

2018

Town of Portage Maine Ordinances

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Portage Lake Land Use Ordinance

The Land Use Ordinance of the Town of Portage Lake

Adopted by the Residents on: _____

Town Selectpersons

_____, Chair

Planning Board Members

_____, Chair



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Section 1 Legal Status Provisions.

1. Purposes.

The purposes of this Ordinance are to:

- A. Protect the health, safety, and general welfare of the residents;
- B. Encourage appropriate use of land throughout the Town;
- C. Encourage economic development;
- D. Promote traffic safety;
- E. Provide safety from fire and other elements;
- F. Provide adequate light and air;
- G. Prevent overcrowding of real estate;
- H. Prevent housing development in unsuitable areas;
- I. Provide an allotment of land area in new developments sufficient for all the requirements of community life;
- J. Conserve natural resources and Town character;
- K. Provide for adequate public services as an integral part of a comprehensive plan for community development;
- L. Protect archaeological and historic resources, freshwater wetlands, fish spawning grounds, aquatic life, bird and other wildlife habitat, and buildings and lands from flooding and accelerated erosion;
- M. Prevent and control water pollution; and
- N. Assure new development meets the goals and conforms to the policies of the Comprehensive Plan.

2. Authority.

This Ordinance has been adopted in accordance with the provisions of Article VIII-A of the Maine Constitution; the provisions of MRSA Title 30-A, Sections 3001 (Home Rule) and 4401 et seq. (Subdivisions); and the State's Growth Management Law MRSA Title 30-A, Section 4311 et seq.; as may be amended.

3. Title.

This Ordinance shall be known and may be cited as the "*Land Use Ordinance of the Town of Portage Lake*" and shall include the Zoning Ordinance, Site Design Review Ordinance, and the Subdivision Review Ordinance.

4. Applicability.

The provisions of this Ordinance shall govern all land, buildings, and structures within the boundaries of the Town of Portage Lake.

5. Repeal of Prior Ordinances.

Except for the Shoreland Zoning Ordinance, all prior Zoning Ordinances of the Town of Portage Lake are repealed as of the effective date of this Ordinance.

6. Effective Date.

This Ordinance shall take effect and be in force from the date of its adoption by the Town's legislative body.

7. Conflict with Other Laws.

Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rule, regulation, ordinance, or resolution, the most restrictive or that imposing the higher standards shall govern.

8. Severability.

Should any provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance, as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

9. Availability.

A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public during normal business hours. 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.

10. Administration and Enforcement.

This Ordinance shall be administered by the Planning Board or the Code Enforcement Officer, as indicated within, and shall be enforced by the Code Enforcement Officer.



Portage Lake Zoning Map.

3. Establishment of Zoning Districts.

A. For the purposes of this Ordinance, the Town is hereby divided into three (3) Districts:

1. **Growth District.** The Growth District is established as a zoning district in which the principal use of the land will be for a mixture of uses; to provide for areas of development growth; to provide areas for public, semi-public, and other use compatible with and complementary to residential development; to provide areas where the location of public services can serve the greatest number of people; to allow a maximum diversity of uses; to protect historical and architectural integrity; to encourage the location of uses in areas best suited for such development; to provide effective controls on uses that by virtue of their size or external effects could create nuisances, unsafe, or unhealthy conditions; and to concentrate development to the mutual advantage of customers, merchants, and owners. Certain additional uses which meet the requirements of this Ordinance may be permitted by the Planning Board which will contribute to and enhance the attractiveness of the community. (See: Portage Lake Official Zoning Map)

Note: For the purposes of this Ordinance, the “Village Area” is defined as being the area encompassed by the Growth District along Route 11 from the Nashville Plt. Townline north to the golf course and includes both sides of West and Cottage Roads. (See: Portage Lake Official Zoning Map)

2. **Rural District.** The Rural District is established: as a zoning district that includes those areas of town generally unsuitable for development; to provide areas for agricultural and forestry diversity and their customary associated uses; to provide areas for public, semi-public, and other uses; to protect agricultural and forest lands capable of economic production, so as to safeguard this sector of the Town's economic base; to avoid the irretrievable loss of land well suited for production; to conserve and protect significant natural and recreational resources, wetlands, poorly drained soils, steep slopes, rock outcroppings, shoreland areas, wildlife habitat, high output aquifers, and areas of the Town to be protected due to their traditional uses; to reduce soil erosion; and to help landowners to qualify for property tax abatement under state programs. This District consists primarily of forestlands and certain additional uses which meet the purposes and requirements of this Ordinance. Essentially, the Rural District is defined as those areas outside of the Growth District. (See: Portage Lake Official Zoning Map)
3. **Industrial District.** The Industrial District is established as a zoning district: in which the principal use of the land is for industrial purposes and for commercial and business uses commonly supplemental to or associated with industrial uses; to encourage the location of industrial uses in areas best suited for such development; to provide effective controls on those uses which, by virtue of their size or external effects could otherwise create nuisances, unsafe, or unhealthy conditions; to avoid the economic disadvantage of providing essential services to industrial facilities developed in a strip fashion along highways or major thoroughfares; and to concentrate industrial development in areas conveniently located with respect to transportation systems.

B. Special Protection Overlay District.

For the purposes of this Ordinance, Portage Lake hereby has one special protection overlay District for the sand and gravel aquifers. The overlay District is intended to maintain safe and healthful environmental conditions; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitats; control building sites; provide visual and physical points of access to waters and areas of natural beauty; and to protect and maintain the quality of surface and ground waters. The overlay District shall be superimposed over underlying Districts and land uses are subject to **both** the standards in the underlying and the overlay District.

1. Sand and Gravel Aquifer Overlay District.

- a. This District includes sand and gravel aquifers as identified on the Maine Geological Survey "*Hydrogeologic Data for Significant Sand and Gravel Aquifers*" maps, as well as, a 250' buffer drawn around the known boundaries of these aquifers (buffers shall be updated as the aquifer mapping is updated).
- b. All future non-residential land uses on the aquifer and within the 250' buffer shall be subject to the review and approval of the Planning Board. Such approval shall be granted upon showing that such uses shall not cause groundwater contamination or contaminate or disturb the normal course of surface water run-off.
- c. All construction or activity involving the displacement of soil on the aquifer and within the 250' buffer shall follow soil erosion control measures as outlined in Best Management Practices.
- d. No vehicle carrying pesticides, fertilizers, or other toxic or hazardous chemicals or substances shall pump water from the aquifer. Penalties of heavy fines and suspension of licenses shall be imposed for handling potentially toxic or hazardous chemicals or substances within the aquifer or for the contamination of any waters within the aquifer.

Additional Provisions.

- a. All land use activity regulated by this Ordinance within the District shall require a brief no fee application be obtained, completed, and returned by the applicant to the CEO.
- b. No new aboveground or underground storage of fuel, except for household heating fuel, or chemical tank or toxic or hazardous materials shall be permitted or expanded within the District.
- c. The Town shall have the right to install groundwater monitoring wells and shall further maintain the right to sample such wells on properties within the District when the Town can clearly show that groundwater monitoring in the area will serve to protect the water from existing or potential threats.
- d. When and where applicable within the District, the CEO shall have the right, upon 24-hour notice, to enter, inspect, and to determine whether all premises which have groundwater pollution control devices or management practices are in good condition and working properly. Such testing shall be at the Town's expense. If such testing indicates that the groundwater has been contaminated above *the State Primary and Secondary Drinking Water Standards*, then further testing shall be at the expense of the land owner in question. Additionally, the owner shall reimburse the Town for expenses incurred in the initial well installation and testing.
- e. The collection and disposal of petroleum products, chemicals, and wastes used in construction shall conform to the following:
 1. Petroleum products, chemicals, and wastes shall be collected and stored in closed, clearly marked, water tight containers.
 2. Containers shall be removed regularly for disposal to prevent spills and leaks which can occur due to corrosion of containers. A schedule for removal shall be included with the application and in any construction specifications for the project.
 3. Fertilizers and landscape chemicals such as herbicides and pesticides shall be applied following appropriate Best Management Practices.
- f. Stormwater Runoff/Snow and Ice Control.
 1. Drainage systems, including detention basins, drainage ways, and stormwater systems shall be maintained in order to insure they function properly.
 2. Chemicals and wastes shall be stored in such a manner as to prevent rainfall from contacting them.
 3. Runoff from parking lots should be diverted to stormwater drains where applicable.
 4. Snowmelt from parking lots should be diverted to stormwater drains.
 5. Parking lots should be maintained on a yearly basis.
 6. Sand/salt mixtures with a minimal portion of salt should be used for snow and ice control.

g. Industrial and Maintenance Operations.

1. A plan detailing the reuse, recycling, or proper disposal of waste chemicals shall be kept, maintained, and updated as needed. Provisions shall be provided for implementing the plan.
2. Buildings, rooms, and areas where chemical potential pollutants are used, handled, or stored shall be designed to contain spills and or leaks.
 - a. Floor drains shall not be used except as required by fire regulations; and
 - b. A waterproof dike shall be placed around areas to contain accidental spills. The dike shall have an equivalent volume to the amount of material stored or used in the room.
3. Spill/leakage prevention and detection programs shall be maintained and updated.
 - a. Plans shall insure the regular collection and transport of chemicals; and
 - b. Plans shall provide for inspection of containers and storage areas on a regular basis.
4. A spill clean-up plan shall be maintained and updated annually. The plan shall:
 - a. Insure adequate materials and equipment are available;
 - b. Insure that personnel are trained; and
 - c. Insure that the local fire department is knowledgeable of clean-up procedures.
5. Wash waters and other diluted wastes shall be adequately treated consistent with State law and the current pre-treatment ordinances.
 - a. Wastes shall be discharged to sewer systems where possible; and
 - b. Grease traps and oil separators shall be installed where necessary and shall be maintained on a regular basis.

h. Septic/Sewage Disposal.

- a. For cluster systems, 1000 gallon septic tank capacity shall be provided for each 300 gallons of flow. Design flows for leachfields shall be less than 2500 gallons per day.

i. Waste Disposal Handling.

1. Inert Fill.
 - a. Wastes shall be placed a minimum of 2 feet above the seasonal high ground water table; and
 - b. For wastes other than concrete, stone, and brick, documentation from a laboratory that wastes are inert shall be provided.
2. Transfer Station/Recycling Facilities.
 - a. All storage areas shall be located a minimum of 5 feet above the seasonal high ground water table;
 - b. If water clean-up of facilities is used, it shall be discharged to a public sanitary sewer. If no public sanitary sewer is available, dry clean-up procedures shall be used;
 - c. Gravel, asphalt, or concrete pads or steel or aluminum containers shall be used for storage facilities for white goods and tires;
 - d. Facilities shall not be located in 100 year floodplain;
 - e. An Operating Manual shall insure that only non-hazardous municipal solid waste is accepted;

- f. For recycling facilities, an Operating Manual shall insure that only clean, marketable recyclables are collected; and
 - g. For recycling facilities, storage of residuals shall be accomplished to prevent spillage and leakage.
3. Municipal, Commercial, Industrial, and Other Special Wastes.
 - a. All handling, storage, and transfer shall comply with MDEP rules; and
 - b. Storage and transfer areas shall comply with the management practices listed in 2. above.
 4. Junkyards/Metal Processing.
 - a. Fluids shall be removed in a secure area and stored for appropriate disposal;
 - b. Fluids shall be disposed in accordance with state and federal laws; and
 - c. Records shall be maintained to indicate the quantities of fluids handled.
- j. Chemical and Petroleum Handling and Storage.
1. Non-hazardous chemicals shall be substituted for hazardous varieties whenever possible.
 2. A detailed inventory shall be maintained.
 3. Provisions shall be made to clean-up all spills immediately with an absorbent material or other methods and dispose of them properly.
 4. Hazardous materials shall be stored in secure, corrosion, resistant containers.
 5. Storage shall be in above-ground, corrosion resistant tanks. The following provisions shall be complied with:
 - a. A diked area shall be provided around tanks to contain spills. The volume of diked area shall equal the volume of product stored;
 - b. A roof shall be provided over containment areas to prevent collection of rain water; and
 - c. Drains shall not be installed in containment areas.
 6. If underground storage is necessary, tanks shall be approved by the MDEP. The system, including piping, shall be tested prior to use. Underground piping and transmission lines shall be inspected and tested upon installation and on an annual basis, thereafter.
 7. All floors shall be concrete or an impermeable, hardened material. Sub-floor synthetic containment liners shall be inspected to contain spills or leaks which occur inside buildings with earth or gravel floors.
 8. Non-bulk storage of chemicals shall be inside. Such storage areas shall comply with the following:
 - a. Floor drains shall not be used;
 - b. If floor drains are required by the fire regulations, they shall be discharged to a holding tank. Tanks shall be pumped by a licensed oil or hazardous waste hauler, as appropriate. Tanks shall be equipped with gauges to determine used capacity; and
 - c. Storage / handling areas shall have waterproof dikes around perimeter to contain spills.
 9. Tanks shall be equipped with automatic shutoffs and/or high level alarms.
 10. Spill and leak detection programs shall be maintained and updated annually.
 11. Oil and water separators shall not be used to remove dissolved compounds or oil and greases which had been subjected to detergents.
 12. Loading areas shall be covered to prevent the mixing of stormwater and spilled chemicals. Concrete or other impermeable pads shall be provided under transfer and handling areas.
 13. Exterior transfer and handling areas shall be slope as to prevent runoff from other areas from entering the handling area, but to contain small quantities of spilled product.
 14. Procedures shall be established to catch and store chemicals spilled at loading docks and other transfer areas.

