of the Wind Turbine(s) taken from viewpoints corresponding to each of the Site Line Representations.
 - iii. One copy of each of the photographs described in b), above, onto which is superimposed an accurately-scaled and sited presentation of the Wind Turbine(s).
 8. Certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, or other similar certifying organizations.
 9. Decommissioning plan.
 10. Written summary of operation and maintenance procedures for the Wind Energy Facility and a maintenance plan for access roads.

11. Visual impact assessment.
12. Sound level analysis, prepared by a qualified engineer.
13. Shadow Flicker analysis based on WindPro or other modeling software approved by the Department of Environmental Protection. The Flicker Sector will be shown on maps.
14. Foundation and anchoring system drawings that are stamped by a Maine-licensed professional engineer.
15. A Public Utility Grid Impact Statement documenting all anticipated changes to the public utility grid within the Town due to the Wind Energy Facility. The Statement shall be signed and approved by the Maine Public Utilities Commission and shall include proof of leases or rights of way for transmission lines, and an analysis of the residual capacity in the grid that will be available to other local generating projects after the construction of the Wind Energy Facility.
16. Other relevant studies, reports, certifications and approvals as may be reasonably requested by the Planning Board to ensure compliance with this Ordinance.

D. FINAL APPROVAL AND FILING

1. No plan shall be approved by the Planning Board if the applicant has outstanding violations of this Ordinance.
2. The Planning Board shall confirm all Conditions of Approval are documented on Final Plans submitted for signature.
3. Once the board has determined the facts of the application and has determined that all standards in Title 30-A, M.R.S.A., Section 4404, and this Ordinance have been met, and upon voting to approve or amend the Application, the Planning Board shall sign the Final Plan.
 - a. The Applicant shall provide and the Planning Board shall sign:
 - i. One copy of the Final Plan to be retained by the Planning Board as part of its permanent records.
 - ii. One copy of the Final Plan to be forwarded to the Code Enforcement Officer.
 - iii. One Mylar copy of the Final Plan to be retained by the Planning Board as part of its permanent records.
 - b. Any Final Plan not recorded in the Registry of Deeds within ninety (90) days of the date upon which the plan is approved and signed by the Planning Board shall be considered unapproved and shall require resubmission, review and approval.
4. Within thirty (30) days from the date of granting final approval, the applicant shall provide the Code Enforcement Officer with one complete set of all plans, specifications and documents as approved by the Planning Board.
5. No changes, erasures, modification, or revisions shall be made on the Final Plan presented for Planning Board signatures. The Planning Board shall make sure findings of the plan meet the standards of Title 30-A, M.R.S.A., Section 4404, and this Ordinance. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Planning Board shall have a notice placed in the Registry of Deeds to that effect.
6. The approval by the Planning Board of a proposed plan shall not be deemed to constitute or be evidence of any acceptance by the Town of any easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the Town, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Planning Board shall require the plan to contain appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Selectmen covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

SECTION XI: RESERVED

SECTION XII: RESERVED

SECTION XIII: GENERAL PERFORMANCE STANDARDS

SECTION USER'S GUIDE: This section contains general performance standards with which all development proposals submitted for approval pursuant to this Ordinance must comply. In reviewing applications submitted pursuant to this Ordinance, the Board shall consider the following performance standards.

A. CONFORMANCE WITH COMPREHENSIVE PLAN

All proposed developments regulated by this Ordinance shall be in conformity with the Comprehensive Plan and Policy Statements of the Town and with the provisions of all pertinent local ordinances and regulations, and State and Federal laws and regulations.

B. MUNICIPAL SERVICES

The proposed development shall not have an unreasonable adverse impact on the municipal services including municipal road systems, fire department, police department, solid waste program, schools, recreational programs and facilities, and other municipal services and facilities. When the Planning Board finds, based on a recommendation of the selectmen and other departments and the results of any municipal impact analysis, that includes future tax payments that will support municipal services, that municipal services do not have the capacity to provide services to the proposed development, the Planning Board will require one or more of the following.

1. A voluntary payment to the Town of Newry to mitigate the direct impact to municipal services that has been identified as the consequence of the proposed subdivision. Any such payment shall be subject to the following provisions.
 - a. The Board, with advice from the Selectmen, shall find that the money offered will mitigate the identified direct impact of the development.
 - b. The payment shall be held in a reserve account and may only be expended to fund capital improvements agreed to by the applicant and Board to mitigate the identified direct impacts.
 - c. The payment in all cases shall be expended within five years of collection, unless otherwise agreed upon the Planning Board and applicant.
 - d. Any payment not expended shall be refunded to the property owner(s) of record at the time of the refund with interest as earned by the Town of Newry for the period the payment was held by the Town.

2. The applicant will construct or pay to construct his proportional share of the required improvements necessitated by the development.
3. Require phasing of the subdivision or limiting the number of lots that can be developed at any one time to allow the expansion of municipal services over time.
4. Deny the development.

C. PRESERVATION AND ENHANCEMENT OF THE LANDSCAPE

The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of soil, and retaining existing vegetation during construction. After construction is completed, landscaping shall be implemented that will define, soften or screen the appearance of off-street parking areas, buildings and other structures from the public right-of-way and abutting properties in order to enhance the physical design of the proposed development, and to minimize the encroachment of the proposed uses on neighboring land uses.

D. RELATION OF PROPOSED BUILDINGS TO ENVIRONMENT

Proposed structures shall have a minimal adverse effect on the environmental and aesthetic qualities of the developed and neighboring areas. Special attention shall be paid to the bulk, location and height of the building(s) and such natural features as slope, soil type and drainage ways. For non residential structures the Planning Board shall consider the following criteria.

1. Architectural style is not restricted. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.
2. Buildings shall have good scale and be in harmonious conformance with permanent neighboring development.
3. Materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings.
4. Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public roads.
5. Materials shall be of durable quality.
6. Building components, such as windows, doors and eaves, shall have good proportions and relationships to one another.

7. Colors shall be harmonious and shall use compatible accents.
8. Mechanical equipment or other utility hardware on roof, ground or buildings shall be screened from public view with materials harmonious with the building, or they shall be located so visibility from any public road is minimized. System for wind and solar power and for telecommunications need not meet this standard.
9. Exterior lighting shall be part of the architectural concept. Fixtures, standards and all exposed accessories shall be harmonious with building design. All exterior lighting shall be shielded or hooded
10. Refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened from view from public roads, using materials as stated in criteria for equipment screening.
11. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form and siting shall be used to provide visual interest. In multiple building projects, viable siting or individual buildings may be used to prevent a monotonous appearance.

E. LAND NOT SUITABLE FOR BUILDING

The following areas shall not be built on excluding road and driveway construction.

1. Land which is situated below the normal high water mark of any water body.
2. Land which is located within the one hundred (100) year floodplain, other than roads and driveways which shall be constructed to meet standards contained in the Shoreland Zoning Ordinance and/or Floodplain Management Ordinance where applicable, as identified by the Federal Emergency Management Agency, Flood Insurance Administration, unless the applicant shows proof through the submittal of materials prepared by a Professional Land Survey that the property in question lies at least one (1) foot above the one hundred (100) year flood level. The elevation of filled or made land shall not be considered.
3. Land which is part of a permanent road right-of-way or permanent road easement.
4. Land that has been created by filling or draining a pond or wetland that has not received approval for such filling and draining by the Army Corps of Engineers and/or the Maine Department of Environmental Protection.

5. Land that has been identified as significant wildlife habitat by the Maine Department of Inland Fisheries and Wildlife when a mitigation plan has not been approved by the Maine Department of Inland Fisheries and Wildlife.

F. TOPSOIL AND VEGETATION REMOVAL

1. Topsoil shall be considered part of the development and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations, unless otherwise indicated on an approved site plan.
2. Sufficient residual vegetation shall be left intact to prevent soil erosion following forest practices, landscaping, and cutting of trees to provide access to direct sunlight. The Board shall require a developer to take measures to correct and prevent soil erosion in the proposed development.
3. To prevent soil erosion of shoreline areas (as defined), timber harvesting and clearing or removal of vegetation for development shall comply with the regulations set forth in the Shoreland Zoning Ordinance.

G. EROSION AND SEDIMENTATION CONTROL

The following measures relating to conservation, erosion and sediment control shall be included where applicable as part of all projects submitted for review and approval under this Ordinance.

1. All excavation shall be undertaken by contractors Certified in Erosion and Sediment Control by the Maine Department of Environmental Protection.
2. The Planning Board shall require the developer and/or owners to prevent soil erosion and sediment transport on the site and onto adjacent and downstream properties. Erosion control practices shall conform to the *Maine Erosion and Sediment Control Handbook for Construction Best Management Practices*.
3. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following best-management practices:
 - a. Stripping of vegetation, soil removal and re-grading or other development shall be done in such a way as to minimize erosion;
 - b. Development shall keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water run-off;
 - c. Whenever feasible, natural vegetation shall be retained, protected and supplemented;
 - d. The disturbed area and the duration of exposure shall be kept to a

practical minimum;

- e. Disturbed soils shall be stabilized as quickly as practicable;
- f. Temporary vegetation or mulching shall be used to protect disturbed areas during development;
- g. Until the disturbed area is stabilized, sediment in the run-off water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods;
- h. The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified by the Board.
- i. During grading operations, methods of dust control shall be employed wherever practicable.
- j. Whenever sedimentation is caused by stripping vegetation, re-grading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible.

H. STORMWATER MANAGEMENT

1. For projects that require a Department of Environmental Protection (DEP) review under the Site Location of Development Act (SLDA), a stormwater management plan shall be submitted which complies with the SLDA permit and the requirements of DEP Chapter 500 Stormwater Regulations.
2. For projects that do not require a SLDA permit, but require a DEP permit under the Stormwater Law, a stormwater management plan shall be submitted which complies with the requirements of DEP Chapter 500 Stormwater Regulations.
3. For projects that neither require a SLDA permit, nor a DEP permit under the Stormwater Law, a stormwater management plan shall be submitted which incorporates adequate provision for the management of the quantity and quality of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, underdrains, storm drains and best management practices equivalent to those in the most recent edition of *Stormwater Management for Maine: BMPS Technical Design Manual*, published by the Maine Department of Environmental Protection (2006).
4. Where necessary to achieve the above standards, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or

other means of channeling surface water within the subdivision and over other properties.

5. The storm drainage system will not adversely affect neighboring properties, downstream water quality, or cause soil erosion. Whenever possible, on-site absorption of run-off waters shall be utilized to minimize discharges from the site.
6. Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

I. BORROW PITS

This Ordinance applies to all borrow pits less than five (5) acres in size in the Town of Newry. Any pit less than one (1) acre in size needs only a permit by the Code Enforcement Officer. Any pit of between one (1) and of less than five (5) shall require a permit issued by the Planning Board. In issuing a permit for a borrow permit the Code Enforcement Officer or the Planning Board shall find the requirement in Sections 1 and 2 below will be met. When a pit is reviewed by the Planning Board Site Plan Review approval in accordance with this ordinance is required. For pits of five or more acres will require a permit issued by the Maine Department of Environmental Protection. The application and permit shall be filed with the Code Enforcement Officer. This includes gravel, sand, clay and pits used in the removal of other minerals.

1. General Restrictions
 - a. No borrow pit shall be excavated to a depth of any less than two (2) feet above the normal high water level of an identified aquifer.
 - b. No borrow pit shall have bank slopes of greater than 2 horizontal to 1 vertical.
 - c. No borrow pit shall be overhanging sod, earth or material which could present a dangerous condition.
 - d. No borrow pit shall be located closer to the nearest property line from the top of the 2 to 1 slope than twenty-five (25) feet for a pit less than one (1) acre; fifty (50) feet for pits of one (1) to five (5) acres.
 - e. No borrow pit shall be closer than sixty (60) feet to a public road or be excavated to a depth that may cause an unsafe condition with respect to the roadbed or utilities located within the right-of-way.
 - f. No borrow pit shall be located closer than one-hundred (100) feet from existing or an approved disposal system.

2. General Standards

- a. All borrow pits covered by this Ordinance shall have a visual buffer located between the pit and any public road.
- b. When conducting mineral exploration activities and creating and maintaining access ways, provisions shall be made to effectively stabilize all areas of disturbed soil of the borrow pit to avoid erosion and sedimentation of surface waters. These measures shall include seeding, mulching and fertilizing to insure effective stabilization.
- c. All borrow pits excavated below road level shall have a safety berm constructed between the pit and any public or private road. This shall be of sufficient height and thickness to prevent vehicles from accidentally entering the pit.
- d. All borrow pits between one (1) and five (5) acres shall be regraded, mulched and seeded within ninety (90) days from the date that the pit is determined by the Code Enforcement Officer to be played out.

J. SITE CONDITIONS

1. During construction, the site shall be maintained and left each day in a safe and sanitary manner and any condition which could lead to personal injury or property damage shall be immediately corrected by the developer upon an order by the Code Enforcement Officer or other authorized personnel. The developer shall make provision for disposal of oil and grease from equipment and the site area should be regularly treated to control dust from construction activity.
2. Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris, and excess or scrap building materials shall be removed or destroyed immediately upon the request of and to the satisfaction of the Code Enforcement Officer.
3. No change shall be made in the elevation or contour of any lot or site by the removal of earth to another lot or site other than as shown on an approved plans. Minimal changes in elevations or contours necessitated by the field conditions may be made as long as change does not substantially, negatively impact the site.

K. PLUMBING

All plumbing and sewage disposal shall be in conformance with the State of Maine Law and the State Plumbing Code and Subsurface Waste Water Disposal Rules.

L. WATER SUPPLY

1. The Planning Board may allow the use of individual wells or a private central water supply system.
2. When a development is to be served by a central water supply system, the complete supply system, including any required fire ponds and dry hydrants, shall be installed at the expense of the developer.
3. If a central water supply system is provided by the developer, the location and protection of the source as well as the design, construction, and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10144 A.C.M.R 231).

M. UTILITIES

1. Any utility installations above ground shall be located so as to have a harmonious relation to neighboring properties and the site.
2. The size, type, and location of street lights and underground utilities shall be shown on the plan and approved by the Planning Board.

N. SIGN STANDARDS

Sign shall comply with the Town of Newry Sign Ordinance.

O. LIGHTING DESIGN STANDARDS

1. In connection with each site plan, the applicant shall submit plans for all proposed exterior lighting. These plans shall include the location, type of light, radius of light, manufacturer's specification sheet and the intensity in foot-candles.
2. All exterior lighting shall be designed, shielded or hooded and located and maintained to avoid undue glare, adverse impacts on neighboring properties and rights-of-ways, and the unnecessary lighting of night sky.
3. All exterior lighting shall be designed to minimize adverse impact on neighboring properties.

P. DUST, FUMES, VAPORS, GASES, ODORS, GLARE, AND EXPLOSIVE MATERIALS

1. Emission of dust, dirt, fly ash, fumes, vapors or gases which unreasonably affect human health, animals, vegetation or property or which could soil or

stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission, shall be prohibited.

2. No land use or establishment shall be permitted to produce unreasonable offensive or harmful odors perceptible beyond their lot lines, measured either at ground or habitable elevation, excepting normal agricultural practices.
3. No land use or establishment shall be permitted to produce a strong, dazzling light or reflection of that light beyond its lot lines onto neighboring properties or onto any private or public road so as to impair the vision of the driver of any vehicle upon that private or public road.
4. No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, unless they are stored in compliance with the current requirements of the National Fire Protection Association (NFPA) and the State of Maine.

Q. RESERVED

R. REFUSE DISPOSAL

The applicant shall provide for the disposal of all hazardous, solid and liquid wastes on a timely basis and in an environmentally safe manner. The Planning Board shall consider the impact of particular industrial or chemical wastes or by-products upon the town's waste disposal system (in terms of volume, flammability or toxicity) and may require the applicant to dispose of such wastes elsewhere, in conformance with all applicable state and federal regulations. The Planning Board may require the applicant to specify the amount and exact nature of all industrial or chemical and hazardous wastes to be generated by the proposed operation.

S. PROTECTION OF SIGNIFICANT FISHERIES AND WILDLIFE HABITAT

Applicants proposing to develop land in or within 75 feet of fish or wildlife resources identified in the Newry Comprehensive Plan or by the Maine Department of Inland Fisheries and Wildlife shall consult with a recognized wildlife or fisheries consultant or the Maine Department of Inland Fisheries and Wildlife and provide their written comments to the Planning Board. The Planning Board may consult with the Maine Department of Inland Fisheries and Wildlife and may impose any recommendations by the Maine Department or consultant as conditions of approval.

T. SCENIC LOCATIONS

The Planning Board shall consider the existence of a scenic site or view location as identified in the Newry Comprehensive Plan and the impact of the proposed development on such a site or view. The Planning Board may require the placement or visual qualities

of structures on lots in such locations as to minimize the negative impacts of the development on such sites and views.

U. ARCHAEOLOGICAL SITES

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

V. HISTORIC LOCATIONS

The Planning Board shall consider the proposed subdivision's impacts on historic buildings and sites as identified in the Newry Comprehensive Plan. When a proposed development will include a historic building or site the applicant will design the development to minimize the impacts on the historic building or site.