15. Provisions shall be made to periodically inspect and test tanks and lines for leaks.
 16. The facility and equipment shall be designed to:
 - a. Prevent tank overflows; and
 - b. Prevent line breakage due to collision
 17. Provisions shall be made to have:
 - a. Emergency diking materials available; and
 - b. Emergency spill cleanup materials available.
 18. The facility and equipment shall be designed to:
 - a. Prevent tank overflows; and
 - b. Prevent line breakage due to collision
 19. Exterior transfer and handling sites shall be graded and sloped to prevent runoff for other areas from entering the handling areas.
 20. Residential storage tanks for home heating fuel shall be located in cellars or on a concrete slab above the ground if outside.
- k. Sand and Gravel Mining.
1. Limit Depth of Excavation.
 - a. Excavation shall be limited to 5 feet above the seasonal high water table;
 - b. If excavation is proposed such that there will be less than 5 feet separation between excavation limits and the ground water table, a hydrogeologic investigation must be done to assess the potential adverse impact including potential contamination and reduction in recharge of this proposal; and
 - c. If water supply wells are present within 500 feet of the proposed excavation, ground water level monitoring wells shall be installed.
 2. Haul roads shall be watered to control dust. Salting and oiling of roads is prohibited.
 3. Petroleum Storage.
 - a. If petroleum is proposed for storage above ground, a fully contained storage and refueling area shall be provided. Provisions must be made for rain falling in the containment area. A roof is preferable. For large operations, a covered, impermeable refueling/maintenance area shall be provided;
 - b. A spill prevention plan shall be maintained and updated; and
 - c. A reclamation plan shall be provided, maintained, and used.
- l. Silviculture.
1. Silvicultural Chemical Handling and Storage.
 - a. For the spillage or disposal of oils, fuels, coolants or hazardous wastes on the ground during maintenance or repair, the appropriate collection and disposal of such substances shall take place;
 - b. The Best Management Practices for Chemical Use and Storage should be followed;
 - c. The Best Management Practices for Waste Disposal shall be followed; and
 - d. Salt/sand storage areas shall be covered.

C. Rules Governing District Boundaries.

Where uncertainty exists as to the boundaries of Districts as shown on the Official Zoning Map the following rules shall apply.

1. Boundaries indicated as approximately following the center lines of roads, highways, alleys, railroad rights-of-way, rivers, or streams shall be construed to follow such center lines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or other circumstances not covered by subsections 1 & 2 above, the Board of Appeals shall interpret the District boundaries.

D. Lots Divided by District Boundaries.

When a lot of record is divided by a use District zoning boundary, other than the boundary to an overlay zone, the following rules shall apply:

- A. On lots of two (2) acres or less in area, the lot shall be used as if the entire lot were in the District which comprises the larger portion.
- B. On lots larger than two (2) acres, the District with the more restrictive regulations shall be followed in each portion.

4. District Regulations.

A. Basic Requirement.

Permitted uses and uses requiring site design review in Districts shall conform to all applicable specifications and requirements. A Plumbing Permit, Land Use Permit, and/or Certificate of Occupancy shall be required for all buildings, uses of land and buildings, and sanitary facilities, according to the provisions of this Ordinance.

B. 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, moved, or altered and no new lot shall be created unless in conformity with all of the regulations herein specified for the District in which it is located.

C. Soil Suitability.

The following land use chart establishes allowed land uses and minimum lot sizes for new development. Since slopes and soils are the greatest limiting factor for development in Portage Lake, development on a lot-by-lot basis should be controlled by the limitations of the soil on site. A soil survey, conducted by a site evaluator, should be used to determine the intensity of an allowed use of the parcel.

D. District Regulations.

Land uses in conformance with the provisions of this Ordinance are shown in the following table.

Key:

- CEO = Requires CEO review, approval, and permit.
- PB = Requires review and approval by Planning Board and permit from CEO.
- NO = Prohibited use.

Land Use Tables

5. Dimensional Requirements.

- A. Lots and structures in all Districts shall meet or exceed the dimensional requirements listed below.
- B. Height requirements do not apply to barns, barn silos, flagpoles, chimneys, steeples, windmills, elevator bulkheads, sky lights, ventilators, and other necessary appurtenances carried above roofs; nor towers, stacks, spires, if not used for human occupancy; towers, television and radio broadcasting towers and antennas and similar structures that do not occupy more than twenty-five (25) percent of the lot area; nor to churches and public institutional buildings; nor similar structures usually erected at a greater height than the principal building, however such accessory structures or appurtenances require a lot line setback distance of no less than its height.
- C. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirement, herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements, herein.
- D. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- E. The front yard setback requirements of this Ordinance for dwellings shall not apply to any lot where the average setback on developed lots located wholly or in part within 100 feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum setback required. In such cases the front yard setback on such lot may be less than the required setback, but not less than the average of the existing setbacks on the developed lots.

Dimensional Requirements Table

6. Non-Conformance.

A. General.

1. Continuance, Enlargement, Reconstruction: Any non-conforming use, non-conforming lot of record, or non-conforming structure may continue to exist, but may not be extended, reconstructed, enlarged, or structurally altered except as specified below.
2. Transfer of Ownership: Non-conforming structures, non-conforming lots of record, and non-conforming 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.
3. Restoration or Replacement: This Ordinance allows the normal upkeep and maintenance of non-conforming uses and structures; repairs, renovations, or modernizations which do not involve expansion of the non-conforming use or structure and the value of which is less than 50 percent of the market value of the structure before the repair is started; and such other changes in a non-conforming use or structure as Federal, State, or local building and safety codes may require. Any non-conforming use or structure which is hereafter damaged or destroyed by fire or any cause other than the willful act of the owner or their agent, may be restored or reconstructed within one (1) years of the date of said damage or destruction, provided that:
 - a. The non-conforming dimensions of any restored or reconstructed structure shall not exceed the non-conforming dimensions of the structure it replaces;
4. Essential Service: Nothing within this Section shall restrict the extension, reconstruction, enlargement, or structural alteration of essential services. All plans for the extension, reconstruction, enlargement, or structural alteration of essential services shall be reviewed by the Planning Board.

B. Non-Conforming Use.

1. Resumption Prohibited: A lot, building, or structure in or on which a non-conforming use is discontinued for a period exceeding one (1) year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use, even if the owner has not intended to abandon the use.
2. A Structure Non-Conforming as to Use: Except for single-family dwellings, a building or structure non-conforming as to use shall not be enlarged unless the non-conforming use is terminated. Except in a Resource Protection District of the Portage Lake Shoreland Zoning Ordinance, single family dwellings, which are non-conforming uses, may be enlarged as long as the dimensional requirements of the District in which they are located are met. A non-conforming use of part of a building or structure shall not be extended throughout other parts of the building or structure unless those parts of the building or structure were manifestly arranged or designed for such use prior to the adoption of this Ordinance, or of any amendment making such use non-conforming.
3. Change of Use: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use is equally or more appropriate to the District than the existing non-conforming use, and the impact on adjacent properties is less adverse than the impact of the former use as determined by the Board of Appeals. The case shall be heard as an administrative appeal. The determination of appropriateness shall require written findings on the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use. The General Requirements contained with Section 6 of this Ordinance shall apply to such requests to establish new non-conforming uses.
4. Use of Land: A non-conforming use of land may not be extended into any part of the remainder of a lot of land. A non-conforming use of land which is accessory to a non-conforming use of a building shall be discontinued at the same time the non-conforming use of the building is discontinued.

C. Non-Conforming Structures.

Pertaining to dimensional requirements. Applications regarding non-conforming use shall be reviewed under the provisions above.

1. Enlargements Controlled: Any non-conforming portion of a structure shall not be added to or enlarged.
 - a. The addition of steps or the enclosure of an existing deck shall not constitute the expansion of a non-conforming structure. But, the addition of a deck shall constitute the expansion of a non-conforming structure and shall meet all the dimensional requirements of this Ordinance.
 - b. The placing of a foundation below a lawfully existing non-conforming structure shall not constitute the expansion of the structure so long as the first floor space of the structure is not increased.
 - c. Construction or expansion of a foundation under an existing dwelling which expands habitable space shall be considered an expansion.
2. Discontinuance: Discontinuance of the use of a legally existing non-conforming structure for more than 365 days shall constitute abandonment of the structure. Conforming use of the structure may be commenced at any time.
3. Lack of Required Parking or Loading Space: A building or structure which is non-conforming as to the requirements for off-street parking and/or loading space shall not be enlarged, added to, or altered unless off-street parking and/or loading space is provided to bring parking and/or loading space into conformance with the requirements of this Ordinance for both the addition or alteration and for the original building or structure, or a variance is obtained.
4. Non-Conforming Dwelling: A non-conforming dwelling unit, which is less than the required setback from the property line(s), may be expanded for residential uses only to the limit of the existing intersecting building lines, after providing a sketch plan to and obtaining a permit from the CEO; provided that the new expansion does not cause the maximum building lot coverage and/or maximum building height to exceed the lot coverage and/or height allowed by the zoning ordinance for the zoning district in which the expansion will be made. The expansion shall be used for residential purposes only, such as, but not limited to: porches, decks, sunrooms, or garages.

D. Non-Conforming Lots of Record.

For the purposes of this subsection, lots of record originate prior to the effective date of this Ordinance.

1. Vacant Lots: A vacant non-conforming lot may be built upon provided that such lot is in separate ownership and not contiguous with any other vacant lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variance of setback or other requirements not involving area or width shall be obtained only by action of the Board of Appeals.
2. Built Lots: A non-conforming lot that was built upon prior to the enactment or subsequent amendment of this Ordinance is subject to the following restrictions. The structure(s) may be repaired, maintained, or improved, and may be enlarged in conformity with all dimensional requirements of this Ordinance except lot area, lot width, or lot frontage. If the proposed enlargement of the structure(s) cannot meet the dimensional requirements of this Ordinance a variance shall be obtained by action of the Board of Appeals.
3. Contiguous Built Lots: If two (2) or more contiguous lots or parcels are in 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 principle use exists on each lot, the non-conforming lots may be conveyed separately or together, providing the State Minimum Lot Size Law is complied with. If two (2) or more principal uses existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot.
4. Contiguous Lots - Vacant or Partially Built: If two (2) 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 those lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if two (2) or more of the lots are vacant or contain only an accessory structure, the

lots shall be combined to the extent necessary to meet the dimensional standards, except where rights have vested, or the lots have frontage on parallel roads and state laws are complied with.

5. Lot Width and Area Requirements: If a non-conforming lot of record or combination of lots and portions of lots with continuous frontage in single ownership are on record as of the effective date of this Ordinance, the lands involved shall be considered to be a single parcel for the purpose of this Ordinance, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this Ordinance. No division of the parcel shall be made which leaves remaining any lot width or area below the requirements stated in this Ordinance.

E. Vested Rights.

Non-conforming use rights cannot arise by the mere filing of a notice of intent to build, an application for land use permits, or an application for required state permits and approvals. Such rights arise when substantial construction of structures and development infrastructure improvements for Town approved subdivisions began prior to or within twelve (12) months of the adoption of this Ordinance, or in the case of pending applications when substantial review of an application has commenced. Such construction must be legal at the time it is commenced and the owner must be in possession of an in compliance with all validly issued permits, both state and local.

Section 3 Site Design Review.

1. Title.

This Section shall be known and may be cited as the "*Site Design Review Ordinance of the Town of Portage Lake*".

2. Applicability of Site Design Review.

- A. Site design review in conformity with the criteria and standards of this Section shall be required for the following:
 - 1. Uses in each district which the CEO or Planning Board determine shall meet the requirements of this section.
 - 2. Resumption of a conforming use which has been discontinued for at least one (1) year which would require site design review if being newly established;
 - 3. The construction of a commercial building, industrial building, or other non-residential building when the gross impervious surface of the site is 6000 square feet or greater;
 - 4. The addition(s) to a commercial building, industrial building, or other non-residential building, having a total gross floor area in excess of four thousand (4000) square feet cumulatively within a three (3) year period;
 - 5. The construction of any parking area(s) in excess of ten (10) parking spaces;
 - 6. The alteration of a water course, ditch, or swale;
 - 7. The change of use of any portion of an existing building or structure in excess of four thousand (4000) square feet cumulatively within any three (3) year period;
 - 8. The change in on-site vehicle access of any existing parking lot or driveway on Route 11; or
 - 9. Filling, grading, or excavation projects which move in excess of one thousand (1000) cubic yards of materials.