W. AGRICULTURAL PROTECTION BUFFER STRIPS

The Planning Board may require buffer strips to separate new uses and agricultural uses. The purpose of the buffer strips is to separate new development that could conflict with active agricultural uses. In determining the width of the buffer strips and the uses allowed in the buffer strips, including wells, the Nutrient Management Law and Nutrient Management Rules shall be considered by the Planning Board.

X. VEHICULAR AND PEDESTRIAN TRAFFIC

When conflicts exist between this Section and a Driveway Permit or Entrance Permit onto Routes 2 and 26 or the Sunday River Road to the Ski Way Road issued by the Maine Department of Transportation, the most stringent or restrictive shall apply.

1. Roads shall be designed and constructed to meet the minimum standards as provided for in Road Design and Construction Standards.
2. In general, provision shall be made for vehicular access to the development and circulation within the development in such a manner as to:
 - a. Safeguard against hazards to traffic and pedestrians on existing roads and within the development.;
 - b. Minimize traffic congestion on any road;
 - c. Provide safe and convenient circulation on public roads and within the

development;

- d. Discourage through traffic in residential subdivisions; and
- e. Should street lighting be required by the Board it shall be installed by the developer as approved by the Board. The cost of installation shall be the responsibility of the developer and comply with municipal specifications.

3. Access Control.

- a. Where a lot has frontage on two or more roads, the access to the lot shall be provided to the lot across the frontage and to the road where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall be a condition of plan approval and as a deed restriction to the affected lots.
- b. The Planning Board may require, based upon site distances and volume of traffic, the use of shared or common driveways, where such lots will be accessed by off-site public roads.
- c. Where new roads intersections or driveway curb-cuts are proposed, site distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below.

Posted Speed Limit (MPH)	25	30	35	40	45	50	55
Sight Distance (feet)	200	250	305	360	425	495	570

- 4. Sidewalks or pedestrian easements may be required by the Planning Board to provide safe and convenient access to common areas, existing roads, playgrounds, or other public/private facilities.

Y. GROUND WATER PROTECTION

The following standards shall be utilized by the Planning Board for reviewing development applications located on a mapped sand and gravel aquifer.

- 1. The boundaries of sand and gravel aquifers shall be as delineated on the Sand and Gravel Aquifer Maps prepared by the Maine Geological Survey labeled Maps 14 and 34.
- 2. When the boundaries of the sand and gravel aquifer are disputed due to lack of sufficient detail on available maps, the applicant or agent may submit hydro geologic evidence prepared by a geologist certified in the State of Maine which identifies actual field locations of the aquifer boundaries within the

project area. The Planning Board may require actual field identification if they believe the Maine Geological Survey Maps are incorrect.

3. Based on the size, location, surrounding uses or other characteristics of the proposed use or site to determine compliance with the requirements of this section, the Planning Board may require submittal by the applicant of a hydro geologic impact study. The impact study shall be prepared by a State of Maine Certified Geologist with experience in hydro geology. The study shall contain the following components unless waived by a specific vote of the Board.
 - a. A map showing: (1) soil types; (2) surficial geology on the property; (3) the recommended sites for individual subsurface waste water disposal systems and wells in the development; and (4) direction of ground water flow. (The Planning Board expects the detail of this study to vary with the intensity of the development.)
 - b. The relationship of surface drainage conditions to ground water conditions.
 - c. Documentation of existing ground water quality for the site.
 - d. A nitrate nitrogen analysis or other contaminant analysis as applicable including calculation of levels at the property line(s) and well(s) on the property.
 - e. A statement indicating the potential sources of contamination to ground water from the proposed use and recommendations on the best technologies to reduce the risks.
 - f. For water intensive uses, analysis of the effects of aquifer drawdown on the quantity and quality of water available for other water supplies or potential water supplies.
 - g. The Planning Board may require installation and regular sampling of water quality monitoring wells for any use or proposed use deemed to be a significant actual or potential source of pollutants or excessive drawdown. The number, location and depth of monitoring wells shall be determined as part of the hydro geologic study, and wells shall be installed and sampled in accordance with "Guidelines for Monitoring Well Installation and Sampling" (Tolman, Maine Geologic Survey, 1983). Water quality sample results from monitoring wells shall be submitted to the Code Enforcement Officer with evidence showing that contaminant concentrations meet the performance standard for pollution levels.
 - h. A list of assumptions made to produce the required information.

4. Conditions/Standards

- a. No use including home occupations shall dispose of other than normal domestic waste water on-site without approval of the permit granting authority. Disposal of waste water shall be in strict compliance with the Maine Subsurface Wastewater Disposal Rules and other relevant State and local laws, rules and ordinances.
- b. Indoor use or storage facilities where hazardous materials, wastes or other liquids with the potential to threatened ground water quality are used or stored shall be provided with containment which is impervious to the material being stored and have the capacity to contain 10 percent of total volume of the containers, or 110 percent of the volume of the largest container, whichever is larger.
- c. Petroleum and Other Hazardous Material or Waste Transfer. A Spill Control and Countermeasure Plan shall be submitted and approved by the Planning Board.
- d. In those areas identified as sand and gravel aquifers the following land uses are prohibited unless the Planning Board finds that no discharges will occur such that water quality at the property line will fall below State Drinking Water Standards and all provisions of this ordinance are met.

dry cleaners	photo processors
printers	auto washes
Laundromats	salt piles/sand-salt piles
wood preservers	
industrial waste disposal/impoundment areas	
landfills/dumps/transfer stations	
junk and salvage yards graveyards	
concrete/asphalt/tar/coal companies	

Z. NOISE

The proposed development shall not raise noise levels to the extent that abutting or nearby residents are adversely affected.

1. Sound Level Limits

a. Sound from Routine Operation of Facility.

The hourly sound levels resulting from routine operation of the facility and measured in accordance with the measurement procedures described in subsection 4 (Measurement Procedures) shall not exceed the following limits:

- i The hourly sound levels resulting from routine operation of the Facility shall not exceed the following limits at that Protected Location:

55 dBA between 7:00 a.m. and 10:00 p.m.
(the "daytime hourly limit"), and
45 dBA between 10:00 p.m. and 7:00 a.m.
(the "nighttime hourly limit").

- (a) For the purposes of determining compliance with the above sound level limits, 5 dBA shall be added to the measured levels of any tonal sounds that result from routine operation of the facility.
- (b) When routine operation of a facility produces short duration repetitive sound, that due to their character and/or duration, are particularly annoying or pose a threat to the health and welfare of nearby neighbors, 5 dBA shall be added to the observed levels of the short duration repetitive sounds that result from routine operation of the facility . The maximum sound level of the short duration repetitive sounds shall not exceed the following limits:

65 dBA between 7:00 a.m. and 10:00 p.m., and
55 dBA between 10:00 p.m. and 7:00 a.m.

2. Sound from Construction and Maintenance of a Facility

- a. The sound from construction activities between 7:00 p.m. and 7:00 a.m. is subject to the following limits:

- i. Sound from nighttime construction activities shall be subject to the nighttime routine operation sound level limits contained in subsections 1.a.

- ii If construction activities are conducted concurrently with routine operation of the facility, then the combined total of construction and routine operation sound shall be subject to the nighttime routine operation sound level limits contained in subsections 1.a.
- iii. Higher levels of nighttime construction sound are permitted when a duly issued permit authorizing nighttime construction sound in excess of these limits has been granted by the Codes Enforcement Officer.

- b. Sound from construction activities between 7:00 a.m. and 7:00 p.m. shall not exceed the following limits at any Protected Location:

Duration of Activity	Hourly Sound Level Limit
12 hours	87 dBA
8 hours	90 dBA
6 hours	92 dBA
4 hours	95 dBA
3 hours	97 dBA
2 hours	100 dBA
1 hour or less	105 dBA

- c. All equipment used in construction on the facility site shall comply with applicable federal noise regulations and shall include environmental noise control devices in proper working condition, as originally provided with the equipment by its manufacturer.
- d. Sound from routine, ongoing maintenance activities shall be considered part of the routine operation of the facility and the combined total of the routine maintenance and operation sound shall be subject to the routine operation sound level limits contained in section 1.
- e. Sound from occasional, major, scheduled overhaul activities shall be subject to the construction sound level limits contained in section 2.b. If overhaul activities are conducted concurrently with routine operation and/or construction activities, the combined total of the overhaul, routine operation and construction sound shall be subject to the construction sound level limits contained in section 2.b

- 3. The following uses and activities shall be exempt from the sound pressure level regulations:
 - a. The noises of safety signals, warning devices and emergency reassure relief valves and any other emergency activity.
 - b. Traffic noise on roads.
 - c. Noise associated with snowmaking.

- d. Noise associated with competitive, demonstration or exhibition snow events.

4. Measurement Procedures

- a. Scope. These procedures specify measurement criteria and methodology for use, with applications, compliance testing and enforcement. They provide methods for measuring the ambient sound and the sound from routine operation of the facility, and define the information to be reported. The same methods shall be used for measuring the sound of construction and maintenance activities.

- b. Measurement Criteria

- i. Measurement Personnel

- Measurements shall be by personnel who hold professional qualifications in measurement and evaluation of environmental sound.

- ii. Measurement Instrumentation

- (a) A sound level meter or alternative sound level measurement system used shall meet all of the Type 1 or 2 performance requirements of American National Standard Specifications for Sound Level Meters, ANSI S1.4-1983.
 - (b) An integrating sound level meter (or measurement system) shall also meet the Type 1 or 2 performance requirements for integrating/averaging in the International Electrotechnical Commission Standard on Integrating-Averaging Sound Level Meters, IEC Publication 804 (1985).
 - (c) A filter for determining the existence of tonal sounds shall meet all the requirements of American National Standard Specification for Octave-Band and Fractional Octave-Band Analog and Digital Filters, ANSI S1.11-1986 for Order 3, Type 3-D performance.
 - (d) An acoustical calibrator shall be used of a type recommended by the manufacturer of the sound level meter and that meets the requirements of American National Standard Specification for Acoustical Calibrators, ANSI S1.40-1984.
 - (e) A microphone windscreen shall be used of a type recommended by the manufacturer of the sound level meter.

iii. Calibration

- (a) The sound level meter shall have been calibrated by a laboratory within 12 months of the measurement, and the microphone's response shall be traceable to the National Bureau of Standards.
- (b) Field calibrations shall be recorded before and after each measurement period and at shorter intervals if recommended by the manufacturer.

iv. Measurement Location, Configuration and Environment

- (a) Except as noted in subsection (ii) below, measurement locations shall be at nearby Protected Locations that are most likely affected by the sound from routine operation of the facility.
- (b) For determining compliance with the 75 dBA Protected Location hourly sound level limit described in subsection 1.a.i, measurement locations shall be selected at the Protection Locations of the proposed facility or contiguous property owned by the Applicant, as appropriate.
- (c) The microphone shall be positioned at a height of approximately 4 to 5 feet above the ground, and oriented in accordance with the manufacturer's recommendations.
- (d) Measurement locations should be selected so that no vertical reflective surface exceeding the microphone height is located within 30 feet. When this is not possible, the measurement location may be closer than 30 feet to the reflective surface, but under no circumstances shall it be closer than 6 feet.
- (e) When possible, measurement locations should be at least 50 feet from any regulated sound source on the facility.
- (f) Measurement periods shall be avoided when the local wind speed exceeds 12 mph and/or precipitation would affect the measurement results.

c. Measurement of Ambient Sound

i. Pre-development Ambient Sound

- (a) Measurements shall be made at representative Protected Locations for periods of time sufficient to adequately characterize the ambient sound. At a minimum, measurements shall be made on three different weekdays (Monday through Friday) during all hours that the facility will operate. If the proposed facility will operate on Saturdays and/or Sundays, measurements shall also be made during all hours that the facility will operate.
 - (b) Measurement periods with particularly high ambient sounds, such as significant insect activity should generally be avoided.
 - (c) At any measurement location the daytime and nighttime ambient hourly sound level shall be computed by arithmetically averaging the daytime and nighttime values of the measured one hour equivalent sound levels. Multiple values, if they exist, for any specific hour on any specific day shall first be averaged before the computation described above.
- ii. Post-Facility Ambient Sound
- (a) Measurements of the post-facility ambient one hour equivalent sound levels and, if short duration repetitive sounds are produced by the facility, the maximum sound levels made at nearby Protected Locations and during representative routine operation of the facility that are not greater than the applicable limits of section 3 clearly indicate compliance with those limits.
 - (b) Compliance with the limits of subsection 1.a may also be demonstrated by showing that the post-facility ambient hourly sound level, measured in accordance with the procedures of subsection c.i above during routine operation of the facility, does not exceed the pre-development ambient hourly sound level by more than one decibel, and that the sound from routine operation of the facility is not characterized by either tonal sounds or short duration repetitive sounds.
 - (c) Compliance with the limits of section 1.a.i.(b) may also be demonstrated by showing that the post facility maximum sound level of any short duration repetitive sound, measured in accordance with the procedures of subsection c.i above, during routine operation of the facility, does not exceed the

pre-development ambient hourly sound level by more than five decibels.

- iii. If any of the conditions in (a), (b) or (c) above are not met, compliance with respect to the applicable limits must be determined by measuring the sound from routine operation of the facility in accordance with the procedures described in section 4.
- d. Measurement of the Sound from Routine Operation of Facility.
 - i. General
 - (a) Measurements of the sound from routine operation of facilities are generally necessary only for specific compliance testing purposes in the event that community complaints result from operation of the facility, for validation of an Applicant's calculated sound levels when requested by the planning board, for determination of existing hourly sound levels for an existing facility or for enforcement by the Codes Enforcement Officer.
 - (b) Measurements shall be obtained during representative weather conditions when the facility sound is most clearly noticeable. Preferable weather conditions for sound measurements at distances greater than about 500 feet from the sound source include overcast days when the measurement location is downwind of the facility and inversion periods (which most commonly occur at night).
 - (c) Measurements of the facility sound shall be made so as to exclude the contribution of sound from facility equipment that is exempt from this regulation.
 - ii. Measurement
 - (a) When the ambient sound levels are greater than the sound level limits, additional measurements can be used to determine the hourly sound level that results from routine operation of the facility. These additional measurements may include diagnostic measurements such as measurements made close to the facility and extrapolated to the Protected Location, special checkmark measurement techniques that include the separate identification of audible sound sources, or the use of sound level meters with pause capabilities that allow the operator to exclude non-facility sounds.

- (b) For the purposes of computing the hourly sound level resulting from routine operation of the facility, sample diagnostic measurements may be made to obtain the one hour equivalent sound levels for each sound component.
 - (c) Identification of tonal sounds produced by the routine operation of a facility for the purpose of adding the 5 dBA penalty in accordance with section 1.a.i.(a) requires aural perception by the measurer, followed by use of one-third octave band spectrum analysis instrumentation. If one or more of the sounds of routine operation of the facility are found to be tonal sounds, the hourly sound level component for tonal sounds shall be computed by adding 5 dBA to the one hour equivalent sound level for those sounds.
 - (d) Identification of short duration repetitive sounds produced by routine operation of a facility requires careful observations. For the sound to be classified as short duration repetitive sound, the source(s) must be inherent to the process or operation of the facility and not the result of an unforeseeable occurrence. If one or more of the sounds of routine operation of the facility are found to be short duration repetitive sounds, the hourly sound level component for short duration repetitive sounds shall be computed by adding 5 dBA to the one hour equivalent sound level for those sounds. If required, the maximum sound levels of short duration repetitive sounds shall be measured using the fast response [LAFmax]. The duration and the frequency of occurrence of the events shall also be measured. In some cases, the sound exposure levels of the events may be measured. The one hour equivalent sound level of a short duration repetitive sound may be determined from measurements of the maximum sound level during the events, the duration and frequency of occurrence of the events, and their sound exposure levels.
 - (e) The daytime or nighttime hourly sound level resulting from routine operation of a facility is the energy sum of the hourly sound level components from the facility, including appropriate penalties, (see (c) and (d) above). If the energy sum does not exceed the appropriate daytime or nighttime sound level limit, then the facility is in compliance with that sound level limit at that Protected Location.
- e. Reporting Sound Measurement Data. The sound measurement data report should include the following:

- i. The dates, days of the week and hours of the day when measurements were made.
- ii. The wind direction and speed, temperature, humidity and sky condition.
- iii. Identification of all measurement equipment by make, model and serial number.
- iv. The most recent dates of laboratory calibration of sound level measuring equipment.
- v. The dates, times and results of all field calibrations during the measurements.
- vi. The applicable sound level limits, together with the appropriate hourly sound levels and the measurement data from which they were computed, including data relevant to either tonal or short duration repetitive sounds.
- vii. A sketch of the site, not necessarily to scale, orienting the facility, the measurement locations, topographic features and relevant distances, and containing sufficient information for another investigator to repeat the measurements under similar conditions.
- viii. A description of the sound from the facility and the existing environment by character and location.

A.A. BUFFERS AND SCREENING STANDARDS

Buffers may be considered in or for the following areas and purposes:

1. Along property lines to shield incompatible uses from each other;
2. Along interior roads running parallel to roads exterior to the site, to prevent confusion, particularly at night;
 - a. Parking areas, garbage collection areas, and loading and unloading areas; and
 - b. To block prevailing wind patterns and to stop wind-borne debris from leaving the site.
3. Buffers in the form of fences, landscaping, berms and mounds may be required to minimize any adverse impacts or nuisance on the site of on adjacent properties.
4. All plantings shall be of a type and species appropriate for the soil types and climatic conditions in the Town of Newry.
5. Buffers shall be sufficient to shield structures and uses from the view of incompatible abutting properties and public road ways, and to otherwise prevent any nuisances.

6. Exposed storage areas, service areas, exposed machinery installation, sand and gravel extraction operations, truck-loading areas, utility buildings and structures, and areas used for the storage or collection of discarded automobiles, auto parts, metals or any other articles of salvage or refuse, and similar accessory areas and structures, shall have sufficient setbacks and screening to provide an audio/visual buffer sufficient to minimize their adverse impact on other land uses within the development site and surrounding properties, such as a stockade fence or a dense evergreen hedge six (6) feet or more in height.
7. Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and shall be maintained in good condition.
8. Natural features shall be maintained wherever possible to provide a buffer between the proposed development and incompatible abutting properties and public roadways. When natural features such as topography, gullies, stands of trees, shrubbery, rock outcrops do not exist or are insufficient to provide a buffer, other kinds of buffers shall be considered.
9. Evergreens can be used as buffers, provided they are planted properly. An evergreen buffer requires two (2) or three (3) rows of staggered plantings. The rows should be five (5) feet apart and the evergreens planted four (4) feet on center.
10. Fencing and screening shall be durable and properly maintained at all time by the owner. Fencing and screening shall be so located within the property line to allow access for maintenance on both sides without intruding upon abutting properties.
11. All buffer areas shall be maintained in a neat and sanity condition by the owner.

A.B. HOME OCCUPATIONS

Home Occupations which do not meet the criteria contained in Section I.D.5 a-e shall obtain a permit from the Planning Board and comply with the following conditions:

1. The business must be incidental and secondary to the primary residential use of the premises;
2. At least one member of the residential household must own the business and be actively involved in the business and have control over the business activities. There will be not more than two full or part-time employees

working on the premises, other than immediate family members residing on the premises;

3. The appearance of the structure or accessory structure may not be altered, except as provided under subsection 4 below and the occupation within the residence must be conducted in a manner that would not cause the residence to differ from its residential character by means of colors, lights or sounds;
4. Additions to the residence or accessory structure for the express purpose of a home occupation shall be constructed and finished in the same manner as the original structure such that the character and appearance of the principal structure is maintained.
5. Retail sales shall be limited to the sale of products or goods produced, fabricated or substantially altered on the premises as a result of the home occupation. This may include products that are not manufactured on the premises as defined above, but which are customarily incidental to the product created by the home occupation.
6. There is adequate off-street parking on the premises for customer or client use.
7. There is no objectionable increase in vehicle traffic over that traffic normal for the neighborhood.
8. It does not adversely affect any natural resource or environmentally sensitive area including, but not limited to, a wetland, aquifer, watercourse, or water body.
9. The home occupation shall not generate any nuisance, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare, radiation, fumes, or electrical interference detectable to the normal senses or which interferes with normal radio or television reception, or causes other nuisances which extend beyond the limits of the subject property. All waste material from the home occupation shall be removed promptly from the premises, according to state laws and local ordinances.

A.C. RESIDENTIAL LIFE SAFETY AND FIRE SUPPRESSION

1. Residential Fire Protection Options

All subdivisions created on or after the effective date of this Ordinance shall implement one of the following options to provide residential fire protection within the subdivision.

- a. Install within each dwelling unit as defined by this ordinance the appropriate NFPA 13 sprinkler system.
- b. Install a 40,000 gallon cistern with appropriate hydrant constructed as outlined in subsections 4, 5, and 6 below.
- c. Install a fire pond, containing a minimum of 75,000 gallons of water with 40,000 gallons usable year round supply in storage as certified by a Registered Maine Licensed Professional Hydrologist or Licensed Professional Engineer with an appropriate hydrant constructed as outlined in subsections 4, 5 and 6 below.

2. Documentation of Approved Residential Fire Protection Option

Approved option, ownership and maintenance responsibility shall be depicted in detail on approved plan.

3. Sprinkler Systems

A Fire Sprinkler Permit shall be obtained from the State Fire Marshall's Office. A copy of which, when obtained, shall be submitted to the Code Enforcement Officer.

4. Location of Cisterns:

The location of cisterns or fire ponds shall not exceed the following.

- a. Not more than 1,500 linear road feet and 300 feet vertically measured from hydrant head to the mid point of the lot's road frontage on which lot the dwelling is located.
- b. Roads used to determine the distances in Section 4.a above must meet the standards of Section XIV of this Ordinance.

5. Water Storage Facilities

- a. Cisterns
 - i. Water storage cisterns shall be protected and maintained by owner, from disturbance of frost and other natural soil actions.

- ii. Soils over cisterns shall be graded smooth with a maintained surface, by owner, to be free of trees, shrubs, brush and grass fourteen (14) inches or higher.

b. Fire Ponds

The purpose of the fire pond shall be to meet a water supply requirement of five hundred (500) gallons per minute for the duration of two (2) hours. Water delivery may be through either dry or wet hydrants.

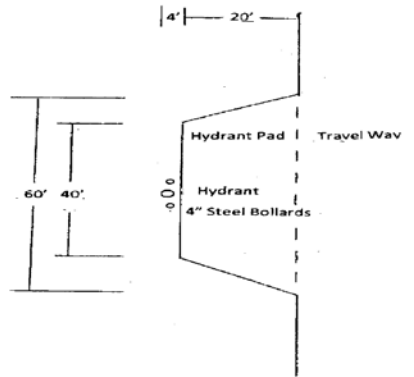
- i. Fire ponds shall be installed and maintained by owner to not have any trees, shrubs, brush or grass fourteen (14) inches or higher within ten (10) feet of its high water mark.
- ii. Fire ponds shall be designed with a maximum 2:1 sloped bank, and with a minimum depth of ten (10) feet.
- iii. Fire pond storage levels shall be maintained at all times by a sustained water source. An overflow system shall be installed to handle the projected overflow.
- iv. A fire pond shall be dredged, by owner, if it becomes affected by vegetation and or silt as determined by the Newry Fire Department.

6. Hydrants:

All hydrants and their access placement, associated piping and materials are to be installed as follows. The applicant and the Fire Department shall be in agreement of final hydrant placement before any hydrants are installed.

- a. All hydrants must be maintained by owner and accessible for use at all times throughout the entire year. Snow will be removed from around any hydrant, so that fire equipment can maneuver next to and around the hydrant area
- b. Access and location of hydrants shall comply with figure A.C.1. and hydrant pad area shall be no greater than two (2) percent slope.

Figure A.C. 1



Amendments Adopted March 3, 2015

- c. In cases where the hydrant cannot be located in compliance with Section 4.b. an access road built to standards for a Neighborhood Road shall be constructed accessing the hydrant. The owner will be responsible for maintaining the access road to the hydrant and around the hydrant itself. The hydrant pad area shall be no greater than two (2) percent slope. The access road shall be posted as No Parking Fire Lane.
- d. A deeded right of way or easement shall be given to the Town of Newry to allow the inspection, testing and emergency use of all cisterns, ponds and hydrants in perpetuity.
- e. Fencing is optional, however if a fence is provided it shall be maintained by owner and have a gated access point and a lock box shall be installed holding keys for the gate. Keys for the lock box shall be provided to the Newry Fire Department. The hydrant may be located outside the fence.
- f. All hydrants shall be primed and then painted with red fluorescent paint and protected by a minimum of two, four (4) inch steel bollards placed parallel in line to the pull up parking area three (3) feet on each side of hydrant. Bollards shall be primed and then painted with red fluorescent paint and white reflective tape affixed to the upper (3) inches of bollard.

- g. All Hydrants shall be installed and maintained by owner, to not have any trees, shrubs, brush or grass fourteen (14) inches or higher within ten (10) feet in front of hydrant and within 5 feet in back of hydrant.
- h. Dry hydrants are defined as a non pressurized water pipe installed in a water source where water is obtained by suction through a fire trucks onboard pump. Dry hydrants shall be installed in accordance with the following standards.
 - i. The maximum amount of lift permitted for a dry hydrant shall be fifteen (15) feet, as measured from the surface of the water to the center of the hydrant hose connection.
 - ii. A suction screen shall be formed in the end of the steel or PVC pipe so as not to impede or restrict any water flow by volume. The suction screen shall be raised off the bottom of any fire pond twenty-four (24) inches, and be twenty-four (24) inches away from any of the sides of the pond.
 - iii. A minimum of six (6) inch schedule (40) steel or PVC piping and fittings shall be utilized from the suction screen to one (1) ninety (90) degree elbow or two (2) forty five (45) degree elbows raising the hydrant above the graded surface.
 - iv. The piping from the suction screen to the ninety (90) degree elbow for the riser below ground shall be schedule forty (40) steel or PVC pipe with a distance of no more than 50 feet.
 - v. The riser piping and ninety (90) degree elbows shall be schedule forty (40) steel or PVC.
 - vi. The riser piping shall be exposed above grade level thirty-six (36) inches as measured from the center of the hydrant opening to the grade level of the fire equipment's parking location.
 - vii. The ninety (90) degree elbow below ground shall have six (6) feet of cover measured from elbow to finished grade.
 - viii. The hydrant hose connection shall be aluminum or bronze with six (6) inch National Standard Thread (NST). Additional piping and fittings shall be a minimum of schedule forty (40) steel or PVC.
 - ix. All pipe connections shall be cleaned and welded so as to provide airtight connections.

- i. Wet hydrants are defined as hydrants, which under normal conditions have a positive water pressure.
- j. All Pressure Hydrants shall be NFPA Standard 24.
- k. Static Pressure at the hydrant shall be greater than zero (0) pounds per square inch and less than one hundred and fifty (150) pounds per square inch.
- l. Wet hydrants shall be placed not more than four (4) feet from the edge of the road shoulders.

[Note: Amendments to UDRO Section A.C. adopted at Town Meeting on March 3, 2015]

A.D. COMMERCIAL WIND ENERGY FACILITIES

In addition to other the standards contained in this Ordinance Commercial Wind Energy Facilities shall comply with the following. Where conflicts occur between these and other standards of this Ordinance the more restrictive shall apply.

An Operation Permit is required for Wind Energy Facilities. Two Year Permits shall be issued by the Town upon demonstration of compliance with the Ordinance.

1. Design Safety Certification

Each Wind Turbine shall be certified that it conforms to all applicable industry standards including those of the American National Standards Institute (ANSI) and at least one of the following: Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organization.

2. Structure Type

With the exception of Meteorological (MET) Towers, towers shall be monopoles with no guy wires.

3. Blade Clearance

The minimum distance between the ground and all blades of a Wind Turbine shall be 25 feet as measured at the lowest arc of the blades.

4. Signal Interference

The Wind Energy Facility shall not produce electromagnetic interference with radio, television, cellular service or internet reception.

5. Overspeed Controls and Brakes

Each Wind Turbine shall be equipped with an overspeed control system that includes both an aerodynamic control such as stall regulation, variable blade pitch, or other similar system, and a mechanical brake that operates in fail safe mode certified by the manufacturer.

6. Voltage Warnings

A clearly visible warning sign that conform to applicable ANSI and OSHA standards concerning voltage must be placed at the base of all pad-mounted transformers and substations.

7. Visual Appearance

- a. A Wind Turbine shall have a non-obtrusive color such as white, off-white or gray, with a matte finish, or as may otherwise be required by another governmental agency with jurisdiction over the Wind Energy Facility.
- b. A Wind Turbine shall not be lighted artificially, 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 Wind Energy Facility.
- c. A Wind Turbine 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, and for warnings.

8. Shadow Flicker and Blade Reflection

Shadow flicker and blade reflection shall not result in the following:

- a. More than 30 hours of flicker per year on any non-participating occupied building regardless in which municipality it may be located.
- b. More than 10 hours of flicker per year on any public or private road that interferes with traffic movement safety.
- c. Flicker at intersections of any public and/or private roads that interferes with traffic safety.

9. Use of Public Roads

- a. The Applicant shall identify all municipal maintained public roads to be used, to transport earthen materials, equipment and parts for construction, operation or maintenance of a Wind Energy Facility.
- b. The Town Engineer or a qualified third-party engineer retained by the Planning Board and paid for by the Applicant shall document road and bridge conditions prior to construction. The Town Engineer or third-party engineer shall document road and bridge conditions again thirty (30) days after construction is complete or as weather permits and provide an assessment to the Planning Board of damage to roads and bridges attributable to the Wind Energy Facility construction.
- c. The Applicant shall demonstrate, to the satisfaction of the Planning Board, that it has financial resources sufficient to comply with subsection d, below, and the Planning Board shall require the Applicant to post a bond or other security in order to ensure such compliance.
- d. Road and/or bridge damage determined to have been caused by the Applicant or its contractors shall be repaired to the satisfaction of the Town Engineer or third-party engineer at the Applicant's expense in the time period specified by the Town Engineer or third-party engineer.

10. Safety Setbacks

Wind Turbines shall be set back, at a minimum, a horizontal distance equivalent to 150% of the Turbine Height from property boundaries, public and private rights-of-way and overhead utility lines that are not part of the proposed Generating Facility, regardless of the municipality in which located, except that the Planning Board may allow a reduced setback if the Applicant submits, in writing a legally binding waiver of the property boundary setback signed by the pertinent abutting landowner.

11. Local Emergency Services

- a. The Applicant shall provide a copy of the project summary and site plan to local emergency service providers, including paid or volunteer fire department(s).
- b. Upon request, the Applicant shall cooperate with emergency service providers to develop and coordinate implementation of an emergency response plan.
- c. A Wind Turbine shall be equipped with an appropriate fire suppression system to address fires within the Nacelle portion of the turbine or shall otherwise address the issue of fire safety to the satisfaction of the Planning Board.

12. Insurance

The Applicant, Owner/operator and Licensee, as applicable, shall maintain a current appropriate insurance policy for the Wind Energy Facility that covers bodily injury and property damage in an amount commensurate with the scope and scale of the Wind Energy Facility, and acceptable to the Planning Board, which acceptance shall not be unreasonably withheld. Certificates of insurance shall be provided to the Town annually.

The policy must include the requirement that the Town will be provided at least ten days notice by the policy provider in the case of cancellation or change to the policy.

13. Public Inquiries and Complaints

- a. The Applicant or its designee shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the Wind Energy Facility.
- b. The Applicant or its designee shall provide the Code Enforcement Officer with a written notice that a complaint has been received within 10 days of its receipt. Then within 20 days of the date that the applicant or its designee received the complaint the applicant or its designee shall provide the Code Enforcement Officer with written notice of how the complaint was responded to.

14. Decommissioning

The Wind Energy Facility shall be decommissioned within twelve months after it ceases to generate electricity, or after any permit has been revoked.

- a. Decommissioning shall include removal and disposal off-site of all parts of the Wind Energy Facility (including foundations) in accordance with local, state and federal laws and regulations. Areas of disturbed earth shall be graded, reseeded, or otherwise re-vegetated, unless the landowner of the affected land requests otherwise in writing.
- b. A Licensed Professional Engineer shall be retained by the Planning Board and paid for by the Applicant to estimate the total cost of decommissioning and itemization of the estimated major expenses, including the projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs may include, but is not limited to, the cost of the following activities: turbine removal, turbine foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and

permanent stabilization and road infrastructure removal and permanent stabilization

- c. No permit for a Wind Energy Facility shall be issued until Decommissioning Funds have been posted by the Applicant with a bonding company or a Federal or State-chartered lending institution (the Escrow Agent) authorized to conduct such business in the State of Maine and approved by the Selectmen. Permit shall be valid for two (2) years subject to renewal as described in item d following.
- d. Estimates as described in section b above shall be redone every two years on the anniversary of the granting of a Wind Energy Facility Permit and shall be submitted to the Town. Upon acceptance of the revised estimates, the Town will issue a two (2) year permit extension. The Owner/Operator of the Wind Energy Facility shall be required to maintain Decommissioning Funds that are at least equal to the most recent estimate
- e. Decommissioning funds may be in the form of a performance bond, surety bond or other form of financial assurance acceptable to the Selectmen.
- f. If the Owner/Operator of the Wind Energy Facility does not complete decommissioning within the prescribed time period the Town may take such action as necessary (including court action, with all legal costs to be paid by applicant) to secure the posted Decommissioning Funds and to ensure completion of the decommissioning.
- g. The Escrow Agent shall not release the Decommissioning Funds except upon written approval of Selectmen.

SECTION XIV: ROAD DESIGN AND CONSTRUCTION STANDARDS

SECTION USER'S GUIDE: This section contains specific road design and construction standards applicable to all developments requiring approval under this Ordinance, particularly subdivisions.

A. GENERAL REQUIREMENTS

- 1. The Planning Board shall not approve any development plan unless proposed roads are designed in accordance with the specifications contained in this Ordinance.

When existing roads or roads right-of-way are utilized as primary roads in a proposed subdivision or site plan review, a road or road right-of-way of three

roads in width will be considered to be acceptable under these standards, however, any such preexisting road or road right-of-way of lesser width shall be evaluated based on conformance of the road design and construction standards for assurance of public safety and sound construction.

Approval of an application by the Planning Board shall not be deemed to constitute or be evidence of acceptance by the Town of any road or easement.