3. Site Design Approval.

- A. All applicable development projects shall require the review and approval of the Planning Board or CEO as provided by this Ordinance.
- B. A public hearing may be scheduled for any application if the proposed development poses the potential for significant impacts to municipal facilities or natural resources. Said hearing shall be conducted prior to final action on the application.
- C. All site design approvals shall expire within one (1) year of the date of final approval, unless work thereunder is commenced and 50 percent of the approved Plan is completed and an extension is approved by the CEO for an additional year. If work is not completed within two (2) years from the date of final approval, a new application must be made. There will be no additional charge.
- D. In the event that a site design is recorded with the Registry of Deeds without final approval, the design shall be considered null and void, and the CEO shall institute proceedings to have the design stricken from the records of the Registry of Deeds. Any site design not recorded in the Registry of Deeds within ninety (90) days of the date of final approval shall become null and void.

4. Site Design Notification.

- A. The CEO shall notify all property owners within (500) feet of the property involved and such other property owners as the Planning Board may deem necessary. It shall be the responsibility of the applicant to supply the names and mailing addresses of the abutting or other identified property owners. The notice shall include a description of the nature of the applicant's proposal and the time and place of any meeting or the public comment time period required.
- B. The CEO shall notify the identified property owners of the application at least fourteen (14) days before the first workshop meeting and first public hearing, if a public hearing is necessary, where the application will be discussed. A final decision shall not be made on the application for a period of thirty (30) days after the

date the Planning Board has determined that the application is complete to provide an opportunity for public comment.

- C. The agenda of any meetings shall be published in a local newspaper at least seven (7) days before the date of the meeting and displayed in two (2) places of general public access. The agenda notice shall include a brief description of the application and the ordinance(s) by which the proposal is to be reviewed.

5. Fees and Guarantees.

- A. An application for site design approval shall be accompanied by a fee as depicted in Section 19. This application fee shall be made payable to the "*Town of Portage Lake*" and shall not be refundable.
- B. The Planning Board may require that an expert consultant(s) review one or more submissions of an application and report as to compliance or non-compliance with this Ordinance, and advise if necessary, of procedures which will result in compliance. The consultants shall be fully qualified to provide the required information and shall be mutually acceptable to the municipality and the applicant.
- C. At the time of final approval, the applicant may be required to tender a performance guarantee (See: Section 15, "*Performance Guarantees*", herein) adequate to cover the total costs of all required improvements, taking into account the time-span of the guarantee and the effects of inflation upon costs. The conditions and amount of the guarantee shall be reasonably necessary to ensure the completion of all improvements required as condition of approval of the application, in such form as approved by the Planning Board and the Town Selectmen. The municipality shall have access to the site to review the progress of the work and shall have the authority to review all records and documents related to the project.
- D. The applicant shall provide a one year defect bond upon completion of all public improvements. The amount of the defect bond shall be ten percent (10%) of the amount of those public improvements approved as part of the site design. The bond shall be placed in an account in the municipality's name. The bond, including accrued interest, remaining in the account and which has not been spent or appropriated shall be returned to the applicant within three-hundred and sixty-five (365) days from date of final approval.
- E. Irrespective of any other provision of this Ordinance, the application shall not be considered complete if the applicant fails to pay any of the fees, bonds, or guarantees, or appeals any fee, bond, or guarantee determination. If the applicant appeals the payment of any fees, bonds, or guarantees to the Board of Appeals, the Board shall decide whether the fee, bond, or guarantee is reasonable for the purpose found necessary. The fee, bond, or guarantee shall be placed into an appropriate account in the municipality's name. The money, including any accrued interest, remaining in the account and which has not been spent or appropriated, shall be returned to the applicant within thirty (30) days from date of final approval.

6. Site Design Review Procedure and Requirements.

- A. The following application process shall be followed to facilitate site design review.
 - 1. Upon receipt of an application for site design review, the CEO shall determine and schedule the development for either concept or final plan review. The CEO may advise the applicant whether Concept Plan review is appropriate prior to submission of a final plan. Neither concept or final plan review shall occur unless there is evidence that the required public notice has been given and the material required by this Ordinance is filed in a timely manner. The application is distributed to the appropriate municipal departments. Final determination as to the completeness of applications for Concept Plan and final plan review shall be made by the Planning Board.

2. Concept Plan Review.

Concept Plan review is intended to provide the applicant with an opportunity to discuss the proposed development; obtain CEO and Planning Board comments prior to expending significant resources in furtherance of specific development plans; and gain an understanding of the review procedures, requirements, and standards. The Planning Board may identify issues that are to be addressed in the final plan application. No decision is made during Concept Plan review.

3. Final Plan Review.

Within sixty (60) days after determining that an application is a complete, a public hearing on the proposed development may be called if the development poses the potential for significant impacts to municipal facilities or natural resources, or either the applicant, or the Planning Board determines that additional workshops are necessary. The Planning Board shall issue a written decision approving, approving with conditions, denying, or tabling the final plan,. If the Planning Board tables the item, an additional public hearing must be held. If the Planning Board shall vote to approve the site design application, the CEO shall issue a permit, provided that all other requirements of the ordinance are met.

4. Statement of Findings.

All findings and decisions by the Planning Board denying or conditionally approving any site design shall be made in writing or reduced to writing within thirty (30) days of the decision and shall state the reason(s) therefore sufficient to appraise the applicant and any interested member of the public of the basis for the decision. Except for the appeal of any fee, bond, or guarantee, the decisions regarding site designs are appealable by the applicant to the Superior Court.

5. Applications Requiring Other Public Agency Review.

- a. The Planning Board may approve complete final applications subject to the condition that all necessary permits be received from agencies such as, but not limited to, the Army Corps of Engineers, Maine Department of Environmental Protection, Maine Department of Transportation, or Maine Department of Human Services. However, the Planning Board may require that approvals required by state or federal law be submitted to the municipality prior to final approval.
- b. The Planning Board may request copies of the application to be forwarded to other municipal committee(s). The comments of the committee(s) are advisory to the Planning Board and shall pertain to the application's conformance with the review criteria of this Ordinance. The Planning Board may postpone final decisions regarding the application until such time as the comment from the municipal committee(s) has been submitted.

7. Site Design Application Requirements.

A. Required Number of Copies.

Final application for site design review shall consist of five (5) copies of the required information. The applications are to be submitted to the CEO no later than twenty-one (21) days prior to the meeting at which the item is to be heard.

B. Concept Site Design Plan.

1. The Planning Board may review applications as a Concept Plan. These are applications that do not meet the final plan requirements. At a minimum, Concept Plan applications shall include the following information:
 - a. Concept Plan Requirements.
 1. Name and address of the owner of record and applicant (if different);
 2. Name of the proposed development;
 3. Names and addresses of all property owners within 500 feet of the edge of the property line;
 4. Names and addresses of all consultants working on the project;
 5. Graphic scale and north arrow;
 6. A copy of the deed to the property, option to purchase the property, or other documentation to demonstrate right, title, or interest in the property on the part of the applicant;
 7. Location and dimensions of any existing or proposed easements and copies of existing covenants or deed restrictions;

8. Name, registration number, and seal of the land surveyor, architect, engineer, and/or similar professional who prepared the Plan;
9. All property boundaries, land area, and zoning designations of the site, regardless of whether all or part is being developed at this time;
10. Size, shape, and location of existing and proposed buildings on the site including dimensions of the buildings and setbacks from property lines;
11. Location and layout design of vehicular parking, circulation areas, loading areas, and walkways including curb cuts, driveways, parking space and vehicle turn around area dimensions;
12. Location and names of streets and rights-of-way within and within 200' adjacent to the proposed development;
13. Proposed finish grades and graphic arrows indicating the direction of storm water runoff;
14. Conceptual treatment of on and off site storm water management facilities;
15. Location and sizes of existing and proposed sewer and water services including connections;
16. Conceptual treatment of landscaping buffers, screens, and plantings;
17. Location of outdoor storage areas, fences, signs (front view and dimensions) , advertising features, and solid waste receptacles;
18. Context map illustrating the area surrounding the site which will be affected by the proposal including all streets, sidewalks, intersections, storm water drainage ways, sanitary sewer lines and pump stations, nearby properties and buildings, zoning districts, and geographic features such as, but not limited to, wetlands, natural features, historic sites, flood plains, significant scenic areas, and significant wildlife habitats as provided in the Comprehensive Plan; and
19. Plans for all proposed exterior lighting including the location, type of light, radius of light, manufacturer's specifications sheet, and the ground level intensity in foot-candles.

b. Project Description.

The project description is to describe the proposal, its scheme of development, and proposed land uses. The project description shall also include estimates from qualified professionals as to the anticipated gallons per day of wastewater, the number of vehicles entering and leaving the site during the day (and at peak traffic hours), the increased amount of stormwater runoff, and the rate of the stormwater runoff of the post-development site.

C. Final Site Design Plan.

The final site design plan application shall include all information required in the Concept Plan requirements, above and in addition shall require the following information:

1. Boundary Survey. Prepared by a licensed Maine surveyor indicating the boundaries, artificial monuments, encumbrances, and topography of the site.
2. Stormwater Management Plan. Prepared by a Maine Registered Engineer analyzing the proposal's impact on existing stormwater facilities and watersheds. The stormwater management plan shall include a map of all watersheds significantly impacted by the proposal and identify all areas of existing or anticipated flooding, locations of existing and proposed culverts, pipes, detention ponds, and flow restrictions to be affected by the proposal. The stormwater management plan shall comply with the review criteria found in this Ordinance.
3. Finish Grading Plan. Prepared by a Maine Registered Engineer or landscape architect indicating the final grading of the site, the amount of fill to be imported to or exported from the site, and graphic arrows indicating the direction of storm water run off.
4. Site Improvement Details. Including sufficient information to enable the creation of an itemized cost estimate for all required on/or off site improvements.
5. Building Elevations. Scale plans of exterior building surfaces including materials, doorways, and advertising features.
6. Additional Information. Additional information as deemed necessary to review the proposal's conformance with the site design review criteria and Section 6, "*General Requirements*", herein. Additional information may address items such as, but not be limited to, traffic, wetlands, high

intensity soils, environmental analyses, or the interpretation of the data by municipal consultants. Additional information shall be financed pursuant to the consulting fees of this Ordinance.

7. Topography. General topography of the site.
8. Soil Survey. High intensity soils classifications of the soils located on the site.
9. Variances/Restrictions. A copy of any variances granted or deed restrictions on the subject use or property. Such variances and/or restrictions shall be noted on the final (recording) copy of the plan.

D. Waiver of Required Information.

The Planning Board may waive the submittal of required application materials upon finding that the specific information is unnecessary in order to review the application's conformance. Such waiver(s) shall be noted on the final (recording) copy of the plan.

E. Final Copies of the Plan.

The applicant shall submit three (3) signed copies of the final approved plan to the CEO. One copy shall be forwarded to the Planning Board as part of its permanent records. One copy shall be forwarded to the Tax Assessor. One copy shall be kept by the CEO.

8. Site Design Review Criteria.

The Review Criteria contained in Section 5, "*Review Criteria*", herein, shall be utilized in reviewing applications for site design approval. The standards are not intended to discourage creativity, invention, or innovation. The Planning Board may waive the criteria presented in this subsection upon a determination that the criteria are not applicable to the proposed development or are not necessary to carry out the intent of this Ordinance.

9. Site Design General Requirements.

Section 6, Section 7, Section 11, and Section 14, herein, as applicable, shall apply to all proposed development.

10. Conditional Approval of Site Designs.

- A. The Planning Board may impose any condition upon approval of any site design for the following reasons:
1. To minimize or abate, to the extent feasible, any adverse impact of the proposed development on the value or utility of other private property, or on public property or facilities; or
 2. To bring the development into compliance with the requirements of this Ordinances; or
 3. To mitigate any other adverse effects of the proposed development.
- B. Such conditions may include, but are not be limited to, the imposition of a time limit for the conditional use; the employment of specific engineering, construction, or design technologies; modes of operation or traffic patterns; and may also include the construction of on or off site improvements including, without limitation, roads, intersection improvements, sidewalks, sewers, and drainage courses. All such conditions shall be consistent with the purposes set forth in this Ordinance.

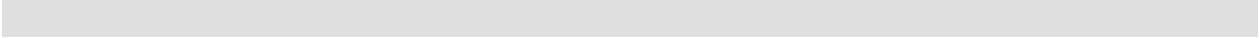
11. Revisions to Approved Site Plans.

The site shall be developed and maintained as depicted in the approved site design and the written submission of the applicant. Modification of any approved site design shall require the prior approval of a revised site design by the Planning Board pursuant to the terms of this Ordinance. Any such parcel lawfully altered prior to the effective date of this Ordinance shall not be further altered without approval as provided herein. Modification or alteration shall mean and include any deviations from the approved site design, including but not limited to, topography, vegetation, and impervious surfaces shown on the site design. Field changes for site designs may be made by the CEO and are limited to minor variations necessary to deal with unforeseen

difficulties that arise during the course of construction. Allowed changes shall not include any substantial alteration of the approved plan, or any condition imposed by the Planning Board.