2. Applicants shall submit to the Planning Board, as part of their Final Plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed roads and parking areas. The plans shall include the following information:
 - a. Date, scale, and magnetic or true north point.
 - b. Intersections of the proposed road with existing roads.
 - c. Roadway and right-of-way limits including edge or pavement, edge of shoulder, sidewalks, and curbs.
 - d. Complete curve data shall be indicated for all horizontal and vertical curves.
 - e. Turning radii at all intersections.
 - f. Center line gradients.
 - g. Locations of all existing and proposed overhead and underground utilities.
3. Upon receipt of plans for a proposed public road the Planning Board shall forward one copy to the Selectmen and the Road Commissioner for review and comment. Plans for roads which are not proposed to be accepted by the Town shall be sent to the Road Commissioner for review and comment.

B. ROAD DESIGN STANDARDS

1. These design standards shall be met by all roads within developments reviewed under this Ordinance, and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.
2. Where a development borders an existing narrow road (not meeting the width requirements of the standards for roads, in this Ordinance), or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the development, the development plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) purposes." Land

reserved for such purposes may not be included in computing lot area of setback requirements of this Ordinance. When such widening or realignments indicated on the Official Map, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the Town or State.

3. Where a major subdivision or development abuts or contains an existing Town Road or State Highway, no residential lot may have vehicular access directly on to the Town Road or State Highway except where land use or topographic conditions warrant otherwise. This requirement shall be noted on the Plan and the deeds of any lot with frontage on the Town Road or State Highway.
4. The following design standards apply according to road classification:

DESCRIPTION	Primary	Secondary	Neighborhood
Number of Lanes	2	2	2
Right of Way Width	60 ft.	50 ft.	50 ft.
Traveled Way	22 ft.	20 ft.	18 ft.
Minimum Shoulder Width (each side)	4 ft.	2 ft.	2 ft.
Minimum Grade (for drainage)	0.5%	0.5%	0.5%
Maximum Grade*	12%	15%	15%
Maximum Superelevation	.08'/ft.	.08'/ft.	.08'/ft.
Min. Ctr. Line Radius on Curves	200 ft.**	150 ft.**	150 ft.
Roadway Crown:			
Paved Surface	1.5-3.0%	1.5-3.0%	1.5-3.0%
Gravel Surface	2.0-6.0%	2.0-6.0%	2.0-6.0%
Min. Angle of Intersection	80°	80°	80°
Min. Distance Between Road Intersections:			
Same Side	400 ft.	300 ft.	300 ft.
Opposite Side	200 ft.	150 ft.	150 ft.
Maximum Grade Within 75 ft. of Road Intersection***	3%	4%	5%
Curb Radii:			
90 Intersections	25 ft.	25 ft.	25 ft.
75-90 Intersections	30 ft.	30 ft.	30 ft.
90-105 Intersections	40 ft.	30 ft.	30 ft.
Minimum Right-of-Way Radius at Intersections	20 ft.	20 ft.	20 ft.
Dead End Road: Min. Radius at Turn-Around	86ft.	86ft.	86ft.
(Outside edge of travel way) 70ft.	70 ft.	70ft.	
(Max. grade of Turn-Around****)	3%	4%	5%
Sidewalk Width	5 ft.	5 ft.	5 ft.
Aggregate Sub-Base Screen*****	18 in.	12 in.	12 in.
Hot Bituminous Pavement *****)	2.5 in.	2.0 in.	2.0
Crushed Gravel Surface			
Screen mesh with hot bituminous 1 3/4", without then 4"			
Overhead Clearance	15 ft.	15 ft.	15 ft.
Bridge Clearance*****	14 ft.	14 ft.	14 ft.
Vertical Curve (Minimum "K" Value)			
Crest	55	29	12
Sag	55	49	26

* Maximum grades on Primary and Secondary roads shall be as follows: For any 1/2 mile segment of road the average overall grade shall be 10%. A grade of 12% is permitted for 1000 feet. A grade of 15% is permitted for 150 feet.

** If the road grade exceeds 5%, then the minimum center line radius on curves shall be increased by 50 feet for each additional 1% of grade.

*** This standard applies to road intersections to any non town maintained, primary, secondary and/or neighborhood road. The standard shall not exceed 3% for road intersections to any town maintained road or road proposed to be town maintained.

**** The standard shall not exceed 3% for any town maintained road or road proposed to be town maintained.

***** The aggregate used for sub-base shall conform to the specification set forth in the current State of Maine, Department of Transportation Standard Specifications.

***** Hot Bituminous Pavement shall conform to the specification set forth in the current State of Maine Department of Transportation Standard Specifications.

***** Minimum overhead clearance of bridges is 14 feet and if the bridge occurs over a sag vertical curve added clearance shall be given to allow for 60 foot axle separations.

5. The distance between the profile centerline and the right-of way centerline for an as built primary roadway shall be no more than 7.5'. The distance between the profile centerline and right-of-way centerline for an as-built secondary and neighborhood dead end roadway shall be no more than 5'.

6. Dead End Roads

a. If a road is to be dead-end then a cul-de-sac or hammerhead turnaround must be built at the end of the dead-end. The cul-de-sac must have an eighty-six (86) foot property line radii and a seventy (70) foot outer edge of travel way radii as drawn in Exhibit A to the ordinance. A hammerhead turnaround must have a minimum traveled way and right-of-way as drawn in Exhibit B-1 or B-2 to the ordinance

Cul-de-sacs shall only be used at the end of dead end roads.

b. The Planning Board may require the reservation of a twenty (20) foot easement in line with the dead-end road to provide continuation of pedestrian traffic or utilities to the next road. The Planning Board may also require the reservation of fifty (50) foot easement in line with the dead-end road to provide continuation of the road where future subdivision or development is possible.

7. Grades, Intersections and Sight Distances

a. Grades of all roads shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.

b. All changes in grade shall be connected by vertical curves to provide for the minimum sight distances below.

c. There new road intersections or driveway curb-cuts are proposed, sight distances for all roads and lanes, shall be based upon the posted speed limit and conform to the table below:

POSTED SPEED LIMIT (MPH)	15	20	25	30	35	40	45
SIGHT DISTANCE (FEET)	150	155	200	250	305	360	425

Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

d. Cross (four-cornered) road intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan or at other important traffic intersections. A minimum distance of three hundred (300) feet shall be maintained between centerlines of side roads.

- e. All intersections shall have roads meeting at a minimum intersecting angle of 80 degrees except where an acceleration lane is designed.
 - f. Guard rails shall be installed where a side slope of greater than 3 to 1 is designed or an area of special hazard exists. Guard rails shall be a minimum of 4 feet from the edge of pavement and built to Maine Department of Transportation standards.
 - g. The length of culverts under roadways shall be a minimum of the roadway and shoulder widths plus the sideslope times the invert depth of the culvert. If a shorter culvert than the above design is used guard rail protection must be added.
 - h. Above ground utilities shall be a minimum of 20 feet from the centerline of the road.
 - i. Manhole covers shall be 1/2 inch below finished grade within the right of way and shown on the road plan.
8. Where installed, curbing shall be granite or bituminous concrete and shall be installed on a thoroughly compacted gravel base of six (6) inches minimum thickness, except bituminous curbing shall be installed on the base course of the pavement. The specified pavement's width above shall be measured between the curbs.

C. ROAD CONSTRUCTION STANDARDS

1. Minimum Thickness of Material After Compaction

ROAD MATERIALS	Primary	Secondary	Neighborhood
Aggregate Sub-Base Course:			
Maximum sized stone = 4"	18"	12"	12"
Crushed Aggregate Base Course	2"	2"	2"
Hot Bituminous Pavement			
Total Thickness	2 1/2"	2 "	2"
Surface Course	3/4"	3/4"	3/4"
Compaction	shall meet DOT Standards		

2. Preparation:

- a. All topsoil or loam must be excavated to a solid base and replaced with bank-run gravel or broken rock. All boulders shall be broken off to a depth of not less than 12" below grade.
- b. Slope easements may be required to facilitate maintenance of Town Roads.

Slopes from shoulder to ditch bottom and ditch back slopes shall not be steeper than three feet horizontal to one foot vertical where possible.

- c. All underground utilities should be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections should be installed to the edge of the right-of-way prior to paving.
- d. Culverts shall not be less than fifteen (15) inches in diameter and shall be reinforced concrete, corrugated metal or plastic pipe. Culverts shall be sized to meet drainage conditions and shall be properly installed at both ends of the ditch. Additionally, culverts shall be placed so as not to cause erosion.

3. Bases and Curbs:

a. Pavement Joints:

Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even vertical joint.

b. Curbs and Gutters:

Road curbs and gutters shall be installed as required by the Planning Board. Curbs shall be vertical except when sloped curbs and specifically allowed by the Planning Board.

c. Pavements:

All road surfaces that are to be paved shall be given a bituminous surface treatment in accordance with the State of Maine, Department of Transportation Standard Specifications.

D. CLEANUP

Following road construction, the developer or contractor shall conduct a thorough clean-up of stumps and other 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 suitably covered with fill and topsoil, limed fertilized, and seeded.

E. ROAD NAMES AND SIGNS

Roads which join and are in alignment with roads of abutting or neighboring properties shall bear the same name. Names of new roads shall not duplicate, nor bear phonetic resemblance to the names of existing roads within the Town, and shall be subject to the approval of the E 911 Addressing Officer. All road name, traffic safety and control signs

shall meet the specifications of the town. The developer shall install all required road name, traffic safety and control signs or reimburse the Town for the costs of installing.

F. CERTIFICATION OF CONSTRUCTION OF ROADS

Upon completion of road construction a written certification signed by a licensed professional engineer registered in the State of Maine shall be submitted to the Selectmen at the expense of the applicant, certifying that the road meets or exceeds the design and construction requirements of these regulations. "As built" plans shall be submitted to the Selectmen for roads to be accepted as a town road.

G. ACCEPTANCE OF A ROAD BY THE TOWN TO BECOME A TOWN ROAD

Any owner or developer that wishes to have a road accepted as a town road must meet the following requirements, and make a written petition to the Selectmen with copies sent to the Planning Board and Road Commissioner.

1. Any new road must be paved and connect to an existing Town, County, or State Road to be considered for acceptance as a Town Road.
2. Prior to construction, the drawing of the proposed road showing that the owner plans to meet all of the above minimum requirements and what action is to be taken if any special conditions exist which are not included in the above minimum requirements shall be submitted to the Planning Board for review.
3. The minimum right-of-way, 60' for a primary road and 50' for a secondary and neighborhood road, will be deeded to the Town by warranty deed from the developer or quitclaim deed from each abutting land owner upon acceptance of the road as a Town Road. If the road is to be dead-end (does not connect to an existing Town, County, or State Road on each end or does not connect to itself), then either a cul-de-sac or a hammerhead turn around with right-of-ways is to be deeded to the Town as a turn-around. (See Exhibit A and B for minimum radius, traveled way, and right-of-way requirements for turnaround.)
4. A plan suitable for recording showing boundaries and their markers, drainage, traveled ways, all underground utilities, etc., shall accompany the owners' petition for a Town Road which is to be submitted to the Selectmen.
5. The road shall winter one season before being considered for acceptance to insure proper construction.
6. Any new road must meet State of Maine Department of Transportation's compaction rates prior to acceptance of the road by the Town to become a Town Road.

7. Approval for acceptance of a new or existing road as a Town Road is given by majority vote of a duly called Town Meeting. Planning Board approval of a road plan through either Site Plan Review or Subdivision Review does not constitute approval for acceptance of a road as a Town Road.
8. All road surfaces to be accepted as a Town Road shall be given a hot bituminous surface treatment conforming to the specification set forth in the current Standard Specification Highway and Bridges, State of Maine, Department of Transportation.
9. All striping and line work shall be painted by the developer and shall conform to the specification set forth in the current State of Maine, Department of Transportation Standard Specification.
10. A minimum of one granite monument to establish the right-of-way must be placed by a licensed surveyor hired by the developer.

H. PRIVATE ROADS

Where the development roads are to remain private roads, the following words shall appear on the recorded plan and deed:

"All roads in this development shall remain private roads to be maintained by the developer or the lot/home owners unless accepted by the vote of the Town."

SECTION XV: PARKING AND ENTRANCE DESIGN STANDARDS

SECTION USER'S GUIDE: This section contains specific parking area and site entrance design and construction standards applicable to those development projects proposing and/or requiring on-site, off-street parking and road entrances.

A. GENERAL REQUIREMENTS

1. A use shall not be established or extended and no structure shall be constructed or enlarged unless sufficient off-street automobile parking space is provided.
2. All parking areas proposed to have greater than ten (10) spaces must be designed by a licensed professional engineer.
3. The proposed development layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and control of access points including sight distances, turning lanes, and traffic signalization when required by existing and projected traffic flow on the municipal road systems.

4. The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and arrangement and use of parking areas. Areas used by thru traffic shall not be considered as parking areas.
5. In the design of parking areas, special attention shall be given to the separation of pedestrian and vehicular traffic and the arrangement of parking areas that are safe and convenient, and which have a minimum adverse affect on the design, appearance, and environmental and aesthetic qualities of proposed buildings and structures and neighboring properties.
6. Where the development will abut an existing or potential parking area provisions shall be made for internal vehicular connections that allow vehicles to move between parking areas/lots without having to enter the road.
7. Required off-street parking for all land uses shall be located on the same lot as the principal building or use. The Planning Board may allow the required or provided off-street parking to be located within 300 feet measured along lines of public access. Such off-lot parking areas shall be held in fee simple by the owner of the use served or in such other tenure as assures continued availability for parking as long as the particular land will be needed for such use provided that if tenure is other than ownership in fee simple, the form of tenure shall be approved by the Selectmen before the request is considered by the Board. Evidence of fee simple ownership or approved tenure shall be required.
8. The joint use of a parking facility by two or more principal buildings or uses may be approved by the Planning Board where it is clearly demonstrated that said parking facilities would substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees of such establishments.
9. Off-street parking spaces shall comply with the following standards:
 - a. Except as provided below, each parking space shall contain a rectangular area at least eighteen (18) feet long and nine (9) feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.
 - b. Up to twenty (20) percent of required parking spaces may contain a rectangular area of only eight (8) feet in width by fifteen (15) feet in length. If such spaces are provided, they shall be conspicuously designated as reserved for small or compact cars only.

B. PARKING AREA DESIGN STANDARDS

1. Access: There shall be adequate provisions for ingress and egress to all parking spaces. The width of access drives or driveways shall be determined

as part of site plan review depending on use, topography and similar considerations.

2. Marking and delineation of parking areas: Parking lots, driveways and aisles shall be clearly marked and delineated. The Planning Board may require that certain areas be maintained for firefighting or other emergency purposes, handicapped access, and such areas shall be appropriately designated.
3. Minimum parking requirements: Off-street parking spaces shall be provided to conform with the number required in the following schedule:

Residential	Minimum # Parking Spaces Required
Single detached or attached dwelling including cooperative and condominium units	2 per dwelling unit
Duplex (units up to 400 sq. ft.)	1 per unit
Duplex (units larger than 400 sq. ft.)	2 per unit
Multi-family (units up to 400 sq. ft.)	1 per unit
Multi-family (units larger than 400 sq. ft.)	2 per unit
Boarding House/Bed and Breakfast	2 per dwelling unit plus 1 per guest room
Commercial	
Nightclubs, Restaurants, Theaters	1 space for every 3 seats or participants plus 1 space for each person employed at peak times ¹
Motels, Hotels, Lodging Facilities	1 space for every guest room plus 1 space for each person employed at peak times
Retail Stores, Offices and Service Establishments	1 space for every 300 sq. ft. of gross floor area excluding storage; no less than 3 spaces
Wholesale Establishments	plus 1 space for each person employed at peak times
Institutional/Public	
Assembly Halls, Outdoor Places of Assembly or Public Recreation, Houses of Worship	1 space for every 3 seats or participants plus 1 space for each person employed at peak times

NOTES:

1. For public restaurants operated in conjunction with a lodging facility, a percent reduction in required parking spaces equal to the percent of restaurant patrons attributable to “in-house” lodging guests may be granted. Such reduction shall not exceed 50% of the total required for the restaurant. The burden of verification of the percent of “in-house” patrons is with the applicant.

2. Where the calculation of the aforementioned parking spaces results in a fractional part of a complete parking space, the parking spaces required shall be construed to be the next highest number.
3. The above are minimum standards, additional or fewer parking spaces may be required by the Planning Board.

SECTION XVI: RESERVED

SECTION XVII: STORM DRAINAGE DESIGN AND CONSTRUCTION STANDARDS

SECTION USER'S GUIDE: This section contains specific standards relating to the design and construction of storm water management systems.

A. GENERAL PROVISIONS

1. The storm drainage system will not adversely affect neighboring properties, downstream water quality, or cause soil erosion. Whenever possible, on-site absorption of run-off waters shall be utilized to minimize discharges from the site.
2. Surface water run-off shall be minimized and detained on-site if possible or practicable. If it is not possible to detain water on site, downstream improvements to the channel may be required of the developer to prevent flooding caused by his project. The natural state of watercourses, swales, floodways or rights-of-way shall be maintained as nearly as possible. The design basis is a twenty-five (25) year storm.

B. STORM WATER MANAGEMENT DESIGN STANDARDS

1. Adequate provision shall be made for disposal of all storm water generated within the development and any drained ground water through a management system of swales, culverts, underdrain, and water courses. The storm water management system shall be designed to conduct storm water flows to existing watercourses.
2. All components of the storm water management system shall be designed to meet the criteria of a twenty-five (25) year storm based on rainfall data for the closest reporting station to Newry, Maine and comply with the standards contained in Section XIII.H
3. The minimum pipe size for any storm drainage pipe shall be fifteen (15) inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two (2) feet. Installation shall conform to the specification set forth in the current Standard Specification Highway and Bridges, State of Maine, Department of Transportation.

4. Catch basins shall be installed where necessary and located at the curb line.
5. Inlets and outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity.

C. STORM DRAINAGE CONSTRUCTION STANDARDS

1. REINFORCED CONCRETE PIPE:

Reinforced Concrete Pipe shall meet the requirements of ASTM Designation C-76 (AASHTO M 170). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the .01 inch crack strength with a Class B bedding. Joints shall be of the rubber gasket type meeting ASTM Designation C 443-70, or of an approved performed plastic jointing material such as "Remnek". Perforated Concrete Pipe shall conform to the requirements of AASHTO M 175 for the appropriate diameters.

2. CORRUGATED METAL PIPE:

Corrugated Metal Pipe shall be bituminous coated meeting the requirements of AASHTO Designation M 290 Type C for iron or steel pipe or AASHTO designation M 196 for aluminum alloy pipe for sectional dimensions and type of bituminous coating. Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than five (5) percent.

3. ABS PIPE:

ABS (Acrylonitrile-butadiene-styrene) composite pipe and fittings shall conform to the requirements of AASHTO M 264 and AASHTO M 265. Perforated pipe shall conform to the requirements of AASHTO M 36, Type III.

4. CORRUGATED PLASTIC PIPE:

Corrugated Plastic Pipe shall conform to the requirements of AASHTO M-252.

5. MANHOLES & CATCH BASINS:

Manholes and catch basins shall be constructed of precast concrete sections or Portland Cement concrete blocks or a combination of both and be installed per the manufacture's specifications.

6. METAL FRAMES AND TRAPS:

- a. Manholes - Metal frames and traps shall be set in a full mortar bed and stops shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings of AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel.
- b. Catch Basins - Metal frames and traps shall be set in a full mortar bed and tops shall conform to the requirements of AASHTO M 183 (ASTM A283, Grade B or better) for structural steel.
- c. Gratings - Castings shall be sized for the particular inlet condition with the gratings perpendicular to the curb line.

7. DRAIN INLET ALIGNMENT:

Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board.

8. MANHOLE PLACEMENT:

Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of four hundred (400) foot intervals.

9. CATCH BASIN, CULVERT AND MANHOLE MAINTENANCE:

Upon completion each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until final acceptance of the road by the Town.

SECTION XVIII: PROVISION FOR CLUSTER DEVELOPMENT

SECTION USER'S GUIDE: This section allows innovative approaches to housing and environmental design by authorizing the Planning Board to reduce certain requirements of this Ordinance for applicants proposing clustered development.

A. PURPOSE

It is the policy of the Town of Newry to encourage the development of cluster subdivisions in order to preserve a sense of space, provide for open meadow areas woodland tracts, recreational land uses, preserve other resources identified in the Town of Newry Comprehensive Plan, and blend new development with the traditional open and wooded landscapes of Newry.

These provisions are intended to implement that policy by providing incentives that afford flexibility in lot sizes/density, lot layout and design and road frontage requirements to the landowner. It also allows the Planning Board to waive or reduce certain otherwise applicable standards and provisions of this Ordinance and other Town of Newry Ordinances if landowners commit to the permanent preservation of important open space resources. These incentives are designed to encourage greater flexibility and more innovative approaches to development and environmental design which will promote the most appropriate use of land, preservation of permanent open space that include meadow areas, woodlands, important natural features, wildlife habitat, water resources, ecological systems and scenic areas for the benefit of present and future residents.

A cluster subdivision achieves the purposes of this Section by reducing the lot size, frontage and setback requirements. It locates structures and accompanying uses in those areas where they have the smallest impact on identified meadow areas, woodlands, environmental, wildlife and other open space resources. These resources are then permanently preserved by the use of covenants and restrictions or conservation easements.

B. APPLICATION PROCEDURE

1. Any applicant for a cluster subdivision is encouraged, but not required, to have a pre-application conference with the Planning Board.
2. The submissions for a subdivision with open space shall include all plans and materials required for a conventional subdivision under this Ordinance.

C. GENERAL REQUIREMENTS

In Planning Board review and approval of a cluster subdivision, the following requirements shall apply and shall supersede any inconsistent or more restrictive provisions of this Ordinance and other Town of Newry Ordinances. Dimensional

reductions shall not be considered as a variance as provided for in title 30-A MRSA Section 4353. 4-C.

1. Allowable Density

The number of lots or dwelling units shall be based in the following manner: Determine the buildable acreage of the parcel by taking the total area of the parcel and subtracting in order the following:

- a. area in proposed rights-of-way;
- b. area of two or more contiguous acres with sustained slopes of 20% and greater;
- c. area of the parcel covered by surface waters.

Then divide the buildable area by the minimum lot size required for the District. A minimum of 50% of the buildable area must be designated as open space.

2. Density Bonus

The Planning Board may grant a density bonus of one (1) lot or dwelling unit for each ten (10) lots or dwelling units when it makes a written finding that the cluster subdivision satisfies the policies of the comprehensive plan, achieves the applicable purposes contained in Section 3 and 5 and provides for adequate subsurface wastewater disposal.

3. Layout and Siting Standards

In planning the location and siting of residential structures in a cluster, subdivision priority should be given to the preservation of the open space for its natural resource value. Structures and other disturbed areas shall be located and sited on the least valuable natural resource portion of a parcel, taking into account the contours of the land and the steepness of slopes.

The building lots on a parcel shall be laid out and the residential structures shall be sited according to the following principles. The Planning Board in its discretion shall resolve conflicts between these principles as applied to a particular site.

- a. In such manner that the boundaries between residential lots and open spaces are well-buffered by vegetation, topography, roads or other barriers in order to minimize potential conflict between residential and open space uses.

- b. Lots and/or structures will be oriented with respect to scenic vistas, natural landscape features, topography and natural drainage areas, in accordance with an overall plan for site development.

4. Space Standards

- a. In shoreland areas all dimensional requirements shall not be reduced below the minimum required in the Shoreland Zoning Ordinance.
- b. The required minimum land area per dwelling unit for the building envelope may be reduced to 20,000 square feet based on soil suitability for subsurface waste water disposal. The building envelope shall not include 100-year floodplains, areas of two or more acres of sustained slopes greater than 20 percent, or wetlands. The Planning Board may further reduce this standard when the development will be served by a central sewage treatment system.

The acreage shall be contiguous, unless the Planning Board finds that noncontiguous acres are part of a common, overall scheme of development.

If the lot area is reduced, the total open space in the development shall equal or exceed the sum of the areas by which the building lots are reduced below the minimum lot area normally required in the district.

- c. Minimum road frontage requirements may be waived or modified by the Planning Board provided that no individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.

5. Open Space Requirements

In Planning Board review and approval of a cluster subdivision, the following requirements shall apply and shall supersede any inconsistent or more restrictive provision of this Ordinance.

- a. **Open Space Uses.** On all parcels, open space uses shall be appropriate to the site. Open space should include natural features located on the parcel(s) such as, but not limited to, open meadows, woodland and wildlife habitat. Open space shall be preserved and maintained subject to the following, as applicable:
 - i. On parcels that contain land that are suited to meadow uses, open space shall be preserved for such use, other compatible open space uses such as wildlife habitat, non-intensive recreation, or resource conservation.

- ii. On parcels that contain land that are suited to woodland uses, open space shall be preserved for forestry, other compatible open space uses such as wildlife habitat, non-intensive recreation (active or passive), or resource conservation.
 - b. When the principal purpose of preserving portions of the open space is the protection of natural resources such as wetlands, steep slopes, wildlife habitats, and stream corridors, open space uses in those portions may be limited to those which are no more intensive than passive recreation.
 - c. Notations on Plan. Open space, common lands, roads or facilities must be clearly labeled on the final plan as to its use or uses with respect to the portions of the open space that such use or uses apply, ownership, management, method of preservation, and the rights, if any, of the owners in the subdivision to such land or portions thereof. The plan shall clearly show that the open space land is permanently reserved for open space purposes, and shall contain a notation indicating the book and page of any conservation easements or deed restrictions required to be recorded to implement such reservations.
 - d. Ownership of Open Space Land. Open space land may be held in private ownership; or owned in common by a Homeowners' Association (HOA); transferred to a nonprofit organization such as a conservation trust, or association, acceptable to the Planning Board; or held in such other form of ownership as the Planning Board finds adequate to achieve the purposes set forth in subparagraph 5.a and b above and under the other requirements of this Section. The Planning Board shall, in its review, require as a condition of approval provisions for the ongoing maintenance and associated costs for such maintenance of the open space.
6. Homeowners' Associations or Agreements

Where any portion of a subdivision is proposed or required to be held in common by owners of lots, or owned in common by a Homeowners' Association (HOA) or similar entities, covenants for mandatory membership in the association setting forth the owners' rights, interest, privileges, responsibilities for maintenance, and obligations in the association and the common land, road or open space shall be approved by the Planning Board and included in the deed for each lot. The Planning Board shall not waive this requirement.

SECTION XIX: PROVISION FOR PLANNED UNIT DEVELOPMENT

SECTION USER'S GUIDE: This section provides for developments that contain a mixture of land uses including, but not limited to, residential, commercial, recreational and open space that are preplanned and developed under unified management. It allows innovative approaches to large scaled mixed use developments and authorizes the Planning Board to reduce certain requirements of this Ordinance.

A. PURPOSE

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

1. are in accordance with the Town's Comprehensive Plan;
2. are reasonably self-sufficient in the provision of necessary services, such as sewerage, water supply, off-street parking, recreational amenities, and long-term management of common facilities;
3. integrate a variety of residential, commercial, and/or recreational uses;
4. preserve open space;
5. incorporate a pattern of development that is in harmony with the natural features of the land; and
6. provide for efficient use of the land, minimizing the required networks of roads and utilities.

B. PROCEDURE

1. Proposed planned unit developments shall be reviewed under Section XI, Major Subdivisions and Section XII, Site Plan Review when the applicant proposes to construct and/or develop non residential uses. The tract or parcel of land proposed for planned unit development must be in single ownership or the subject of an application filed jointly by the owners of all the property included. The applicant must demonstrate right, title, or interest in the land that is the subject of the application. The planned unit development review procedure shall consist of the following steps:
 - a. a preapplication conference;
 - b. preliminary development plan;
 - c. final development plan and subdivision and site plan review approval as applicable.

2. The preapplication conference shall serve the purpose of informally acquainting the Planning Board with the overall scope and intentions of the proposed planned unit development and of acquainting the developer with the requirements of this Section. At the preapplication conference, the developer shall submit to the Planning Board a sketch plan of the proposed planned unit development, which shows the bounds of the total development and the mix of land uses proposed and their general locations. No action shall be required on the sketch plan, which is presented for informational purposes only.
3. The preliminary development plan shall constitute a formal submission of a subdivision application and site plan review application to the Planning Board. In addition to the submission requirements for subdivision and site plan review applications the following items are required to be submitted as part of the preliminary development plan:
 - a. a legal description of the total planned unit development boundaries and of any divisions of the land, existing or proposed, within these boundaries.
 - b. a statement of present and proposed ownership of all lands within the proposed planned unit development.
 - c. Proposed development schedule that indicates when the project and stages thereof will begin and be completed.
 - d. a statement sufficient to satisfy the Planning Board that the project can be realistically financed and completed.
 - e. the subdivision and site plan shall include clear notations as to which facilities are proposed to be in public, private, or common ownership.
 - f. The Planning Board shall, as part of its review of the preliminary development plan, conduct a public hearing on the planned unit development.
4. The final development plan shall constitute a formal submission of a final subdivision application and site plan review application to the Planning Board, but only of such part of the planned unit development that has received approval of a preliminary development plan. In addition to the submission requirements for subdivision and site plan review applications the following items are required to be submitted as part of the final development plan:
 - a. drawings that include all the information required under the preliminary development plan.

- b. copies of restrictive covenants or deed restrictions relating to the development.
 - c. evidence of the formation and incorporation by the developer of any association that may be proposed to manage and maintain common spaces and facilities.
5. For any existing development that meets the definition of a planned unit development, lawfully existing or in progress as of the effective date of this Ordinance may submit an existing conditions plan to the Planning Board. The existing conditions plan shall indicate as built conditions and the management and maintenance of common spaces and facilities. After receipt of the existing conditions plan, the Planning Board, upon application by the developer for expansion of or additional development within the planned unit development, may at its sole discretion waive the requirement of a preapplication conference and such portions of the required preliminary development plan submissions as it believes have been satisfied or are unnecessary to make a reasoned decision on the proposed expansion or addition.

C. STANDARDS

1. For the purpose of establishing space and bulk standards applicable to planned unit developments, notwithstanding district regulations to the contrary, the space and bulk standards for planned unit developments shall be as follows. Dimensional reductions shall not be considered as a variance as provided for in Title 30-A MRSA Section 4353. 4-C.
- a. A planned unit development shall contain at least ten acres of buildable land area in single ownership.
 - b. The acreage shall be contiguous, unless the Planning Board finds that noncontiguous acres are part of a common, overall scheme of development. Land contained in planned unit that has provided the Planning Board with an existing conditions plan may be included within the minimum 10-acre requirement.
 - c. Allowable uses shall be those listed as permitted in the Growth Management District in which the Plan Unit Development is located.
 - d. The planned unit development shall be served by centralized sewerage and water supply facilities.
 - e. Lots which may be created for nonresidential uses shall include sufficient land area to support any proposed structures, the required off-street parking for the uses, whether or not the parking actually is located on the lots, and safe pedestrian circulation.

- f. Net lot area per dwelling unit in shall be not less than an required in the Growth Management District in which the Plan Unit Development is located.
 - g. No building or structure shall be located closer than 25 feet to the perimeter boundary line of the planned unit development.
 - h. In shoreland areas all dimensional requirements shall not be reduced below the minimum required in the Shoreland Zoning Ordinance.
 - i. Maximum impervious surface coverage in a planned unit development shall not exceed 60%.
 - j. Other space and bulk dimensions for planned unit developments shall be as shown and approved by the Planning Board on the final development plan.
2. It is encouraged that buildings be oriented with consideration for scenic vistas as view by others, natural landscape features, topography, and potential solar access.
 3. All utilities shall be installed underground, unless specifically waived by the Planning Board.
 4. A system of pedestrian circulation and amenities including sidewalks within and adjacent to the Planned Unit Development shall be provided. This system will connect with existing or planned sidewalks.
 5. The Planned Unit Development shall be designed to be transit- orientated and discourage the use of the private automobile.

SECTION XX: DEDICATION AND MAINTENANCE OF COMMON LAND AND SERVICES

SECTION USER'S GUIDE: This section contains specific provisions regarding the dedication and maintenance of common land and common services.

A. DEDICATION

1. All common land shall be owned jointly or in common by the owners of the dwelling units by means of a homeowners' association, by an association which has as its principal purpose the conservation or preservation of land in essentially its undeveloped condition as meadow, wood or agricultural land, or by an acceptable legal entity.

2. Further subdivision of the common land, except for easements for underground infrastructure improvements, shall be prohibited.
3. The common land shall be shown on the Final Plan with appropriate notation on the plan to indicate that:
 - a. It shall not be used for future building lots; and
 - b. A part or all of the common land may be dedicated for acceptance by the municipality or other organization acceptable to the Board.

B. MAINTENANCE

1. If any or all of the common open space and services are to be reserved for use by the residents, the by-laws of the proposed homeowners' association shall specify maintenance responsibilities and shall be submitted to the Planning Board prior to Final Plan approval.
2. Covenants for mandatory membership in the homeowners' association setting forth the owners' right, interests, and privileges in the association and the common property, shall be reviewed by the Planning Board and shall be included in the deed for each lot or dwelling.
3. The homeowners' association shall have the responsibility of maintaining the common property unless or until dedication is accepted by the Town or other ownership organization acceptable to the Board.
4. The association shall levy annual charges against all owners of dwelling units to defray the expenses connected with the maintenance of common property and tax assessments.
5. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place.

SECTION XXI: PERFORMANCE GUARANTEES

SECTION USER'S GUIDE: This section contains specific provisions relating to required performance guarantees and how they will be administered.

A. TYPES OF 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 infrastructure improvements to be accepted and maintained by the Town or 10% of the total construction costs of all required

infrastructure improvements to remain private. The amount shall taking into account the time-span of the construction schedule and the inflation rate for construction costs. The Planning Board shall not waive the requirement for a performance guarantee. The actual guarantee is not required to be tendered until five days prior to start of construction.

1. Either a certified check payable to the Town or a savings account or certificate of deposit both naming the Town as owner, for the establishment of an escrow account, as provided for in Section C, below;
2. A performance bond payable to the Town issued by a surety company, approved by the Selectmen, as provided for in Section D, below;
3. An irrevocable letter of credit from a financial institution establishing funding for the construction of the infrastructure improvements, from which the Town may draw if construction is inadequate, approved by the Selectmen, as provided for in Section E, below; or
4. An offer of conditional approval limiting the number of units or lots sold until all required infrastructure improvements have been constructed, as provided for in Section F, below.