12. Post Application Submissions.

Following site design approval and prior to issuance of any permit, the applicant shall submit copies of the contract plans and specifications, in reproducible form, showing the design of all infrastructure improvements, including without limitation all streets, sewers, drainage structures, and landscaping, to the CEO for review and approval for compliance with the municipality's construction standards. Thereafter, all departures from such plans may be approved by the CEO as "field changes", subject to *Revisions of Approved Site Designs*, above. Nothing herein shall diminish the obligation of the applicant to supply plans or specifications as provided in this Ordinance.



Section 4 Subdivision Ordinance.

1. Title.

This Section shall be known and may be cited as "*Subdivision Ordinance of the Town of Portage Lake.*"

2. Applicability of Subdivision Review.

A. Subdivision review, in conformity with the procedures, criteria, and standards of Title 30-A M.R.S.A. § 4401-4407, shall be required for all development that meets the definition of "*Subdivision*" as contained within Section 21, "*Definitions*", herein.

3. Subdivision Review Criteria.

When reviewing a proposed subdivision, the Planning Board shall review the application for conformance with the specified subdivision review criteria in Section 5, "*Review Criteria*", herein, and shall make findings of fact that each designated criteria has been met prior to the approval of the final plan. The designated subdivision review criteria can not be waived.

Section 5 Review Criteria.

The review criteria contained within this Section shall be utilized in reviewing applications for site design and subdivision approval. The standards are not intended to discourage creativity, invention, or innovation. The Planning Board may waive the criteria presented in this Section upon a determination that the criteria is not applicable to the proposed development or is not necessary to carry out the intent of this Ordinance. **The review criteria in bold can not be waived when reviewing a subdivision---they are statutory---required by Title 30-A, MRSA, Section 4404.**

1. Advertising Features. The size, location, design, color, texture, material, and lighting of all signs and outdoor lighting fixtures shall not detract from the design of proposed buildings or neighboring properties and shall be in conformance with the requirements in Section 11, "*Signs*", within this Ordinance.
2. Archaeological/Pre-Historic/Historic Sites. **Any proposed development proposal involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed by, the National Register of Historic Places or the local historical society, and to determine the presence of listed or eligible properties, as determined by the Planning Board, shall be submitted by the applicant to the Maine Historic Preservation Commission (MHPC) and local historical society for review and comment at least 20 days prior to final action being taken by the Planning Board. The Planning Board shall consider comments received from the MHPC and local historical society prior to rendering a decision on the application.**
3. Buffering. The proposal shall provide for adequate on-site buffering in the vicinity of property boundaries, when required. On-site buffering is required:
 - A. Wherever commercial, industrial, or other non-residential development is proposed adjacent to or across a road from residential or agricultural uses or Districts; and
 - B. As required by Section 6 (5), herein.
4. Buildings. The bulk, location, and height of proposed buildings or structures shall not cause health or safety problems to existing uses, including, without limitation, those resulting from any substantial reduction in light and air or any significant wind impact.
5. Conformance with Comprehensive Plan. **The proposed development shall be located and designed in such a manner as to be in conformance with the municipality's comprehensive plan.**
6. Design Relationship to Site and Surrounding Properties. The proposed development should provide a reasonably unified response to the design constraints of the site and is sensitive to nearby developments by virtue of the location, size, design, and landscaping of buildings, driveways, parking areas, stormwater management facilities, utility storage areas, and advertising features.
7. Emergency Vehicle Access. All site design applications shall be reviewed by the Fire Chief and shall be in conformance with Section 7, "*Access Management, Parking, Loading, and Road Design and Construction Standards*", herein. The proposed development shall be located and designed in such a way as to provide and maintain convenient and safe access and response time for emergency vehicles or mitigates inadequate access or response time by providing adequate safety features as part of the proposed development.
8. Erosion and Sedimentation Control. **The proposed development shall include adequate measures to control erosion and sedimentation and will not contribute to the degradation of nearby streams, water courses, or lowlands by virtue of soil erosion or sedimentation. The erosion and sedimentation control measures are to be in conformance with the most current standards of the "*Erosion and Sedimentation for Maine: Best Management Practices*" and shall be in conformance with Section 6 (10), herein. The procedures outlined in the soil erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages. Topsoil shall be considered part of the development and shall not be removed from the site, except for surplus topsoil for roads, parking areas, and building excavations.**

9. Exterior Lighting. Exterior lighting shall be designed to encourage energy conservation and efficiency, to ensure the safe movement of people and vehicles, and to minimize adverse impacts on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicular traffic and potential damage to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public and shall be in conformance with Section 6 (11), herein.
10. **Financial and Technical Capacity**. The developer shall provide evidence of adequate financial and technical capacity to meet all applicable standards of this Ordinance and federal, state, and local regulations. (See: Section 6 (35) and Section 15, "*Performance Guarantees, Financial Capacity, and Financial Assurance*", herein)
11. **Flood Areas**. Based on the Federal Emergency Management Agency's (FEMA) Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, the developer shall prove whether the development is/is not in a floodprone area. If the development, or any part of it, is in such an area the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the development. The proposed Plan shall include a condition of plat approval requiring that principal structures on lots shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.
12. General Requirements. The proposed development shall meet the applicable requirements of Section 6, "*General Requirements*", herein, except as may be waived by the Planning Board.
13. Infrastructure. The proposed development shall be designed so as to be consistent with off premises infrastructure, such as, but not limited to, sanitary and storm sewers, wastewater treatment facilities, roadways, sidewalks, trail systems, and street lights, existing or planned by the municipality.
14. Landscaping. The landscape should be preserved in its natural state, insofar as practicable, by minimizing to the greatest extent feasible any tree removals, disturbance or destruction of significant existing vegetation, including mature trees, soils, and significant vegetation buffers. (See: Section 6 (17), herein)
15. Mineral Exploration and Extraction. Any mineral exploration to determine the nature and extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance. A permit from the Planning Board shall be required for mineral exploration which exceeds the above limitations. Any extraction operation that requires a permit from the Maine Department of Environmental Protection (MDEP) shall obtain written approval from the MDEP and the Planning Board. In addition, any mineral extraction activity of less than five (5) acres and/or any mineral extraction activity which will remove more than 1000 cubic yards of product within 12 successive months shall require Planning Board review and a permit from the CEO. (See: Section 9, "*Mineral Exploration and Extraction*", herein)
16. **Natural Areas**. The proposal shall not cause significant adverse impacts to natural resources or areas such as wetlands, significant geographic features, significant wildlife and marine habitats, and natural fisheries. If any portion of the proposed development lies within 250 feet of any areas identified and mapped by the Maine Department of Inland Fisheries and Wildlife or the Maine Department of Conservation's, Maine Natural Areas Program, the applicant shall contact directly the appropriate agency for information. In addition, the applicant shall contact the Presque Isle office of the Maine Department of Environmental Protection for information and any needed permits. (Note: the applicant may need to provide a copy of the application materials for timely review and comment.) The proposal should be consistent with the recommendations of the Departments. (See: Section 6 (22), herein)
17. Noise. The proposed development shall not raise noise levels to the extent that abutting or nearby residents are adversely affected. (See: Section 6 (23), herein)
18. Open Space.

- A. Common open space shall be contiguous, wherever possible. (See: Section 6 (22), herein)
 - B. Common open space, as shown on any approved development plan, shall contain a notation that common open space areas shall not be further developed for any other use.
 - C. When reviewing the location and type of open space designated in an application, the Planning Board shall require:
 - 1. Individual lots, buildings, streets, and parking areas to be designed and situated:
 - a. To minimize alterations of the natural site;
 - b. To avoid the adverse effects of shadows, noise, and traffic on the residents of the site; and
 - c. To relate to the surrounding properties, to improve the view from and of buildings.
 - 2. Diversity and originality in lot layout and individual building, street, parking, and lot layout shall be encouraged.
 - 3. Open space shall include irreplaceable natural features located on the tract (such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, and rock outcroppings).
 - 4. Open space intended for recreation or public use shall be determined by the size, shape, topographic, and location requirements of the site.
19. **Parking and Vehicle Circulation.** The proposed development shall provide for adequate parking and vehicle circulation and be in conformance with Section 7, "*Access Management, Parking, Loading, and Road Design and Construction Standards*", herein. A copy of the application shall be provided to the appropriate municipal authority(ies) for timely review and comment. The layout of the site shall provide for the safe movement of passenger, service, and emergency vehicles throughout the site.
20. **Pedestrian Circulation.** The proposed development should provide for a system of pedestrian circulation within the development. The system should connect with existing sidewalks if they exist in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system should be designed to link residential units with recreational and commercial facilities, other common facilities, school bus stops, existing sidewalks in the neighborhood, and shall be in conformance with Section 7, "*Access Management, Parking, Loading, and Road Design and Construction Standards*", herein, when applicable. A copy of the application shall be provided to the appropriate municipal authority(ies) for timely review and comment.
21. **Phosphorus Export.** Proposed development within the watershed of a lake or pond shall be designed to limit phosphorous runoff. The Planning Board shall keep an accurate record of permits issued by watershed using an appropriate record keeping system, and shall review actual development rates and recommend adjustments at five (5) year intervals, subject to a reasonable appropriation by the municipality to conduct such an assessment, or the availability of adequate state or regional grant programs or technical assistance programs. Phosphorus export from a proposed development shall be calculated according to the procedures defined in "*Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*", (Maine DEP et. al., 1989, as amended). Phosphorus control measures shall meet the design criteria contained in "*Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*", (Maine DEP et. al., 1989, as amended). The Planning Board shall require the reasonable use of vegetative buffers, limits on clearing, and minimizing road lengths, and shall encourage the use of non-structural measures prior to allowing the use of high-maintenance structural measures such as infiltration systems and wet ponds. (See: Section 6 (24), herein).
22. **Pollution.**
- A. The proposed development shall not, for any period of time, discharge across the boundaries of the lot on which it is located toxic and noxious matter in concentrations in excess of one-fourth of the maximum allowable concentrations set forth in Table 1 of the Industrial Hygiene standards, Maximum Allowable Concentration, Chapter 5 of the "*Air Pollution Abatement Manual*," latest edition.

- B. The proposed development shall not result in undue water or air pollution and shall be in conformance with Section 6 (10), (24), (32) and (33), herein. In making this determination the Planning Board shall consider:
1. The elevation of land above sea level and its relation to the floodplains;
 2. The nature of the 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 applicability of state and local health and water resource rules and regulations.
- C. No emission of dust, ash, smoke, or other particulate matter or gas shall be allowed which can cause damage to human or animal health, vegetation or property by reason of concentration or toxicity, which can cause soiling beyond the property boundaries, or which fail to meet or cannot meet the standards established by the Maine Department of Environmental Protection.
- D. The proposed development shall not produce offensive or harmful odors perceptible beyond the property boundaries.
23. **River, Stream, or Brook.** Any river, stream, or brook within or abutting a proposed development shall be identified on any maps submitted as part of the application. For purposes of this Ordinance, "*River, Stream, or Brook*" has the same meaning as in Title 38, §480-B, subsection 9.
24. **Sanitary Sewage.** Connection to a sanitary sewer system shall be at the expense of the developer, or, if in the opinion of the Planning Board, service by a public sewer system is not feasible, the Board may allow individual subsurface wastewater disposal systems to be used. The proposed development will not cause an unreasonable adverse effect to the sewerage treatment facilities, will not aggravate an existing unhealthy situation, and shall be in conformance with Section 6 (29), herein. A copy of the application shall be provided to the public sewer provider for timely review and comment
25. **Scenic Vistas and Areas.** The proposed development shall not result in the loss of scenic vistas or visual connection to scenic areas as identified in the municipality's comprehensive plan. (See: Section 6 (22), herein)
26. **Site Conditions.**
- A. During construction, the site shall be maintained and left each day in a safe and sanitary manner. The site area shall be regularly sprayed to control dust from construction activity.
 - B. 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 request and to the satisfaction of the CEO.
 - C. No changes in elevation shall be made of any lot or site by the removal of earth to another lot or site other than as shown on an approved site design plan. Minimal changes in elevations or contours necessitated by field conditions may be made only after approval has been obtained from the CEO.
27. **Spaghetti Lots.** The proposed development shall not create lots with a lot depth to frontage ratio of greater than 5:1.
28. **Stormwater Management.** The plan provides for adequate stormwater management facilities so that the post development runoff rate will be no greater than the predevelopment rate, the removal of stormwater will not adversely affect neighboring properties, and that there is no adverse downstream impact. Proposed stormwater detention facilities and calculations shall provide for the control of twenty-five year storm frequency rates. On-site absorption shall be utilized to minimize discharges whenever possible. The design, construction, and maintenance of private facilities are not anticipated to cause the expenditure of additional municipal resources for maintenance of private stormwater management facilities. Maintenance responsibilities shall be reviewed to determine their adequacy. Emphasis shall be placed on the protection of floodplains and wetlands; preservation of stream corridors; establishment of drainage rights-of-way; and the adequacy of the existing system; and the need for improvements, both on

and off site, to adequately control the rate, volume, and velocity of storm drainage. (See: Section 6 (32), herein)