B. 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 of the performance guarantee to the developer, and a date after which the developer will be in default allowing the Town access to the funds to finish construction, as provided for in Section I, below.

C. ESCROW ACCOUNT

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the Town, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the developer, the Town shall be named as owner or co-owner, and the consent of the Town shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the developer.

D. 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 Town. The bond documents shall specifically reference the infrastructure improvements for which approval is sought.

E. 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 development and may not be used for any other project or loan.

F. CONDITIONAL AGREEMENT

The Planning Board, at its discretion may provide for the developer to enter into a binding agreement with the Town in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the Final Plan on the condition that no building permits may be issued until:

1. It is certified by the, Inspecting Official, that all of the required infrastructure improvements have been installed in accordance with this Ordinance, conditions of approval and the regulations of the appropriate utilities; or
2. A performance guarantee, acceptable to the Town is submitted in an amount necessary to cover the completion of the required infrastructure improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed. Notice of agreement and any conditions shall be on the Final Plan which is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees for infrastructure improvements contained in Subsection I.

G. PHASING OF DEVELOPMENT

The Planning Board may approve plans in separate and distinct phases. Prior to construction of subsequent phases, the developer shall present again adequate performance guarantee for infrastructure improvements.

H. EXTENSION

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

I. RELEASE OF GUARANTEE

Prior to the release of any part of the performance guarantee, the Planning 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 infrastructure improvements meet or exceed the design and construction requirements for that portion of the infrastructure improvement for which the release is requested. No building permit shall be issued until the performance guarantee has been released.

J. DEFAULT

If, upon inspection, the Inspecting Official finds that any of the required infrastructure improvements have not been constructed as approved by the Planning Board in accordance with the plans and specifications filed as part of the application, except for modifications approved in accordance with Section VI.A.4, he shall so report in writing to the Code Enforcement Officer, the Selectmen, the Planning Board, and the applicant or developer. The Selectmen shall take any steps necessary to preserve the Town's rights.

K. IMPROVEMENTS GUARANTEED

Performance guarantees shall be tendered for all infrastructure improvements.

SECTION XXII: WAIVERS

SECTION USER'S GUIDE: This section authorizes the Planning Board, under special circumstances, to waive portions of the submission requirements, performance standards and improvements required by this Ordinance and provides that such waiver be granted only with conditions.

A. WAIVER OF SUBMISSION REQUIREMENTS

Where the Planning Board makes written findings of fact that there are special circumstances of a particular site proposed to be subdivided or developed, it may waive portions of the submission requirements, provided the public health, safety and welfare are protected and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan or any Ordinance.

B. WAIVER OF PERFORMANCE STANDARDS

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

C. WAIVERS OF REQUIRED IMPROVEMENTS

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

D. WAIVERS CONDITIONALLY GRANTED

In granting waivers to any of the provisions of this Ordinance in accordance with subsections A, B, and C, above, the Board shall require such conditions as will assure the purposes and objectives of this Ordinance are met.

SECTION XXIII: GROWTH MANAGEMENT DISTRICTS & NONCONFORMANCE

SECTION USER'S GUIDE: This section establishes Growth Management Districts, dimensional requirements, Growth Management District uses and provisions regarding non-conforming structures, uses and lots.

A. GROWTH MANAGEMENT DISTRICTS ESTABLISHED

For the purposes of this Ordinance, the Town of Newry is hereby divided into the following Growth Management Districts:

1. Resort Development District (RDD);
2. General Development District (GDD);
3. Rural District (RD);
4. Protection District (PD); and

B. STANDARDS ESTABLISHING DISTRICTS AND DISTRICT DESCRIPTIONS

1. Resort Development District
 - a. Purpose

The purpose of the Resort Development District is to provide expansion areas for the Sunday River Ski Resort and associated development. Such development may include additional skiing terrain, lodging facilities in the form of hotels, town houses, single-family homes, employee

housing, facilities to move the resort to a four-season destination and alpine commercial/village areas. Such development is largely dependent on terrain suitable for alpine ski trails and other recreation facilities including golf courses.

2. General Development District

a. Purpose

The purpose of the General Development District (GDD) is to provide designated areas where orderly growth and development will be allowed during the next ten years as required by the Maine Comprehensive Planning and Land Use Regulation Act (Title 30-A, Section 4326). A wide range of development types are appropriate in this area including single-family residential, multi-family residential, public, governmental, commercial and recreational.

3. Rural District

a. Purpose

The purpose of the Rural District is to maintain large blocks of forest land and open space and minimize public expenditures to provide municipal services to these remote areas. Appropriate uses for this area are low density residential, forestry, recreation and other land uses requiring rural and remote locations.

4. Protection District

a. Purpose

The purpose of the Protection District (PD) is to provide protection for significant and vulnerable natural resources. These include areas above 2,700 feet in elevation from mean sea level and those areas within the Town of Newry used as municipal water supply.

C. OFFICIAL GROWTH MANAGEMENT DISTRICT MAP

Growth Management Districts established by this Ordinance are bounded and defined as provided in B. above and shown on the official "Growth Management District Map of Newry, Maine" which together with its notations and amendments, from time to time, is hereby made a part of this Ordinance.

The official copy of the map shall be that map which bears the certification that it is true and correct, signed by the Chairman of the Planning Board and attested by the Town Clerk, and on file in the office of the Town Clerk.

D. INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to boundary lines of Districts as shown on the official "Growth Management District Map of Newry, Maine," the following rules of interpretation shall apply:

1. Boundaries indicated as approximately following the center lines of road, highways, public utilities or right-of-ways shall be construed as following such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as being the extension of center lines of roads shall be construed to be the extension of such center lines as of the date of this ordinance;
4. Boundaries indicated as approximately following the center lines of streams, rivers or other continuously flowing water courses shall be construed as following the channel center line of such watercourses as of the date of this ordinance.
5. Boundaries indicated as being parallel or extension of features listed above shall be so construed. Distances not specifically indicated on the official map shall be determined by the scale of the map;
6. Where physical or cultural features existing on the ground are at variance with those shown on the official map, or in other circumstances where uncertainty exists with respect to the location of a boundary, the Planning Board shall interpret the district boundaries; and
7. Boundaries for 100 year floodplain areas are based upon the most current information available from the State or Federal agencies responsible and are subject to change as such information changes and/or the applicant shows proof through the submittal of materials prepared by a Professional Land Surveyor or which shows proof that the property in question lies at least one (1) foot above the one hundred (100) year flood level. The elevation of filled or made land shall not be considered.

E. DIVISION OF LOTS BY DISTRICT BOUNDARIES

In the event that a District boundary line divides a lot or parcel of land of the same ownership of record, at the time such line is established by adoption or subsequent amendment of this Ordinance, the Planning Board, after written findings of fact, that such extensions will not create unreasonable adverse impacts on the existing uses of the adjacent properties, may:

1. When that portion of the lot which is located in the more restrictive District is greater than 10 (ten) acres, extend the regulations applicable to the less restricted portion into no more than twenty percent (20%) of the more restrictive portion.
2. When the portion of the lot which is located in the more restrict District is less than 10 (ten) acres, extend the regulations applicable to the less restrictive portion into no more than fifty percent (50%) of the more restrictive portion.
3. When that portion of the lot which is located in the more restrictive District is equal to that which is located in the less restrict District, extend the regulations applicable to the less restrictive portion to all of the more restrictive portion.
4. Except that, no such extensions shall be granted by the Planning Board into any Resource Protection District.

F. DIMENSIONAL REQUIREMENTS

All lots, structures and uses shall meet or exceed the following dimensional requirements:

District	Minimum Lot Size/ Density	Minimum Road Frontage	Minimum Building Front Setback ¹	Minimum Building Side Setback	Minimum Building Rear Setback	Maximum Impervious Surface Ratio ² (percent)	Maximum Structure Height
Resort Development District	20,000 sq. ft. sewered 43,560 sq. ft. nonsewered Multiunit housing per unit 10,000 sq. ft. sewered 20,000 nonsewered	75 ft. sewered 100 ft. nonsewered	10 ft.	10 ft.	10 ft.	70	<i>Based of Fire Department Capability</i>
General Development District	20,000 sq. ft. sewered 43,560 sq. ft. nonsewered Multifunit housing per unit 20,000 sq. ft. sewered 43,560 nonsewered	100 ft.	25ft.	10 ft.	10 ft.	50%	<i>Based of Fire Department Capability</i>
Rural District	43,560 sq. per lot or unit ft.	150 ft.	50 ft.	25 ft.	25 ft.	25	40 ft. ³
Protection District	43,560 sq. ft.	150 ft.	50 ft.	25 ft.	25 ft.	25	40 ft. ³

NOTES:

- 1 Measured from the edge of the road right-of-way.
- 2 The total area of all structures, parking lots and other non-vegetated surfaces.
- 3 The vertical distance between the mean finish grade at the downhill side of the structure measured from the finished top floor level intended for human habitation.
- 4 Each lot must be able to completely contain within its boundaries an area as would be defined by a circle with a minimum diameter equal to the required minimum road frontage as required in the district.
5. Notwithstanding the space and bulk standards contained above, any allowable use located in and approved as a planned unit development in the Resort Development District shall instead comply with the terms of that approval.

G. RESERVED

H. DISTRICT USES

All land use activities, as indicated in the Table of District Land Uses, shall conform with all applicable land use standards. The district designation for a particular site shall be determined from the Growth Management District Map.

Key to Table:

- Yes Allowed (no permit required under this Ordinance but must comply with all applicable performance standards.
- No Not allowed
- PB Required approval by the Planning Board
- PB^{SR} Requires a Site Plan Review Approval.
- PB^{SD} Requires subdivision approval.

Abbreviations:

- RDD Resort Development District
- GDD General Development District
- RD Rural District
- PD Protection District

TABLE OF DISTRICT LAND USES

LAND USES	DISTRICTS			
	RDD	GDD	RD	PD
1. Land Management Activities	yes	yes	yes	yes
2. Timber harvesting	yes	yes	yes	yes
3. Commercial Procurement, storage, transportation of potable water	PB ^{SR}	PB ^{SR}	PB ^{SR}	PB ^{SR}
4. Land Based Recreation Activities, Equipment & maintenance	PB ^{SR}	PB ^{SR}	PB ^{SR}	PB ^{SR}
5 Borrow Pit/Mineral extraction, including sand and gravel extraction	CEO/PB	PB ^{SR}	PB ^{SR}	no
5. Single family home	yes	yes	yes	no
6. Two family home	yes	yes	yes	no
7. Multi- unit housing	PB ^{SD}	PB ^{SD}	PB ^{SD}	no
8. Mobile home park	no	PB ^{SD}	no	no
9. Home Occupations ¹	yes	yes	yes	no
10. Agriculture/Forestry Sales & Service	PB ^{SR}	PB ^{SR}	PB ^{SR}	No
11. Government offices/facilities	PB ^{SR}	PB ^{SR}	no	No
12. Public/private schools	PB ^{SR}	PB ^{SR}	no	no
13. Museum/Library	PB ^{SR}	PB ^{SR}	PB ^{SR}	no
14. Public Utility Facility	PB ^{SR}	PB ^{SR}	PB ^{SR}	no

LAND USES	DISTRICTS			
	RDD	GDD	RD	PD
15. Automobile Graveyard/Recycling/Junkyard	no	no	PB ^{SR}	no
16. Hotel/Motel	PB ^{SR}	PB ^{SR}	no	no
17. Resort Based Uses	PB ^{SR}	PB ^{SR}	no	no
18. Bed & Breakfast	PB ^{SR}	PB ^{SR}	PB ^{SR}	no
19. Restaurant	PB ^{SR}	PB ^{SR}	no	no
20. Retail Business	PB ^{SR}	PB ^{SR}	no	no
21. Service Business	PB ^{SR}	PB ^{SR}	no	no
22. Wholesale Business	PB ^{SR}	PB ^{SR}	no	no
23. Commercial Recreation	PB ^{SR}	PB ^{SR}	PB ^{SR}	no
24. Outdoor Recreation Based Sales & Service	PB ^{SR}	PB ^{SR}	PB ^{SR}	no
25. Campground	no	no	PB ^{SR}	no
26. Industrial	PB ^{SR}	PB ^{SR}	no	no
27. Demolition/Waste Disposal	no	no	PB ^{SR}	no
28. Sawmill	no	PB ^{SR}	PB ^{SR}	no
29. Commercial Communication Tower	PB ^{SR}	PB ^{SR}	PB ^{SR}	no
30. Commercial Wind Energy Facility	PB ^{SR}	no	no	no
31. Uses similar to uses requiring a PB permit/approval	PB	PB	PB	PB

Notes: ¹ Home Occupation that do not meet the criteria contained in Section I.C.5 a-e require a permit from the Planning Board in accordance with Section XIII.A.D

I. NONCONFORMING STRUCTURES, USES AND LOTS

1. Burden of Proof

The burden of establishing that any non-conforming structure, use or lot is a legal existing non-conforming use as defined in this Ordinance shall, in all instances, be upon the owner of such non-conforming structure, use or lot and not upon the Town of Newry.

2. Conversion to Conformance Encouraged

Owners of all existing non-conforming structures and uses shall be encouraged to convert such existing non-conforming structures and uses to conformance wherever possible and shall be required to convert to conforming status as required by the Ordinance.

3. Continuance

The use of any building, structure or land, which is made non conforming by reason of the enactment of this Ordinance, or which shall be made non-conforming by reason of a subsequent amendment, may be continued, subject to the following provisions:

a. Existing Nonconforming Uses of Land

Continuance of non-conforming uses of land shall be subject to the following provisions:

- 1) No such existing non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than that occupied at the effective date of this Ordinance, or any amendment thereto;
- 2) If any such existing non-conforming use of land discontinued for any reason for a period of more than twelve (12) consecutive months, any subsequent use of land shall conform to the requirements specified by this Ordinance for the District in which such land is located;
- 3) An existing non-conforming use may be moved within the boundaries of the lot provided that the Planning Board or its designee finds that the change in location on the lot is more appropriate as regards:
 - a) Location and character;
 - b) Fencing and screening;
 - c) Landscaping, topography and natural features;
 - d) Traffic and access;
 - e) Signs and lighting; and/or
 - f) Potential nuisance

b. Existing Nonconforming Structures

Continuance of existing non-conforming structures shall be subject to the following provisions:

- 1) No such structure shall be enlarged or altered in any way that increases its non-conforming;

- 2) Should any structure, exclusive of the foundation, be destroyed or damaged by any means, or removed, said structure may be rebuilt on the existing foundation to the dimensions of the structure which was destroyed provided rebuilding is begun within one year; and
- 3) An existing non-conforming structure may be moved within a lot in a manner which would decrease its non-conformity in terms of setback requirements, provided that the Planning Board makes findings that the change in location is more appropriate as regards to:
 - a) Location and character;
 - b) Fencing and screening;
 - c) Landscaping, topography and natural features;
 - d) Traffic and access;
 - e) Signs and lighting; and/or
 - f) Potential nuisance.

c. Existing Nonconforming Uses of Structures

Continuance of a legally existing non-conforming use of a structure shall be subject to the following provisions:

- 1) No existing structure devoted to a non-conforming use shall be enlarged or extended;
- 2) Any existing non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such uses shall be extended to occupy any land outside such building;
- 3) Any existing non-conforming use of a structure or premises may be changed to another non-conforming use provided that the Planning Board shall find that the proposed use is more appropriate to the District than the existing non-conforming use. The determination of more appropriate use shall be made according to:
 - a) The proposed use is less noxious than the current nonconforming use;

- b) The proposed use will not create a traffic hazard nor increase an existing traffic hazard;
 - c) The amount of parking required to meet the minimum requirements for the proposed use exists on the site or will be otherwise provided in accordance with this Ordinance;
 - d) That the amount of noise, odors, vibrations, smoke, dust and air discharges of the proposed use shall be equal to or less than the present use;
 - e) That the rate of surface water run-off from the site will not be increased;
 - f) That the hours of operation of the proposed use will be compatible with the existing, surrounding land uses; and
 - g) That the proposed use will not increase the adverse impact on surrounding properties.
- 4) If a non-conforming use of a structure or premises is superseded by a permitted use, the non-conforming use shall not thereafter be resumed;
- 5) If any such non-conforming use of a structure is discontinued for any reason for a period of more than twelve (12) months, any subsequent use of such structure shall conform to the regulation specified by this Ordinance for the District in which such structure is located; and
- 6) A structure containing an existing non-conforming use may be moved, within the lot, in a manner which would be a more appropriate location, provided that the Planning Board finds that the change in location is more appropriate as regards to:
- a) Location and character;
 - b) Fencing and screening;
 - c) Landscaping, topography and natural features;
 - d) Traffic and access;
 - f) Signs and lighting; and
 - g) Potential nuisance.

d. Construction Begun Prior to Ordinance

This Ordinance shall not require any change in the plans, construction, size or designated use for any building, structure or part thereof for which a completed application for a local permit has been made or a permit has been issued and upon which construction has been lawfully commenced prior to the adoption or amendment of the Ordinance. Such construction shall start within sixty (60) days after the issuance of such permit.