29. **Surface Waters.** Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland or Great Pond as defined in Title 38, chapter 3, subchapter I, article 2-B, §435-449, the development will not adversely affect the quality of that body of water, unreasonably affect the shoreline of that body of water, and shall be in conformance with Section 6 (24) and (33), herein.
30. **Traffic.** The proposed development will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways, public roads or pedestrian walkways existing or proposed. (See: Section 7, *"Access Management, Parking, Loading, and Road Design and Construction Standards"*, herein) Vehicular access to the site shall be on roads which have adequate capacity to accommodate the additional traffic generated by the development. The Planning Board may require mitigation when the proposed development is anticipated to result in a decline in service, below Level of Service "C", of nearby roadways of intersections. Levels of service are defined by the *"Highway Capacity Manual, Special Report #209"*, published by the Research Board, National Research Council, Washington DC, 1985. If an existing intersection is functioning at a Level of Service of "D" or lower prior to the development, the project shall not reduce the current level of service. A copy of the application shall be provided to the appropriate municipal authority(s), and to the Maine Department of Transportation if on a state maintained road, for timely review and comment. The Planning Board may approve a development not meeting this requirement if the applicant demonstrates that:
 - A. A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard; or
 - B. The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will guarantee the completion of the improvements within one (1) year of project approval.
31. **Utilities.** Utilities such as, but not limited to, natural gas, propane, electric, telephone, and cable TV services located above ground shall be located so as not to be unsightly or hazardous to the public and shall be landscaped or otherwise buffered so as to screen the components from public view. The underground placement of utilities is encouraged. (See: Section 6 (37), herein)
32. **Waste Disposal.** The proposed development shall provide for adequate disposal of solid wastes and hazardous wastes. A copy of the application shall be provided to the solid waste coordinator for timely review and comment. (See: Section 6 (13) and (31), herein)
 - A. All solid waste shall be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.
 - B. All hazardous waste shall be disposed of at a licensed hazardous waste disposal facility and evidence of a contractual arrangement with the facility shall be submitted.
 - C. All commercial and industrial developments shall devote floor space suitable to accommodate two (2) recycling containers designed to hold at least one cubic yard of recyclable materials.
33. **Water Supply.** The development shall be provided with a system of water supply that provides each use with an adequate supply of water meeting the standards of the State of Maine for drinking water. The proposed development will not cause the depletion of local water resources or be inconsistent with the service plan of the water district. A copy of the application shall be provided to the district for timely review and comment. (See: Section 6 (38), herein)
34. **Wetlands.** All wetlands within the proposed development shall be identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of wetlands may be done with the help of the local soil and water conservation district.

Section 6 General Requirements.

The following General Requirements are applicable to land use activities within the Town, to include site design review and subdivisions. These standards are intended to clarify plan requirements and provide guidance. In reviewing a proposed development, the CEO or Planning Board, whomever conducts the review, shall review the application for conformance to the applicable standards and make findings of fact for each prior to approval of the final plan. The burden of proof of conformance to an applicable standard is with the applicant, who shall provide clear and convincing evidence that the final plan meets the standard.

1. Animal Sounds and Dogs Running at Large.

- A. No owner or keeper of any dog kept within the legal limits of the Town of Portage Lake shall allow such dog to unnecessarily annoy or disturb any person by continued or repeated barking or other unusual noises.
- B. Upon written complaint, signed and sworn to by the person disturbed, any duly qualified Law Enforcement Official or Animal Control Officer of the Town of Portage Lake may investigate and may give written notice to the owner or keeper of such dog that such annoyance or disturbance must cease. The warning shall be made part of the complaint. Thereafter, upon continuance of such annoyance or disturbance, such owner shall be guilty of a civil violation and upon conviction shall be punished by a fine of \$50.00 for the first violation, \$100.00 for the second violation, and up to \$500.00 for 3 or more violations. All fines so assessed and Attorney fees shall be recovered for the use of the Town through District Court.

2. Apartments Accessory to Non-Residential Uses.

The Planning Board may allow up to two (2) residential dwelling units in a non-residential structure provided the following are met:

- A. The residential dwelling units shall be clearly incidental to the principal non-residential use of the building.
- B. Each dwelling unit shall be provided with a private, outdoor yard space (400-500 square feet minimum per dwelling unit) adjacent to each unit.
- C. Each dwelling unit shall be provided two (2) off-road parking spaces separate from any customer parking.
- D. No access to a residential dwelling unit shall be via the non-residential space.

3. Basement Drainage.

The applicant shall show that the floor of any basement(s) can be drained to the ground surface, or storm drains, if they are required to be installed, or that the spring water table is one (1) foot below the level of the basement floor.

4. Bed and Breakfast.

- A. There shall be no less than one parking space on the property for each rental room, in addition to the spaces required for the dwelling unit.
- B. There shall be one bathroom provided for the rental rooms, in addition to the bathroom for the dwelling unit.
- C. Each rental room shall not be less than ten by twelve (10 X 12) feet horizontal dimensions.
- D. There shall be no cooking or eating facilities in any of the rooms.
- E. All applicable state and federal regulations for bed and breakfast establishments and all other relevant standards of this Ordinance shall be observed.

5. Buffers and Screening.

- A. A landscaped buffer strip of no less than fifteen (15) feet in width and six (6) feet in height shall be provided to minimize the visual impact of adverse characteristics such as, but not limited to, storage areas, parking spaces, driveways, loading areas, exposed machinery, sand and gravel extraction operations, and areas used for the storage or collection of discarded automobiles, auto parts, metals or any other articles of

salvage or refuse, and to protect abutting residential properties from the intrusion of noise, light, and exhaust fumes from such non-residential buildings and uses. The buffer areas shall be maintained and vegetation replaced to ensure continuous year round screening.

- B. Where no natural vegetation or berms can be maintained, or due to varying site conditions, the landscaping may consist of fences, walls, tree plantings, hedges, or combinations thereof.
- C. Any abutting residential property shall be effectively screened by a continuous landscaped area no less than six (6) feet in height along lot lines adjacent to the residential properties, except that driveways shall be kept open to provide visibility for entering and leaving.
- D. Where a potential safety hazard to small children would exist, physical screening / barriers shall be used to deter entry to such premises.
- E. There shall be no paving, parking, or structures located in the buffer area.
- F. The CEO or Planning Board may allow a buffer area of less width when site conditions, such as natural features, vegetation, topography, or site improvements, such as additional landscaping, berming, fencing, or low walls, make a lesser area adequate to achieve the purposes of this Ordinance.
- G. Fences must be placed 12 inches from surveyed property line with good side facing abutter, unless a shared fence.
- H. Fences within the Shoreland are subject to Planning Board approval.

6. Campground and/or Recreational Vehicle Park.

A campground and/or recreational vehicle (RV) park shall conform to the minimum requirements imposed under State licensing procedures of (10-144A CMR 205) "*Tent and Recreational Vehicle Parks...*" For the purposes of this Section "RV" shall include: travel RV, pick-up coach, motor home, camping trailer, dependent RV, and self-contained RV.

7. Easements for Natural Drainage Ways.

Where a development is traversed by a natural water course, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water course and such further width or construction, or both, as will assure that no flooding occurs and all stormwater can be disposed of properly.

8. Electro-Magnetic Interference.

No use, activity, or process shall be conducted which produces electro-magnetic interference in the transmission or reception of electrical impulses beyond the lot lines, including radio and television. In all cases federal, state, and local requirements shall be met. Violation of this standard shall be considered a nuisance.

9. Erosion and Sedimentation Control.

- 1. The procedures outlined in a erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
- 2. All earth changes shall be designed, constructed, and completed in such a manner so that the exposed area of any disturbed land shall be limited to the shortest period of time possible.
- 3. Any temporary or permanent facility designed and constructed for the conveyance of water around, through, or from the development site shall be designed to limit the water flow to a non-erosive velocity.
- 4. Permanent soil erosion control measures for all slopes, channels, ditches, or any disturbed land area shall be completed within fifteen (15) calendar days after final grading has been completed. When it is not possible or practical to permanently stabilize disturbed land, temporary erosion control measures shall be implemented within thirty (30) calendar days of the exposure of soil.
- 5. Vegetative cover shall be established as a temporary or permanent erosion control measure.
- 6. All development plans shall incorporate building designs and road layouts that fit and utilize existing topography and desirable natural surroundings to the fullest extent possible.

10. Exterior Lighting.

Lighting may be used which serves security, safety, and operational needs, but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roads. Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings.

- A. The maximum height of free standing lights shall be the same as the principal building, but not to exceed forty (40) feet.
- B. The Planning Board shall determine the necessity for lighting of parking areas.
- C. Exterior lighting shall be shielded in such a manner as not to create a hazard or nuisance to the adjoining properties or to the traveling public.
- D. Direct or indirect illumination shall not exceed 0.6 foot-candles upon abutting residential properties.

12. Fire Protection.

- A. Provisions for drafting water, shall be provided to the specifications of the Fire Department. Minimum pipe size connecting dry hydrants to ponds or storage vaults shall be six (6) inches.
- B. Where a dry hydrant or other water source is not within the right-of-way of a proposed or existing road, an easement to the Town shall be provided to allow access.
- C. A proposed development, or subdivision of 5-10 lots, shall provide for a minimum storage capacity of 10,000 gallons. Additional storage capacity of 2,000 gallons per lot over 10 lots or additional buildings over 800 SF shall be provided. The Planning Board may require additional storage capacity upon a recommendation from the Fire Chief who shall consult the National Fire Protection Association manual and the Life Safety Code. Where ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest water level less an equivalent of four (4) feet of ice.
- D. The Planning Board may waive the requirement for water storage only upon submittal of evidence that the soil types in the development shall not permit their construction or installation and the Fire Chief has indicated in writing that alternate methods of fire protection are available.

13. Hazardous, Special, and Radioactive Materials.

- A. All federal and state hazardous, special, or radioactive waste laws and regulations shall be complied with.

14. Home Occupations.

Home occupations shall be of two (2) types: Home Occupation 1 and Home Occupation 2. After reviewing the application, the CEO shall determine the type of home occupation. Home Occupation 1 is non-intrusive, with no external indications that a home occupation is being conducted on the property, and has no additional impacts on the neighborhood. Home Occupation 2 is intrusive, with external indications that a home occupation is being conducted on the property, and has additional impacts on the neighborhood.

Home Occupation 1

- A. The use of a dwelling unit or property for a home occupation is an accessory use and shall be clearly incidental to and compatible with the residential use of the property and surrounding residential uses.
- B. There shall be no change in the outside appearance of the building or premise that shall cause the premise to differ from its residential character by use of colors, materials, construction, lighting, sounds, or noises.
- C. Exterior storage of materials, such as, but not limited to, trash and any other exterior evidence of home occupation shall be located and screened so as not to detract from the residential character of the principal building.
- D. There shall be no exterior signs or displays representative of products sold or manufactured on premises.
- E. The following requirements shall be satisfactorily demonstrated to the CEO before a permit is issued:
 - 1. The home occupation shall employ only resident(s) of the dwelling unit.
 - 2. The home occupation shall be carried on wholly within the principal or accessory structure.
 - 3. The home occupation shall not occupy more than 35 percent of the total floor area of the structure (excluding basement floor area).

4. Objectionable noise, vibrations, smoke, dust, electrical disturbance, odors, heat, glare, or other nuisance shall not be permitted.
 5. No additional parking shall be provided other than parking provided to meet the normal requirements of the dwelling unit.
 6. No additional traffic shall be generated by the home occupation.
 7. The sale of products which are crafted, assembled, or substantially altered on the premises is prohibited.
 8. The home occupation shall not use utilities beyond that normal for residential properties.
 9. The home occupation shall not involve the use of heavy commercial vehicles for daily delivery from or to the premises.
- F. Should all of the above conditions not be maintained on a continual basis once the permit has been issued, the Planning Board shall review the permit and its conditions for approval, and if necessary schedule a public hearing to determine whether the permit should be rescinded.

Home Occupation 2

- A. The use of a dwelling unit or property for a home occupation is an accessory use and shall be clearly incidental to and compatible with the residential use of the property and surrounding residential uses.
- B. There shall be no change in the outside appearance of the building or premise that shall cause the premise to differ from its residential character by use of colors, materials, construction, lighting, sounds, or noises.
- C. Exterior storage of materials, such as, but not limited to, trash and any other exterior evidence of home occupation shall be located and screened so as not to detract from the residential character of the principal building.
- D. Exterior display, exclusive of a sign, shall be limited to no more than two (2) single items representative of products sold or manufactured on premises, regardless of the number of articles which are sold or manufactured.
- E. Only one non-illuminated, non-internally lit sign, not exceeding two (2) square feet, shall be permitted and must meet the other applicable standards for signs within this Ordinance.
- F. The following requirements shall be satisfactorily demonstrated to the CEO before a permit is issued:
 1. The home occupation shall employ no more than two (2) persons other than resident family members.
 2. The home occupation shall be carried on wholly within the principal or accessory structure.
 3. The home occupation shall not occupy more than 49 percent of the total floor area of the structure (excluding basement floor area).
 4. Objectionable noise, vibrations, smoke, dust, electrical disturbance, odors, heat, glare, or other nuisance shall not be permitted.
 5. In addition to the off-road parking provided to meet the normal requirements of the dwelling, off-road parking shall be provided for each employee and user of the home occupation as provided for within this Ordinance.
 6. No traffic shall be generated by such home occupation in a volume greater than would normally be expected.
 7. The operation of the home occupation shall be limited to 8:00 AM to 9:00 PM and to those items which are crafted, assembled, or substantially altered on the premises, to catalog items ordered off the premises by customers, and to items which are accessory and incidental to a service which is provided on the premises.
 8. The home occupation shall not use utilities beyond that normal for residential properties.
 9. The home occupation shall not involve the use of heavy commercial vehicles for daily delivery from or to the premises.
- G. Should all of the above conditions not be maintained on a continual basis once the permit has been issued, the Planning Board shall review the permit and its conditions for approval, and if necessary schedule a public hearing to determine whether the permit should be rescinded.
- H. All other applicable standards of this Ordinance shall also be observed.

15. Hotels, Motels, and Inns.

For the purposes of this Ordinance, the terms hotel, motel, and inn are used interchangeably.

- A. A green space, not less than twenty (20) feet wide, shall be maintained open and green with grass, bushes, flowers, or trees all along each side lot line, the rear lot line, the front line of such lot, except for entrance and exit driveways. The green space shall not be used for automobile parking.
- B. If cooking or eating facilities are provided in any units, each unit shall be considered a dwelling unit and the development shall meet all applicable standards for multi-family development in this Ordinance.
- C. Each unit shall contain not less than two-hundred (200) square feet of habitable floor area enclosed by walls and roof, exclusive of any adjoining portions of roofed or covered walkways. Each sleeping room shall not be less than twelve by fifteen (12x15) feet horizontal dimensions, exclusive of bath. Each unit shall include private bathroom facilities.
- D. On each lot, one apartment may be provided for a resident owner, manager, or other responsible staff person.
- E. Recreational vehicle parking stalls shall be designed to accommodate the traveling public with a minimum stall width of eleven (11) feet and stall depth of thirty-two (32) feet. Angled parking stall width and depths shall be increased by 10 percent and 25 percent above the parking standards contained in this Ordinance.
- F. No building shall be closer than fifty (50) feet from a property line.

16. Kennels and Veterinary Hospitals.

- A. Structures or pens for housing or containing the animals shall be located not less than one hundred (100) feet from any residential property line existing at the time of the permit.
- B. All pens, runs, or kennels, and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties.
- C. The owner or operator of a kennel shall maintain the premises in a clean, orderly, and sanitary condition at all times.
- D. Temporary storage containers for any kennel, or veterinary wastes containing or including animal excrement, shall be kept tightly covered at all times.
- E. If an incineration device is to be installed by the applicant, the applicant shall provide evidence that they have obtained approval from the Maine Department of Environmental Protection.
- F. No owner of animals or operator of a kennel shall allow any animals to create objectionable noise disturbance, odors, or other nuisances.

17. Landscaping.

- A. The landscape should be preserved in its natural state, insofar as practicable, by minimizing to the greatest extent feasible any tree removals, disturbance or destruction of significant existing vegetation, including mature trees over four (4) inches in diameter measured at 4.5 feet from ground level, soils, and significant vegetation buffers. Grade changes should be in keeping with the general appearance of neighboring developed areas. If a site includes a ridge or ridges above the surrounding areas and provides for scenic vistas for surrounding areas, special attempts shall be made to preserve the natural environment of the skyline of the ridge. Existing vegetation and buffering landscaping are potential methods of preserving scenic vistas.
- B. Landscaping shall be designed to soften, screen, or enhance the physical design of structures and parking areas to avoid the encroachment of the proposed use on abutting land uses.
- C. All parking lots shall be landscaped along the property boundaries with shrubbery, trees, and other landscape materials. Large parking lots shall provide one 2 1/2" caliper shade tree per 20 parking spaces (6 trees per acre) located at representative points throughout the lot.

18. Lots and Density.

- A. There shall be no more than one principal building and its accessory buildings erected on any one lot.
- B. Wherever possible, side lot lines shall be perpendicular to the road.
- C. Depth and width of lots shall be adequate road for a distance of not less than 50 to provide for the off-road service, loading, and parking facilities for vehicles required by the type of use and development.

- D. Corner lots shall be increased in size wherever necessary in order that any structure to be placed thereon shall conform to the minimum front setback line from each road. Any new corner lots should be encouraged to have access onto the road with the least amount of traffic volume or impact.
- E. The division of parcels into lots with more than twice the required minimum lot size required by this Ordinance shall be laid out in such a manner as either to provide for future legal subdivision or to allow the opening of future roads.
- F. If a lot on one side of a river, stream, or brook, fails to meet the minimum requirements of this Ordinance for lot size, it should be combined with a lot on the other side of the river, stream, or brook to meet the minimum lot size requirement.
- G. Double frontage lots shall be avoided except where essential to provide separation of development from traffic arteries or to overcome specific disadvantages of topography and orientation. A vegetative buffer strip of at least ten (10) feet wide, across which there shall be no right of access, shall be provided along each lot abutting such a traffic artery or other disadvantaged use.
- H. All lots must abut a public way, unless an access road meeting the following criteria has been constructed within a deeded right-of-way having a minimum width of fifty (50) feet. For non-residential development all access roads shall meet the "Residential" road design and construction standards and shall be paved.. For residential development, the access road shall be constructed to a minimum width of twelve (12) feet if serving one dwelling unit, and eighteen (18) feet if serving two (2) dwelling units. The access road shall contain a minimum depth of eighteen (18) inches of bank-run gravel and have drainage ditches and culverts at all appropriate points. Such an access road shall serve no more than two (2) dwelling units. Any access road serving between three (3) and five (5) dwelling units shall meet the road design and construction standards contained within this Ordinance for a "Private" road, but need not be paved. Any access road serving more than five (5) dwelling units shall meet the "Residential" road design and construction standards and shall be paved. All non-residential and residential lots shall have adequate right-of-way access for emergency vehicles to enter, turn around, and exit.
- I. Land susceptible to flooding and land not suitable for development or road development and land which may be hazardous to life, health, or property shall not be accepted as part of a development for residential purposes, but may be used, with the approval of the Planning Board, for parks, playgrounds, or other open-space uses.
- J. No lots created shall have a lot depth to frontage ratio of greater than 5 to 1.

19. Monumentation.

- A. No person, firm, corporation, or other legal entity shall sell or convey any land unless, prior to the conveyance of said land, monuments have been set within each lot sold or conveyed in conformance with this subsection (See: Title 30-A, MRSA, §4406 (2)).
- B. If artificial monuments have not been set at the time of the Final Plan submission, that fact shall be indicated by notation on the Final Plan. Said notation shall also indicate that monuments will be set prior to the sale or conveyance of any lot.
- C. All monuments required by this subsection shall be set along any road, way, or parcel to be dedicated to the municipality prior to the acceptance of any road, way, or parcel by the municipality.
- D. Monument, monument location, and artificial monument settings shall conform with the requirements of the Maine Board of Licensure for Professional Land Surveyors, latest edition.
- E. Artificial monuments shall be located in a manner and be of sufficient size, composition, and material that:
 - 1. The likelihood of their disturbance is minimal;
 - 2. The monument is capable of being detected with electromagnetic metal detectors;
 - 3. Their life expectancy, under normal circumstances, shall exceed 25 years; and
 - 4. The person who placed the monument can be identified with certainty by inspection of the monument.
- F. Monuments shall be set at all corners and angle points of the property boundaries where the interior angle of the boundaries is 135° or less.

20. Motorized Vehicles.

- A. Except for farm equipment in use, no motorized vehicle that is not currently or properly registered or which is unserviceable, discarded, worn out, or junked; or motorized vehicle bodies, parts, or engines shall be gathered together or parked within the front yard of any property, except when the vehicle is within a garage or other structure that complies with the building code of the Town.

21. Multi-Family Dwellings.

- A. Multi-family development may be allowed by the granting of subdivision approval by the Planning Board in accordance with the Portage Lake Subdivision Ordinance and the provisions of this Ordinance.
- B. Dimensional requirements for all multi-family development shall meet or exceed the following:
 - 1. Lot size shall equal or exceed three (3) acres for the first three units and 20,000 SF for each additional unit in excess of three per structure. When calculating the number of units, the following shall be subtracted from the lot size prior to calculating the number of units:
 - a. Portions of the lot which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the lot, as determined by the Planning Board.
 - b. Portions of the lot shown to be in a floodway as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.
 - c. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage, or subsoil conditions.
 - d. Portions of the lot subject to rights-of-way.
 - e. Portions of the lot located in a Resource Protection zone.
 - f. Portions of the lot covered by surface waters.
 - g. Portions of the lot utilized for stormwater management facilities.
 - 3. Road frontage for five (5) units or less shall be not less than the required frontage. Road frontage for more than five (5) units shall be not less than twice the required frontage.
- C. It shall be the responsibility of the owner to provide for storage areas for solid waste disposal and/or recyclables pick-up, snow removal, and site maintenance. All outdoor storage areas for waste or recyclable collection shall be enclosed by a wooden or masonry screen at least six (6) feet in height.
- D. A 25 foot landscaped or natural vegetative buffer shall be provided and maintained along all property boundaries.
- E. No building shall be constructed on soil classified as being "very poorly drained".
- F. Access, Circulation, and Parking
 - 1. The proposed development shall provide for safe access to and from public or private roads. Safe access shall be assured by providing an adequate number and location of access points, with respect to sight-distances, intersections, schools, and other traffic-generators. All corner lots shall be kept clear from visual obstructions.
 - 2. The proposed development shall not have an unreasonable adverse impact on the public road system, and shall assure safe interior circulation within its site, by separating pedestrian and vehicular traffic and by providing adequate off-road parking and turn-around areas.
- G. Recreation and Open Space. All multi-family developments of five (5) dwelling units or more shall provide a play area no smaller than 5,000 SF. Any development in which occupancy is restricted to the elderly need not provide a play area, but space shall be provided for outdoor recreation.

22. Natural Beauty, Aesthetics, Wildlife Habitat, Rare Natural Areas, and Public Access to the Shoreline.

- A. Preservation of Natural Beauty and Aesthetics.
 - 1. The development shall, by notes on the Final Plan and deed restrictions, limit the clearing of trees in those areas designated on the Plan for preservation.

2. A development in which the land cover type at the time of application is forested should maintain a wooded buffer strip no less than fifty (50) feet in width along all existing public roads. The buffer may be broken only for driveways and roads.
3. The development should be designed to minimize the visibility of buildings from existing public roads; yet, maximize the natural features of the site, whenever possible. When the development contains no forest or insufficient forested portions to include all buildings, the development should be designed to minimize the appearance of building when viewed from existing public roads.
4. The Planning Board may require that the application include a landscape plan that would show the preservation of any existing trees larger than 18" inches diameter breast height, the replacement of trees and vegetation, and graded contours.
5. When a proposed road traverses open fields, the plans should include the planting of street trees. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees should be planted no more than fifty (50) feet apart.
6. When a proposed development contains a ridge line, the Plan shall restrict tree removal and prohibit building placement within fifty (50) feet vertical distance of the ridge top. These restrictions shall appear as notes on the final recording Plan and as covenants in the deed.

B. Retention of Usable Open Spaces and Natural Features.

1. The development should reserve between five and ten percent of the area of the development as open space in order to provide for the recreational needs of the occupants of the development and/or to maintain the scenic or natural beauty of the area. In determining the need for open space the Planning Board shall consider the recreation plan for open space or recreation facilities in the area surrounding the development and the policies of the plan for meeting those needs; the proximity of the development to neighboring dedicated open space or recreation facilities; the type of development; and the demographic characteristics of potential occupants in the development; and the density or lot sizes of the development.
2. If any portion of the development is located within an area designated as a critical natural area, or the Maine Natural Areas Program, the Plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
3. Land reserved for usable open space purposes shall be of a character, configuration, and location suitable for the particular use intended.
4. Sites selected primarily for scenic or passive recreation purposes should have such access as the Planning Board may deem suitable and no less than twenty-five (25) feet of road frontage. The configuration of such sites should be deemed adequate by the Planning Board with regard to scenic attributes and significant wildlife habitat to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.
5. Reserved usable open space land may be dedicated to the Town.