4. Nonconforming Lots of Record

A single parcel of land, the legal description of which or the dimensions of which are recorded on a document or map on file with the Registry of Deeds which at the effective date of adoption or subsequent amendments of this Ordinance, does not meet the lot area or width requirements or both, of the District in which it is located, may be built upon as an existing non-conforming lot of record even though such lot may be contiguous with any other lot in the same ownership, provided that all other provisions of this Ordinance shall be met.

5. Transfer of Ownership

Ownership of land and structures which remain lawful but become non-conforming by the adoption or amendment of the Ordinance may be transferred and the new owner may continue the non-conforming uses subject to the provisions of this Ordinance.

SECTION XXIV: DEFINITIONS

SECTION USER'S GUIDE: This section contains specific definitions for words and phrases used in this Ordinance.

A. CONSTRUCTION OF LANGUAGE

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

1. The words "persons" and "applicant" includes individuals, firms, associations, corporations, organizations, and similar entities;
2. Words used or defined in one tense or form shall include other tenses or derivative forms;
3. Words in the singular number shall include the plural number and words in the plural shall include the singular number;

4. The masculine gender shall include the feminine and the feminine shall include the masculine;
5. The word "shall" is mandatory;
6. The word "may" is permissive;
7. The words "used" or "occupied" include words "intended", "designed", or "arranged to be used or occupied";
8. The word "building" including the word "structure":
9. The word "dwelling" includes the word "residence";
10. The word "lot" includes the words "plot" or "parcel";
11. The word "town" or "municipality" means Town of Newry, Maine; and
12. The word "Board" refers to the "Planning Board" duly appointed by the Town of Newry, Maine.
13. The words "Municipal Officers" refers to the "Selectmen" duly elected by the Town of Newry, Maine;
14. In case of difference of meaning or implication between the text of this Ordinance, any map, illustration, or table, the text shall control.

B. DEFINITIONS

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

ABUTTERS: Property owner within one thousand (1,000) feet of the property involved, including owners of the property on the opposite side of a road or right of way and in adjacent municipalities. The owners of the property shall be considered to be those against whom taxes are assessed.

ACCESSORY USE OR STRUCTURE: A subordinate use of a building, other structure or land, or a subordinate building or other structure:

1. Whose use is customary in connection with the principal building, other structure or use of land; and
2. Whose use is clearly incidental to the use of the principal building, other structure or use of land; and

3. Which is located on the same lot with the principal building, other structure or use of land, or on a lot adjacent to such lot if in the same ownership or part of the same establishment.

AGRICULTURAL/FORESTRY SALES AND SERVICE: Agriculture/Forestry Sales/Service: The use of buildings or land for the sale of equipment or products or services to those primarily engaged in agriculture or forestry and/or the sale of agricultural/forestry products to the public.

AGRICULTURAL LAND MANAGEMENT PRACTICES: Means those devices and procedures utilized in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.

ALTERATION: Structural changes, rearrangement, change of location or addition to a building, or structure other than repairs and modification in building equipment, involving more than 25% increase in the overall floor space or bulk of the building or structure at any time or in total since the effective date of this ordinance.

AMBIENT SOUND: At a specified time, the all-encompassing sound associated with a given environment, being usually a composite of sounds from many sources at many directions, near and far, including the specific facility of interest.

ANSI S1.1-1960: American National Standard Acoustical Terminology.

ANSI S12.9-1988: American National Standard Quantities and Procedures for Description and Measurements of Environmental Sound, Part 1;

ANSI S3.20-1973: American National Standard Psychoacoustical Terminology.

APPROVED RESIDENTIAL SUBDIVISION: A residential subdivision for which all applicable land use permits have been issued, provided that the time for beginning construction under such permits has not expired.

AQUIFER (Significant ground water aquifer): Significant ground water aquifer means a porous formation of ice - contact and glacial outwash sand and gravel or fractured bedrock that contains significant recoverable quantities of water which is likely to provide drinking water supplies.

ASSOCIATED FACILITIES: Elements of a Commercial Wind Energy Facility other than its Generating Facilities that are necessary to the proper operation and maintenance of the Commercial Wind Energy Facility, including but not limited to buildings, access roads, Generator Lead Lines and substations.

AUTOMOBILE GRAVEYARD/RECYCLING/JUNKYARD: As defined in Title 30-A MRSA section 3752.

BED AND BREAKFAST: A private home where the general public can stay overnight and are served a breakfast meal.

BORROW PIT: Borrow pit means an excavation for sand, fill or gravel that is moved off the parcel that it is excavated from.

BUILDABLE LAND: Land other than the following:

1. Land which is situated below the normal high water mark of any water body.
2. Land which is located within the one hundred (100) year floodplain, other than roads and driveways which shall be constructed to meet standards contained in the Shoreland Zoning Ordinance and/or Floodplain Management Ordinance where applicable, as identified by the Federal Emergency Management Agency, Flood Insurance Administration, unless the applicant shows proof through the submittal of materials prepared by a Professional Land Survey that the property in question lies at least one (1) foot above the one hundred (100) year flood level. The elevation of filled or made land shall not be considered.
3. Land which is part of a permanent road right-of-way or permanent road easement.
4. Land that has been created by filling or draining a pond or wetland that has not received approval for such filling and draining by the Army Corps of Engineers and/or the Maine Department of Environmental Protection.
5. Land that has been identified as significant wildlife habitat by the Maine Department of Inland Fisheries and Wildlife when a mitigation plan has not been approved by the Maine Department of Inland Fisheries and Wildlife.

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

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, for which a fee is charged.

CLUSTER SUBDIVISION: A subdivision in which the dimensional requirements are reduced below those normally required in return for permanently preserved open space.

CODE ENFORCEMENT OFFICER: Appointed by the Selectmen, the Code Enforcement Officer shall enforce the town's ordinances, keep a complete record of all essential transaction of the office and investigate complaints of alleged violations of local land use laws.

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

COMMERCIAL COMMUNICATION TOWER: Any structure, antenna, tower, or other device which provides to the public for a fee radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services and personal communications service (PCS) or pager services. This definition does not include ham radio towers/antenna, or towers/antenna used to provide communication for a single business.

COMMERCIAL RECREATION: Any commercial enterprise which receives a fee in return for the provision of some recreational activity including but not limited to: amusement facilities, racquet and tennis clubs, health facility, amusement parks, gymnasiums and swimming pools, shooting ranges, skiing, golf course, and the like.

COMMERCIAL WIND ENERGY FACILITY: A wind energy facility whose primary purpose is to sell electricity to be supplied to the regional electric power grid. A Commercial Wind Energy Facility includes Generating Facilities and Associated Facilities.

COMMON LAND: Land owned jointly or in common by the owners of the dwelling units by means of a homeowners' association, by an association which has as its principal purpose the conservation or preservation of land in essentially its undeveloped condition, or by an acceptable legal entity.

COMPLETE APPLICATION: An application shall be considered complete upon submission of the required fee and all information required by this Ordinance, or by a vote by the Board to waive the submission of required information. The Board shall issue a receipt to the applicant upon its determination that an application is complete.

COMPREHENSIVE PLAN: As defined in Title 30-A MRS.A section 4301.

CONTIGUOUS LOTS: Lots which adjoin at any line or point, except that lots on opposite sides of a public or private road shall be each considered a separate tract or parcel unless such road was established by the owner of land on both sides thereof subsequent to September 22, 1971.

CONSTRUCTION: Activity and operations associated with the facility or expansion of the facility or its site.

DEMOLITION/WASTE DISPOSAL: A facility including a landfill operated by a public, quasi-public or private entity the purpose of which is to dispose of useless, unwanted or discarded solid material with insufficient liquid content to be free flowing,

including by way of example, and not by limitation to, rubbish, garbage, scrap materials, junk, refuse, inert fill material, landscape refuse, and demolition debris. The definition does not, however, include commercial hazardous waste disposal facilities or recycling of products.

DEP CERTIFICATION: A certification issued by the Department of Environmental Protection pursuant to 35-A M.R.S. § 3456 for a Wind Energy Development.

DETACHED SINGLE FAMILY DWELLING: A dwelling unit that is not attached to any other dwelling unit by any means.

DEVELOPMENT AREA: Building(s), structure(s) and use(s) of land for commercial, industrial, office, multiple dwelling residential, municipal, institutional, utility, fraternal and recreational purposes, including new buildings and structures; new uses of existing buildings, structures, and land; resumption of uses which have been discontinued for at least two years; and existing uses which seek to expand by either 1000 square feet or 25% in area, whichever is lesser, within any 10 year period, in floor space, parking area, seating capacity or outdoor storage area.

DEVELOPED AREA: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, roads, and other areas not revegetated.

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

DRIVEWAY: A vehicular access way serving two or less lots and/or dwelling units

DWELLING UNIT: A room or group of rooms designated and equipped exclusively for use as living quarters for one family including provisions for living, cooking and eating; includes single family houses and the units in a duplex, apartment houses, multi-family dwelling and residential condominiums.

EMERGENCY: An unforeseen combination of circumstances which calls for immediate action at a facility.

EMERGENCY MAINTENANCE AND REPAIRS: Work done in response to an emergency at a facility.

ENERGY SUM OF A SERIES OF LEVELS: Ten times the logarithm of the arithmetic sum of the antilogarithms of one-tenth of the levels.

ENVIRONMENTAL SENSITIVE AREAS: Those significantly natural; scenic, historic, and archaeological areas identified in the Town of Newry Comprehensive Plan.

EQUIVALENT SOUND LEVEL: The level of the mean-square A-weighted sound pressure during a stated time period, or equivalently the level of the sound exposure during a stated time period divided by the duration of the period. (NOTE: For convenience, a one hour equivalent sound level should begin approximately on the hour.)

EXISTING FACILITY: A Commercial Wind Energy Facility legally constructed before the effective date of this ordinance or a proposed Commercial Wind Energy Facility for which the Application is found complete on or before the effective date of this ordinance. Any facility with an approved permit application which has been remanded to planning board by a court of competent jurisdiction for further proceedings relating to noise limits or noise levels prior to the effective date of this ordinance shall not be deemed an existing facility and the ordinance shall apply to the existing noise sources at that facility.

EXISTING HOURLY SOUND LEVEL: The hourly sound level resulting from routine operation of an existing facility prior to the first expansion that is subject to this ordinance.

For purposes of this definition, (1) a Residence is considered planned when the owner of the parcel of land on which the Residence is to be located has received all applicable building and land use permits and the time for beginning construction under such permits has not expired, and (2) a residential subdivision is considered approved when the developer has received all applicable land use permits for the subdivision and the time for beginning construction under such permits has not expired.

FINAL PLAN: The final drawings, on which the applicant's plan of subdivision or development is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

FLICKER: The phenomenon of noticeable pulsating light produced by the Wind turbine blades passing between the sun and the observer and temporarily interrupting the sun's rays."

FLICKER SECTOR: A zone with the shape of a circular sector within which the observer may see the sun's rays interrupted by the Wind Turbine's blades in the phenomenon herein called Flicker. The radius of this circular sector shall be equal to the maximum width of the blade of each Wind Turbine times 100. The Flicker occurs mostly to the north of each Wind Turbine base and is limited by the radial line with an azimuth of 114 degrees going counter-clockwise through north to the radial line with an azimuth of 246 degrees". This zone represents the area north and south of the Wind Turbine within which the Flicker phenomenon throughout the year. This maximum area occurs on the day of the summer solace.

FLOOD HAZARD AREAS: See one hundred year flood.

FRESH WATER WETLAND: Means fresh water swamps, marshes, bogs and similar areas which are:

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

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

FOREST MANAGEMENT ACTIVITIES: Includes timber cruising and other forest resource evaluation activities, pesticide application, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, and activities associated with these forest practices.

GENERATING FACILITIES: Wind Turbines and electrical lines, not including Generator Lead Lines, that are immediately associated with the Wind Turbines.

GENERATOR LEAD LINE: A "generator interconnection transmission facility" as defined by 35-A M.R.S. § 3132 (1-B).

GROSS FLOOR AREA: All habitable area with headroom in excess of five (5) feet.

HEIGHT OF STRUCTURE: The vertical distance between the mean finished grade at the downhill side of the structure measured from the finished top floor level intended for human habitation.

HISTORIC AREAS: Historic sites administered by the Bureau of Parks and Lands of the Maine Department of Conservation.

HISTORIC SITE: Any site, structure, district or archaeological site which has been officially included on the National Register of Historic Places and/or on the Maine Historic Resource Inventory, or which is established by qualified testimony as being of historic significance.

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

HOTEL/MOTEL: A commercial building or group of buildings built to accommodate for a fee travelers or other transit guests who are staying for a limited duration with sleeping rooms without kitchen facilities and each room or rooms having its own private bathroom and its own separate entrance leading either to the outdoors or a common corridor or hallway. A hotel may include restaurant facilities where food is prepared and meals served to guests and other customers.

HOURLY SOUND LEVEL: The equivalent sound level for one hour measured or computed in accordance with this ordinance.

IMPERVIOUS SURFACE: The area of land covered by buildings, structures and paved and gravel surfaces.

INCREASE IN NON CONFORMITY 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.

INDIVIDUAL DWELLING UNIT: A separate room or group of rooms designated and equipped exclusively for use as living quarters for one family including provisions for living, cooking and eating that access is not through an other dwelling unit.

INDUSTRIAL: Connected with the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods.

INFRASTRUCTURE IMPROVEMENTS: Roads, drainage and stormwater systems, common water and sewer systems whether public or private.

INSPECTING OFFICIAL: An individual or individuals appointed by the selectmen to oversee all aspects of road construction including drainage and stormwater management. The Inspecting Official shall possess such education and training that the selectmen deem necessary to perform all aspects of inspection.

INSTITUTIONAL: A building devoted to some public, governmental, educational, charitable, medical or similar purpose.

LAND BASED RECREATIONAL ACTIVITIES: It is the intention for these activities to include recreation trails and transport and to provide safety and maintenance access or equipment for these recreation trails or transport.

LIQUIDATION HARVESTING: The purchase or other acquisition of forestland followed by a timber harvest that does not comply with Section 6 of the Maine Forest Service Rule-Chapter 23 and the subsequent sale, offer for sale, or other conveyance of the harvested land, or any portion of it, within five years.

LOCALLY-DESIGNATED PASSIVE RECREATION AREA: Any site or area designated by a municipality for passive recreation that is open and maintained for public use and which: a) has fixed boundaries, b) is owned in fee simple by a municipality or is accessible by virtue of public easement, c) is identified and described in a local comprehensive plan and, d) has been identified and designated at least nine months prior to the submission of the Applicant's Commercial Wind Energy Facility permit application.

LOT: An area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a subdivision plan approved by the Planning Board and recorded in the Registry of Deeds.

MANUFACTURED HOUSING: As defined in Title 30-A M.R.S.A. § 4358 and as hereafter amended.

MAXIMUM SOUND: Largest A-weighted and fast exponential-time-weighted sound during a specified time interval. Unit: pascal (Pa).

MAXIMUM SOUND LEVEL: Ten times the common logarithm of the square of the ratio of the maximum sound to the reference sound of 20 micropascals. Symbol: LAFmax.

METEOROLOGICAL TOWER (MET TOWER): A Tower used for the measurement and collection of wind data that supports various types of equipment, including but not limited to anemometers, data recorders, and solar power panels. MET Towers may also include wildlife related equipment such as ANABAT detectors, bird diverts and wildlife entanglement protectors.

MOBILE HOME PARK: A parcel of land under unified ownership approved as a subdivision for the placement of three or more manufacture homes.

MULTI-UNIT HOUSING: A building or group of buildings consisting of three or more attached dwelling units.

NET RESIDENTIAL ACREAGE: The total acreage available for the subdivision or development, and shown on a subdivision or development plan, minus the area for roads or access and the areas which are unsuitable for development.

NET RESIDENTIAL DENSITY: The average number of dwelling units per net residential acre.

NACELLE: The frame and housing at the top of the Tower that encloses the gearbox and generator.

NGVD: National Geodetic Vertical Datum.

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 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 during the period of normal high-water are considered part of the river.

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

NON-PARTICIPATING LANDOWNER: Any landowner, other than a Participating Landowner.

OCCUPIED BUILDING: A residence, school, hospital, house of worship, public library or other building that is occupied or in use as a primary residence or is customarily frequented by the public at the time when the permit application is submitted.

OFFICIAL SUBMITTAL DATE: The meeting date upon which the Planning Board issues a receipt indicating that an application has been received.

OFF-SITE PUBLIC ROAD: Public roads not to be constructed as part of a development.

ONE-HUNDRED-YEAR FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year.

OUTDOOR RECREATION BASED SALES AND SERVICES: A business establishment engaged in the sale, rental or lease of goods or services related to outdoor recreation.

PARTICIPATING LANDOWNER: One or more Persons that hold title in fee or a leasehold interest with sublease rights to property on which Generating Facilities or Associated Facilities or Development are proposed to be located pursuant to an

agreement with the Applicant or an entity that has entered into an appropriate agreement with the Applicant allowing the Applicant to demonstrate the requisite right, title and interest in such property.

PERSON: Includes an individual, firm, association, partnership, trust, company, corporation, municipal or other local government entity, quasi-municipal entity, state agency, educational or charitable organization or institution or other legal entity.