C. Protection of Significant Wildlife and Important Habitat Areas.

1. If any portion of a proposed development lies within:
 - a. 250 feet of the following areas identified and mapped by the Maine Department of Inland Fisheries and Wildlife (IF&W) as:
 1. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
 2. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
 3. Shorebird nesting, feeding, and staging areas;
 4. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, or
 5. 1,320 feet of an area identified and mapped by the IF&W as a high or moderate value deer wintering area or travel corridor, or
 6. Other identified important habitat areas.

The applicant shall demonstrate that there shall be no adverse impacts on the habitat and the species it supports. Unless a landowner has drafted a cooperative wildlife management plan with IF&W, a report shall be prepared and submitted by a wildlife biologist, selected or approved by the Planning Board. This report shall assess the potential impact of the development on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the development shall have no adverse impacts on the habitat and the species it supports.

2. Protection of Deer Wintering Areas. The applicant shall contact the Regional Wildlife Biologist of IF&W, at the Planning Board's request, to determine whether any portion of the proposed development lies within an identified deer wintering area (DWA). A letter should be prepared by the Wildlife Biologist stating whether there is or is not a DWA on the plat. If there is an identified DWA, the proposed development shall include the limits of the area on the plat and submit a management plan prepared by a wildlife biologist or a cooperative landowner/IF&W management plan for any identified DWAs.

- D. Public Access to the Shoreline. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the usable open space, with provisions made for continued public access.

23. Noise.

- A. No person shall engage in construction or other activities, on a site abutting any residential use, between the hours of 10:00 PM and 5:00 AM, that results in a continuous level of noise greater than 55db. Sound levels shall be measured at least 4ft above the ground at the property line.

24. Phosphorus Export.

A. Phosphorus Export.

1. Any development within the watershed of a Great Pond shall make provisions to limit the post development phosphorus export. Phosphorous export from a proposed development shall be calculated according to the procedures in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine DEP, latest edition.

25. Rear Lots.

Rear lots may be developed for any use if they are or can be provided with a right-of-way, which complies with the following provisions:

- A. The right-of-way must be conveyed by deed recorded in the Aroostook County Registry of Deeds to the owner of the rear lot and shall be a minimum of fifty (50) feet in width.
- B. A legal description of the right-of-way by metes and bounds shall be attached to any land use permit application for construction on the rear lot.
- C. Except for lots recorded on the effective date of this Ordinance, the right-of-way deed must be recorded in the Aroostook County Registry of Deeds at the time the rear lot is first deeded out as a separate parcel.
- D. Creation of the right-of-way to serve the rear lot shall not create a non-conforming front lot by reducing such lot's required road frontage below the minimum, or, if the front lot is already non-conforming with respect to road frontage, reduce its road frontage at all.
- E. The access road within the right-of-way shall meet the requirements of 17 (A), above.
- F. Each principal building on a back lot shall be located within an area large enough to hold a circle with a minimum diameter equal to the required road frontage.
- G. A lot of record which could otherwise be legally built upon, but which is served by a right-of-way which does not comply, herein, may nevertheless be used for a single-family dwelling with CEO approval.

26. Restaurants.

- A. The application for a permit shall state the maximum seating capacity of the restaurant. Any expansion or enlargement over the stated capacity shall require a new permit.
- B. All parking and loading facilities shall be located to the side or rear of the building, and shall be screened from abutting residences within 200 feet. Screening shall be comprised of a continuous landscaped area not less than eight (8) feet in width, containing evergreen shrubs, trees, fences, walls, berms, or any combination, forming a visual barrier not less than six (6) feet in height.
- C. No building shall be closer than fifty (50) feet from a property line.

26. Satellite Receiving Dish.

No satellite receiving dish, greater than 40" in diameter, shall be located between a building and a public road. If for any reason a suitable location can not be found on the property other than between the building and the public road, evidence as to why the location is unsuitable shall be provided and a permit from the CEO shall be required. For the purposes of this subsection, a satellite receiving dish shall be considered an accessory structure.

27. Service Drops.

- A. In the case of electric and cable TV service:
 - 1. The placement of wires and/or the installation of utility poles shall be located entirely upon the property of the customer requesting service or upon a roadway right-of-way; and
 - 2. The total length of the extension shall be no more than one thousand (1,000) feet in total length.
- B. In the case of telephone service:
 - 1. The service, regardless of length, shall be made by the installation of telephone wires onto existing utility poles, or
 - 2. Service requiring the installation of new utility poles or placement underground shall be no more than one thousand (1,000) feet in total length.

28. Sewage Disposal.

- A. Private Systems.
 - 1. The applicant shall submit evidence of site suitability for subsurface wastewater disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the *State of Maine Subsurface Wastewater Disposal Rules*.
 - a. On lots in which the limiting factor has been identified as being within 12 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.
 - b. In no instance shall a disposal area be on a site which requires a New System Variance from the *State of Maine Subsurface Wastewater Disposal Rules*.

29. Soils.

No development shall be permitted on any soil rated "severe" or "very severe" for the proposed activity, according to the Aroostook County Soil Survey of the USDA Soil Conservation Service, unless satisfactory

evidence is presented within the application for a permit, that construction methods shall overcome any pertinent soil inadequacies.

30. Solid Waste.

- A. If solid waste from the proposed development exceeds the capacity of the Town's solid waste facility, causes the facility to no longer be in compliance with its license from the MDEP, or causes the Town to exceed its contract with a non-town facility, the applicant shall provide evidence of alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license.
- B. No person, firm, or corporation shall place any solid waste upon or near any public road or right-of-way for collection, except in accordance with the provisions set forth within this subsection.
- C. No person, firm or corporation shall place or cause to be placed any solid waste in or on private property unless authorized by the owner of that property.
- D. The only wastes acceptable for roadside collection are compactable solid waste and recyclables. Residents will place their compactable solid waste and recyclables along the roadside in standard containers or trash/garbage bags. The bags can be placed in the containers. Containers shall be removed from roadside within 24-hours of pick-up. Bags and/or containers shall be placed at the curbside no earlier than 24-hours before pick-up. Any garbage that is not placed along the side of the road will not be picked up.
- E. Collection of waste from dumpsters will be accomplished in accordance with letter D, above, except that dumpsters need not be placed by the road for pick-up. The dumpster in question must be accessible to the collection contractor.
- F. Compactable solid waste shall not be picked up by the collection contractor unless it is in an approved container or dumpster if they are used. Rejected solid waste shall be removed from the roadside within 24-hours. The collection contractor shall be responsible for any wastes they drop or spill on the ground and they will clean it up before going to the next stop. Any garbage debris strewn around the yard or road due to the elements or animals shall be cleaned up by the owners or generators within 24-hours.

31. Stables

- A. The minimum lot size on which one horse, pony, or similar equestrian animal may be kept shall be two (2) acres of fenced area.
- B. One additional horse, pony, or similar equestrian animal may be kept on each additional one-acre of such land.
- C. No portion of any area for the horse, pony or similar equestrian animal shall be closer than 50 feet to the nearest dwelling, except for the property owners dwelling.
- D. A year round manure management plan shall be provided. No manure pile shall be retained on any area within three hundred (300) feet of the normal high water line of any flowing or intermittent brook or stream, river, pond, lake, or wells used to supply water for human consumption.
- E. The perimeter of the lot on which the horse, pony, or similar equestrian animal will be kept shall be enclosed by a fence sufficient to prevent grazing on adjacent property and to substantially contain the animal at all times. The fence may be constructed of wooden poles or boards, posts and rails or runners, or the like; or two strand electrified wires, designed and marked with signs so that they will present no hazard.
- F. All grains shall be kept in rodent proof containers.
- G. A pest (insect and rodent) control plan shall be provided.

32. Stormwater Management.

- A. Adequate provision shall be made for disposal of stormwater generated within the development, and any drained ground water, through a management system of swales, culverts, underdrains, and storm drains.
- B. All components of the stormwater management system shall be installed at the developer's expense and designed to infiltrate, detain, or retain water falling on the site so as to limit peak discharge rates to predevelopment levels for the 2-year, 10-year, and the 25-year frequency, 24-hour duration storms, based on rainfall data for Caribou, ME.
- C. The proposed stormwater management system shall be designed by a Maine Registered Professional Engineer.

- D. The design of piped or open channel systems shall be based on a ten (10) year flow frequency without overloading or flooding beyond channel limits. In addition, the areas expected to be flooded by runoff of a twenty-five (25) year frequency shall be designated, and no structures shall be planned within such area.
- E. Rights-of-way or easements shall be designated for all components of the stormwater management system lying outside of established road lines. Wherever the storm drainage system is not within the right-of-way of a public road, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system. Such rights-of-way shall be at least twenty-five (25) feet in width.
- F. The stormwater management system shall take into consideration the upstream runoff which must pass over or through the development site. The system shall be designed to pass upstream flows generated by a twenty-five (25) year frequency through the proposed development without overloading the system or flooding areas not specifically planned for such flooding.
- G. The developer shall maintain all components of the stormwater management system until it is formally accepted by the Town, or is placed under the jurisdiction of a legally created association that shall be responsible for the maintenance of the system. The charter of such an association must be acceptable to the Planning Board.

33. Surface Water Quality.

- A. GPA Lakes. No application for development in the direct drainage area of a GPA lake shall be approved unless the development will have no significant impact on the water quality of the lake or any downstream lakes. The direct drainage area of a lake is that portion of a lake's watershed which drains to the lake through tributaries or overland runoff without passing through another lake. In determining the significance of impact on the lake the Planning Board shall consider:
 - 1. Past degradation of the lake's water quality;
 - 2. The cumulative impact of this development and any other developments or activities subsequent to the establishment of this policy; and
 - 3. The assimilative capacity of the lake.

It shall be the applicant's responsibility to provide the Planning Board with any information necessary to evaluate the magnitude of the impact of the proposed development on the lake.

34. Swimming Pools.

- A. A swimming pool constructed either above-ground or below-ground level designed to hold more than 10,000 gallons of water installed after the effective date of this Ordinance shall require a permit issued by the CEO.
- B. Enclosures of swimming pools shall comply with the provisions of Title 22, MRSA, §1632 or the following whichever is more stringent: Each swimming pool shall be enclosed by a fence or wall at least four (4) feet in height with no openings larger than two (2) inches in width and built so as to deter children. Any building or structure meeting the height and opening requirement may be included as part of the required enclosure. All gates and door openings through the enclosure shall be equipped with a self-closing and self-latching device for keeping the gate/door securely latched at all times when not in use.
- D. The CEO shall issue the permit upon determining from plans or specifications presented by the applicant that the pool meets all requirements.

35. Temporary Dwellings.

- A. Purpose: To provide for the temporary habitation of one dwelling during the construction or renovation of a second dwelling on a lot.
- B. The CEO may issue a temporary dwelling permit for the purpose of the owner residing in one dwelling while a new dwelling is constructed or an existing dwelling is renovated, only if all of the following are met:
 - 1. The temporary structure to be resided in during the construction or renovation of the second (primary) structure shall be connected to an approved subsurface sewage disposal system.

2. All setbacks and lot coverage requirements of this Ordinance shall be met to the greatest extent possible.
3. The structure which is not to be the principle residence shall be resided in for not more than twelve (12) months from the date of the issuance of the permit for the construction of the primary residence.
4. Within twelve (12) months from the date of the issuance of a permit, in the case of a mobile home, it shall be removed from the lot and other structures shall be converted to an accessory structure or removed.

37. Utilities.

- A. Easements for utilities, either within or beyond the proposed development, as may be necessary, shall be provided for where necessary and shall be at least twenty-five (25') feet wide.
- B. Whenever practical, the applicant should be encouraged to install underground conduits and other necessary subsurface structures to provide electric power, telephone, and cable service throughout the development. Such underground structures shall be constructed according to the requirements of the utility company involved.
- C. Dig Safe.
 1. Before commencing any excavation work, the applicant shall notify all underground facilities operators and DIG-SAFE in accordance with Maine State Law. For information purposes only, the following is a list of facility operators and contact numbers:

Facility Operator	Type Facility	Contact	Contact Number
Maine Public Service	Electric Service Street Lights	Dig-Safe	1-888-344-7233
Bell Atlantic	Telephone	Dig-Safe	1-888-344-7233
	Cable TV	Dig-Safe	1-888-344-7233
Highway Department	Storm Drains Local Roads	Highway Foreman	

2. Where the applicant is required, or has removed, for the convenience of work any traffic sign, sign, or similar improvement, the applicant shall restore same to its original place and in as good a condition as was originally found.
3. The applicant shall be responsible for protecting, within the work zone, any existing and right-of-way or survey monuments during construction. If it is apparent the construction work may or will disturb monumentation, the applicant shall contact a Professional Land Surveyor so that monumentation can be located and offset prior to excavation.
4. If the excavation/construction work disturbs or removes any existing property or right-of-way monumentation or survey marker, the applicant shall, at their expense, have the monument re-set by a Professional Land Surveyor.