PLANNED RESIDENCE: A Residence for which all applicable building and land use permits have been issued, provided that the time for beginning construction under such permits has not expired.

PLANNED UNIT DEVELOPMENT: A planned unit development is a residential or mixed-use land development which is developed under unified management; is planned as a whole according to comprehensive and detailed plans, including roads, utilities, lots or building sites, open space and preserved natural features, recreational facilities, and design principles for proposed buildings; is reviewed and approved as a subdivision by the Planning Board and in addition is subject to the requirements of this Section; may be developed in clearly identified stages; and provides for the operation and maintenance of common facilities.

PLANNING BOARD: The Planning Board of the Town of Newry, Maine, as created by the Planning Board Ordinance.

PRE-DEVELOPMENT AMBIENT: The ambient sound at a specified location in the vicinity of a facility site prior to the construction and operation of the proposed Commercial Wind Energy Facility, Development or expansion.

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

PRINCIPAL USE: A use other than one which is wholly incidental or accessory to another use on the same premises.

PRIVATE ROAD: A primary, secondary or neighborhood road which meets town standards and specifications of the ordinance that is not maintained with public funds. A private road does not need to be paved

PROTECTED LOCATION: Any location that is beyond the property boundary of the applicant. In cases where Participating Landowner agreements exist, the property boundary of the applicant may be extended as described in such documents.

PUBLIC ROAD: A road maintained with public funds

PUBLIC UTILITY FACILITIES: Facilities needed to furnish electricity, waste disposal, communication, transportation or water to the public. Public utility facility shall not include commercial communication towers and related facilities.

RECORDING PLAN: A copy of the Final Plan which is recorded at the Registry of Deeds.

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.

RESIDENCE: A building or structure, including manufactured housing, maintained for permanent or seasonal residential occupancy providing living, cooking and sleeping facilities and having permanent indoor or outdoor sanitary facilities, excluding recreational vehicles, tents and watercraft.

RESORT: A self contained complex developed as a single entity providing lodging facilities, recreation and services for transit quests.

RESORT BASED USES: Uses normally associated with an resort.

RESTAURANT: A commercial establishment where meals are prepared and served to the public.

RESUBDIVISION: The division of an existing subdivision or development or any change in the plan for an approved subdivision or development which affects the lot lines, including land transactions by the subdivider not indicated on the approved plan.

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

REVEGETATED: That surface area that has been returned to its natural state as grass, meadow, forest or agricultural use.

ROAD: Public and private ways such as Town ways, public right-of-ways and private right-of-ways other than driveways.

ROAD CLASSIFICATION:

NEIGHBORHOOD ROAD: A road having a minimum 50' right-of-way with a travel way width of at least 18 feet and 2' wide shoulder on each side. A neighborhood road shall serve small residential areas with a maximum speed of 25 mph. The road shall be within a subdivision, and is not intended to allow thru traffic. No more than 65 lots and/or individual dwelling units shall be served by a neighborhood road or roads.

PRIMARY ROAD: A road having a minimum 60' right-of-way with a travel way width of at least 22' and 4' wide shoulder on each side for a total width of 30' from outside to outside of the shoulders.

SECONDARY ROAD: A road having a minimum 50' right-of-way with a travel way width of at least 20' and 2' wide shoulder on each side with a maximum length of 15,000'. A secondary road will serve an area intended primarily for residential use, and serve as the means to access no more than 200 lots and/or individual dwelling units per connection with a Primary road. This number shall include lots and/or individual dwelling units on other roads whose only access is via this secondary road. A secondary road shall have a maximum speed limit of 35 mph.

ROUTINE OPERATION: Regular and recurrent operation of regulated sound sources associated with the purpose of the Commercial Wind Energy Facility and operating on the facility site.

SAWMILL: A commercial facility where logs or bolt wood are sawn, split, shaved, stripped, chipped or otherwise processed to produce wood products. The term saw mill does not include slashing or chipping at the harvest site.

SCENIC RESOURCE: Either a Scenic Resource of state or national significance, as defined in 35-A M.R.S § 3451(9) or a scenic resource of local significance located within the municipality and identified as such in a comprehensive plan, open space plan or scenic inventory adopted by the municipal legislative body.

SERVICE BUSINESS: Establishments engaged in providing services for individuals and businesses such as laundries, beauty shops, barbershop, advertising and equipment leasing.

SHADOW FLICKER: Alternating changes in light intensity caused by the movement of Wind Turbine blades casting shadows on the ground or a stationary object.

SHORT DURATION REPETITIVE SOUNDS: A sequence of repetitive sounds which occur more than once within an hour, each clearly discernible as an event and causing an increase in the sound level of at least 6 dBA on the fast meter response above the sound level observed immediately before and after the event, each typically less than ten seconds in duration, and which are inherent to the process or operation of the facility and are foreseeable.

SIGHT LINE REPRESENTATION: A profile drawing showing prominent features, including but not limited to topography, buildings, and trees, along and in relation to a line of sight extending from an observer's eye to the lowest point visible on a proposed Tower.

SIGN: An object, device or structure, or part thereof, situated outdoors, visible from a public road, free standing or attached, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product,

service, event or location, by any means including words, letters, figures, design, symbols, advertising flags, fixtures, colors, illuminations or projected images. Each substantially different face of a sign shall constitute a separate sign.

SIGNIFICANT WILDLIFE HABITAT: A Significant Wildlife Habitat as defined in 38 M.R.S. § 480-B(10).

SITE PLAN: A plan showing the proposed layout of lots, buildings, roads, parking, landscaping, and other site improvements.

SOUND COMPONENT: The measurable sound from an audibly identifiable source or group of sources.

SOUND LEVEL: Ten times the common logarithm of the square of the ratio of the frequency-weighted and time-exponentially averaged sound pressure to the reference sound of 20 micropascals. For the purpose of this ordinance, sound level measurements are obtained using the A-weighted frequency response and fast dynamic response of the measuring system, unless otherwise noted.

SOUND PRESSURE: Root-mean-square of the instantaneous sound pressures in a stated frequency band and during a specified time interval. Unit: pascal (Pa).

SOUND PRESSURE LEVEL: Ten times the common logarithm of the square of the ratio of the sound pressure to the reference sound pressure of 20 micropascals.

STREAM: Means a channel between defined banks. A channel is created by the action of surface water and has two (2) or more of the following characteristics.

1. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topography map or if that is not available, a 15-minute series topography map.
2. It contains or is known to contain flowing water continuously for a period of at least 3 months of the year in most years.
3. The channel bed is primarily composed of material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
4. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present in the stream bed.

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.

SUBDIVIDER: The person, or persons proposing a subdivision as defined in this ordinance.

SUBDIVISION: A subdivision is defined by Title 30-A MRSA Section 4401.

SUBDIVISION, MAJOR: Any subdivision of 10 or more lots and/or dwelling units.

SUBDIVISION, MINOR: Any subdivision with less than or less than 10 lots and/or dwelling units.

SUBSTANTIAL ENLARGEMENT: Any expansion of the land area of the development site by more than 25% at any one time of in total since the effective date of this ordinance.

SUBSTANTIALLY COMPLETED: Completing of least 30% of the required infrastructure improvements measured as a percentage of total estimated cost of such improvements.

TIMBER HARVESTING: The cutting and removal of timber for the primary purpose of selling or processing forest products.

TIMBER HARVESTING ACTIVITIES: Timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities to facilitate timber harvesting.

TONAL SOUND: A tonal sound exists if, at a Protected Location, the one-third octave band sound pressure level in the band containing the tonal sound exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5 dB for center frequencies at or between 500 Hz and 10,000 Hz, by 8 dB for center frequencies at or between 160 and 400 Hz, and by 15 dB for center frequencies at or between 25 Hz and 125 Hz.

TOWER: The free-standing structure on which a wind measuring or energy conversion system is mounted.

TOWN ROAD: A road maintained by the Town of Newry.

TRACT OR PARCEL OF LAND: all contiguous land in the same ownership provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides after September 22, 1971.

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.

VISISBLE: Capable of being seen without visual aid by a person of normal visual acuity.

WHOLESALE BUSINESS: The use of land and/or buildings engaged I the selling of merchandise to retailers, industry, commercial, institutional or professional businesses or other wholesalers as distinguished from the sale to the general public.

WIND ENERGY FACILITY: A facility that uses one or more Wind Turbines to convert wind energy to electrical energy

WIND TURBINE: A system for the conversion of wind energy into electricity which is comprised of a Tower, generator, Nacelle, rotor and transformer.

JAM

Exhibit A

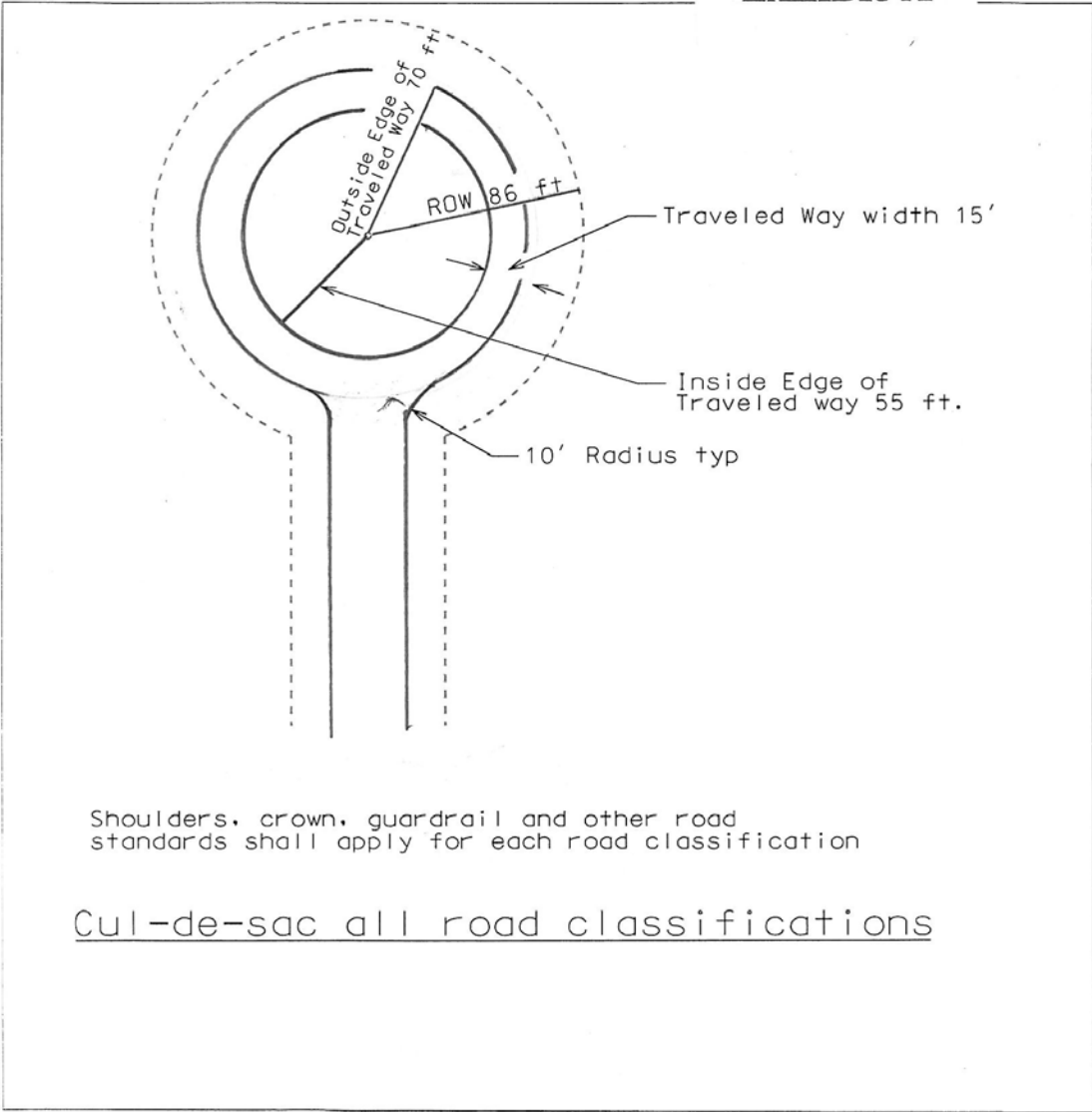
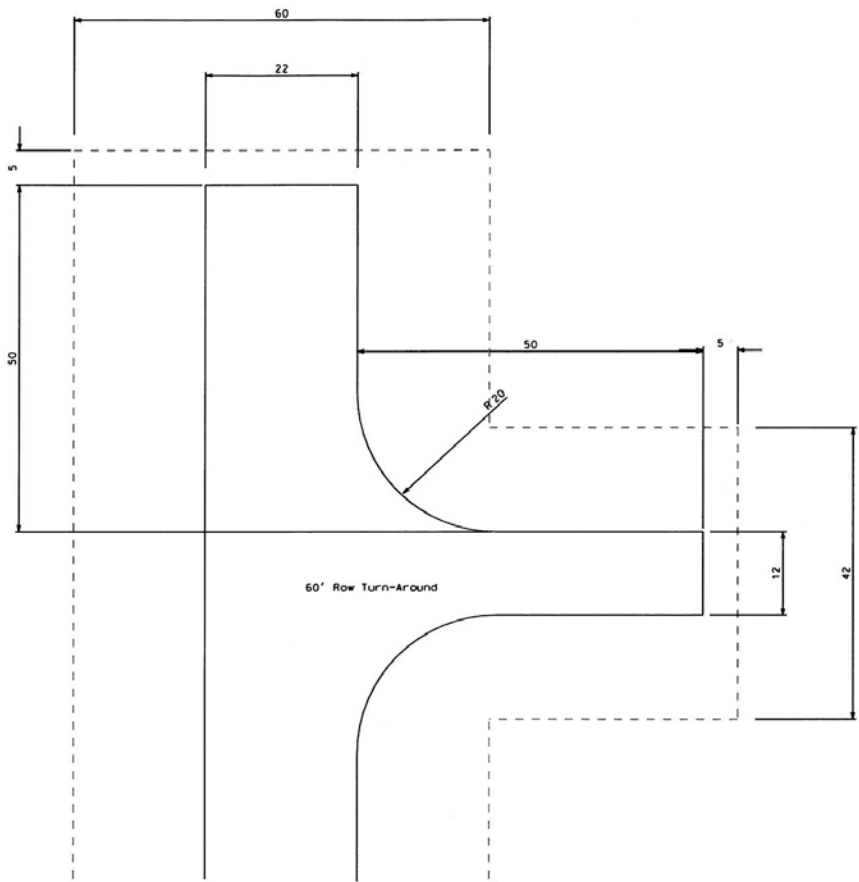
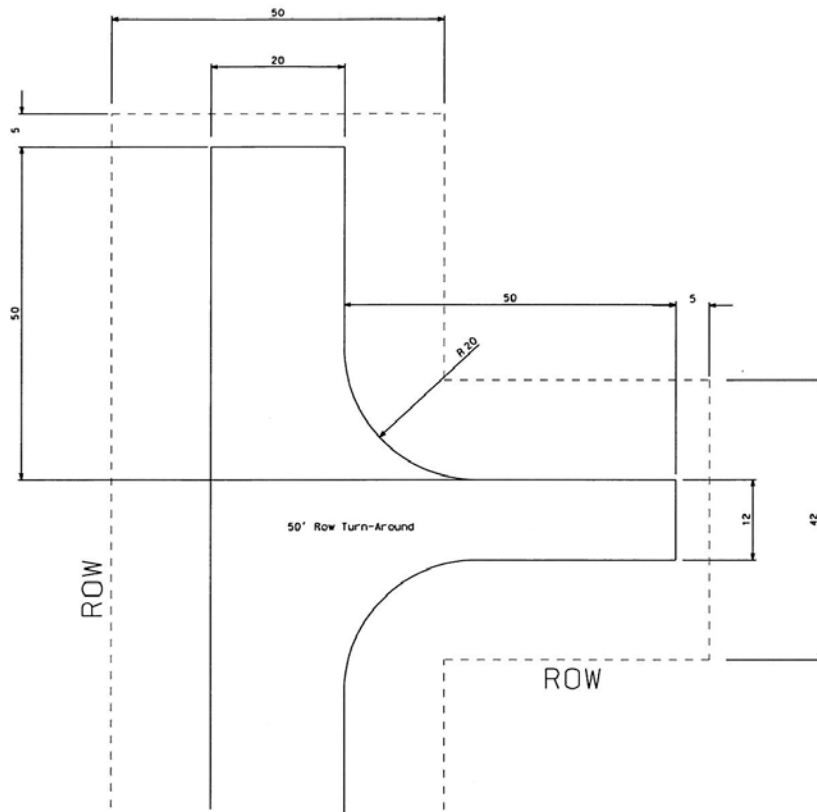


Exhibit B-1



Primary Road
Hammerhead Turn-around
Scale 1" = 20'-0"

Exhibit B-2



Neighbor & Secondary Road
Hammerhead Turn-around
Scale 1" = 20'-0"

New HammerHead.dgn 10/16/2009 8:53:15 AM

Exhibit C

Approved by: Town of Newry Planning Board

Date: _____

Signed: _____ Chairperson

_____ Board Members

Newry, Maine

Proposed
Growth Management
District Map
October 2009