38. Water Supply.

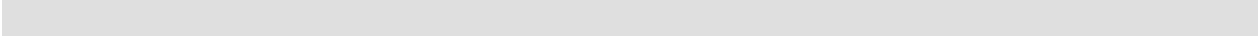
Water supply shall be from individual wells, a centralized water system, public supply, or a public drinking water supply.

1. Individual Wells.
 - a. Due to the increased chance of contamination from surface water, dug wells shall be prohibited. The applicant shall prohibit dug wells by deed restrictions and a note on the plan.
2. Water Quality.

Water supplies shall meet the primary drinking water standards contained in the *Maine Rules Relating to Drinking Water*. If existing water quality contains contaminants in excess of the secondary drinking water standards in the *Maine Rules Relating to Drinking Water*, that fact shall be disclosed in a note on the final plan to be recorded by the Town and in the Aroostook County Registry of Deeds.

4. Public Drinking Water Supply.

A proposed development that will use a public drinking water supply, as defined and identified by the Maine Department of Human Resources', Drinking Water Program, shall:

- a. Identify all existing public water supplies within 1000 feet of the public drinking water supply; and**
 - b. Be setback a minimum of 500 feet from any gasoline service station.**
- 

Section 7 Access Management, Parking and Loading, and Road Design and Construction Standards.

1. Access Management.

All new driveways or entrances located on state and state aid highways must conform to the Maine Department of Transportation's Driveway and Entrance rules. No permit from the Code Enforcement Officer or the Planning Board will be issued until a MDOT Driveway or Entrance Permit has been obtained by the applicant.

Section 8 Automobile Graveyards, Automobile Recycling, and Junkyards.

The following standards are applicable to all automobile graveyards, automobile recycling, and junkyards within the Town.

1. General.

- A. This Section shall be administered by the Planning Board and enforced by the CEO. No automobile graveyard, automobile recycling businesses, or junkyard permit shall be issued unless the provisions of this Ordinance are complied with. The Planning Board may attach reasonable conditions to any permit issued to insure compliance with the performance standards and requirements of this Section.
- B. The Town adopts the definitions in MRSA Title 30-A Section 3752 specifically automobile graveyard, automobile recycling and junkyards.
- C. Permits shall be renewed annually and expire on December 31st of each year. Permits for an automobile recycling business are renewable annually, provided that the permit holder furnishes a sworn statement, annually, at renewal, that the facility complies with the standards of operation applicable at the time of issuance of the permit.
- D. A person operating a business that involves the recycling of vehicles may operate under a permit for an automobile graveyard or a permit for an automobile recycling business.
- E. The Town shall annually cause to be inspected the site to ensure that the provisions of this Section and state law are complied with.
- F. An annual fee established by the Town shall be submitted with the permit application, plus the cost of posting and publishing the notice of the required Public Hearing.
- G. The Town may require that an escrow account of \$500 be established by the applicant in the name of the "*Town of Portage Lake*" for the purposes of obtaining independent verification of application data, if necessary. If the balance in the account shall be drawn down by 75 percent, the Town shall notify the applicant and require that the account balance be reestablished by the applicant to the escrow account's indicated amount. The Town shall continue to notify the applicant and require additional payments into the account, as necessary.
- H. Upon receipt of a final application, the Planning Board shall hold a Public Hearing in accordance with Title 30-A, MRSA, Section 3754. The Town shall hold a Public Hearing before granting a permit to establish, operate, or maintain an automobile graveyard, automobile recycling business, or junkyard. The Town shall post a notice of such hearing, at least seven (7) and not more than fourteen (14) days before the hearing, in at least two (2) public places in Town and publish a notice in one newspaper in general circulation in Town. The Town shall cause written notice of the application to be made to the Maine Department of Transportation by mailing a copy of the application at least seven (7) days and no more than fourteen (14) days before the hearing.

2. Applicability.

This Section shall apply to automobile graveyards, automobile recycling, and junkyards.

3. Requirements for New Automobile Graveyards, Automobile Recycling Businesses, and Junkyards.

- A. No person may establish, operate, or maintain an automobile graveyard, automobile recycling businesses, or junkyard without first obtaining a permit from the Town. At the time of filing an application for a permit under this Section, the applicant shall present either a permit from the Maine Department of Environmental Protection (DEP) or a letter from the DEP stating that a permit is not required.
- B. Any application for an automobile graveyard, automobile recycling businesses, or junkyard permit shall contain the following information:
 1. The applicant shall submit a site design drawn to a scale not to exceed 1"=100', on which is shown:
 - a. The name and address of the property owner;

- b. The boundary lines of the property;
 - c. The exact location of any existing and proposed automobile graveyard, automobile recycling operations, and/or junkyard and their distances to nearby roads and property lines;
 - d. The soils of the site and a description of those soils as reflected from a high intensity soils survey;
 - e. The location of on-site septic system(s) and public and private drinking water wells within 200 feet of the site;
 - f. Topographic contours at intervals of 10';
 - g. The location of any sand and gravel aquifer or aquifer recharge area within 300 feet of the site, as mapped by the Maine Geological Survey, or a licensed geologist;
 - h. The location of any residences, schools, churches, cemeteries, public parks, beaches, and playgrounds within 500 feet of the site;
 - i. The location of any waterbodies or wetlands areas on the property and/or within 200 feet of the site;
 - j. The boundaries of any 100-year floodplain; and
 - k. The location of all roads within 1000' of the site.
- 2. The names and addresses of all abutting or impacted property owners, as determined by the Planning Board.
 - 3. The name(s) and address(es) of the person(s) or entity(ies) who will operate the site.
 - 4. The height and material used in any existing and proposed screening.
 - 5. A plan for: containment of fluids and gases, containment and disposal of batteries, and storage or disposal of tires.
 - 6. The location within the site where vehicles are/will be drained, dismantled, or stored.

4. Performance Standards for all Automobile Graveyards, Automobile Recycling Operations, and Junkyards.

The following performance standards shall be required of all automobile graveyards, automobile recycling operations, and junkyards. For purposes of violation and enforcement, each of the following are conditions of a permit:

- A. No permit shall be granted for an automobile graveyard, automobile recycling operation, or junkyard within 1000 feet of the right-of-way of any highway incorporated into the Interstate and Primary Systems or within 600 feet of the right-of-way of any other public way, except for:
 - 1. Those automobile graveyards, automobile recycling operations, or junkyards that are kept entirely screened to ordinary view from the public way at all times by natural objects, plantings, or fences;
 - a. Screening required by this subsection must be well constructed and properly maintained at a minimum height of six (6) feet. A plan for visual screening shall be submitted to the Planning Board for approval in conjunction with the application for a permit. The screen must comply with the rules adopted by the Department of Transportation and the permit shall specify that compliance with these rules is required; and
 - 2. Those automobile graveyards, automobile recycling operations, or junkyards located within areas that have been zoned for industrial use and located more than 600 feet, but less than 1000 feet, from the right-of-way of any highway right-of-way incorporated into the Interstate and Primary Systems.
- B. No permit shall be granted for an automobile graveyard, automobile recycling operation, or junkyard with dismantling or storage within 500 feet of any residences, except for the resident-owner's own home on the lot, school, church, cemetery, public playground, public bathing beach, or public park.
- C. No vehicles or junk shall be dismantled or stored within the 100-year floodplain.
- D. No vehicle or junk shall be located within 100 feet from any property line, unless the operator has notarized written permission from the abutting property owners(s), and in no case shall the distance to the property line be reduced less than 50 feet.

- E. To reduce noise, all dismantling, crushing, and other activities shall be done between 7 AM and 5 PM, Monday through Friday. Such activities shall not be conducted on Saturday or Sunday.
- F. All federal and state hazardous waste laws and regulations shall be complied with.
- G. Any automobile graveyard, automobile recycling operation, or junkyard in existence on the effective date of this Section, may remain in operation on the current parcel of land, providing it meets all applicable requirements.
- H. Any automobile graveyard, automobile recycling operation, or junkyard shall not expand unless all applicable requirements are met.
- I. The automobile graveyard, automobile recycling operation, or junkyard will have and maintain safe and efficient access to and from the site for vehicles and emergency response equipment.
- J. Upon receiving a motor vehicle, the battery shall be removed, and the engine lubricant, transmission fluid, brake fluid, and engine coolant shall be drained into watertight, covered containers and shall be recycled or disposed of according to applicable federal and state laws, rules, and regulations regarding disposal of waste oil and hazardous materials. No discharge of any fluids from any motor vehicle or junk shall be permitted into or onto the ground.
- K. The Town may apply more stringent restrictions, limitations, and conditions in considering whether to grant or deny any permit application.

5. Relationship to Permit.

A person who recycles automobiles, but does not qualify for, or loses, an automobile recycling operation permit, may apply for an automobile graveyard permit.

6. Enforcement and Violations.

- A. The State Police, as well as, the CEO for the Town shall enforce this Section.
- B. Whoever violates this Section or the rules of the Maine Department of Transportation shall be penalized in accordance with Title 30-A, MRSA, Section 4452. Each day that the violation continues constitutes a separate offense.
- C. Violation of any condition, restriction, or limitation inserted in a permit by the Town is cause for revocation or suspension of the permit. No permit can be revoked or suspended without a hearing and notice to the owner or operator of the automobile graveyard, automobile recycling operation, or junkyard. Notice of the hearing must be sent to the owner or operator by registered mail at least seven (7) but not less than fourteen (14) days before the hearing. The notice shall state the date, time, and location of the hearing and contain a statement describing the alleged violation of any conditions, restrictions, or limitations inserted in the permit.

Section 9 Mineral Exploration and Extraction.

A. Mineral Exploration.

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 CEO shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled, or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.

B. Mineral Extraction.

1. Any extraction operation that requires a permit from the Maine Department of Environmental Protection (MDEP) shall obtain written approval from the MDEP and the Planning Board.
2. Any mineral extraction activity of less than five (5) acres and/or any mineral extraction activity which will remove more than 1000 cubic yards of product within 12 successive months shall require Planning Board review and a permit from the CEO.

a. Submission Requirements.

The following submission requirements shall apply to any mineral extraction activity of less than five (5) acres and/or any mineral extraction activity which will remove more than 1000 cubic yards of product within 12 successive months.

1. Existing and proposed limits of the excavation, clearly delineated.
2. Location, function, and ground areas of all structures, facilities, parking lots, and roads.
3. Entrance and exit locations.
4. Gates or other means of access control.
5. Pre- and post-development topography shall use an interval of two (2) foot contours for pits of less than five (5) acres.
6. Location of topsoil stockpile area(s).
7. Areas where natural vegetation will be left and where plantings will be made to screen the extraction operation from view.
8. Slopes and vegetation for protecting adjacent structures.
9. Location of any test pits or borings and observation wells documenting the seasonal high water table.
10. Proposed disposal method of stumps, grubblings, and other debris.
11. Plan(s) and schedule for reclamation. 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 subsection, Reclamation, below.
12. For pits of five (5) acres or more, at least one cross-section along the axis of the pit and another cross-section at a right angle to it. The cross-section diagrams should show the existing grade, the proposed final grade including the maximum depth of elevation, depth to the ground water, and the stratigraphy of the surficial deposits at the site.
13. Location of any significant wildlife habitats as designated by the Maine Department of Inland Fisheries and Wildlife and areas listed under the Natural Areas Program.

b. Review Criteria and Standards.

1. The area of a working pit shall not exceed three (3) acres
2. A buffer strip of not less than seventy-five (75) feet shall be maintained between the location of any extraction of materials and all property lines. Existing vegetation within a buffer strip shall not be removed. If vegetation within the buffer strip has been removed or disturbed by activities related to the operation of the extraction operation, that vegetation must be reestablished as soon as practicable.

3. A 300 foot separation shall be maintained between any area to store petroleum products and any private drinking water wells.
4. A 200 foot separation shall be maintained between any excavation and any private drinking water supply in existence prior to that excavation.
5. A 1000 foot separation shall be maintained between any excavation and any public drinking water supply.
6. Petroleum products shall not be stored in the pit.
7. There shall be no storage or dumping on the pit of any substances or materials that could produce harmful leachate.
8. No oiling of access and haul roads is permitted.
9. Excavation shall not occur within five (5) feet of the seasonally high water table.
10. Excavation activities shall not occur below road level within 25 feet of a road right-of-way and shall maintain a 2.5 percent slope away from the right-of-way, except that excavation activities may occur below road level within 25 feet of a private road right-of-way with the written permission of the owner.
11. Erosion and sedimentation control for access roads shall be conducted according to best management practices adopted by the SCS.
12. There may not be more than one (1) acre of stockpiles within the working pit at any time.
13. Noise levels shall not exceed applicable noise limits as contained within this Ordinance or adopted by the MDEP, whichever is more stringent.
14. The hours of operation at the site shall conform to the time between sunrise and sunset at Caribou, ME.
15. In keeping with the purposes of this Ordinance, the Planning Board may impose other conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

c. Reclamation.

Within twelve (12) months of the completion of extraction operations, or the expiration of a permit, or which operations shall be deemed complete when less than one thousand (1000) cubic yards of materials are removed in any consecutive twelve (12) month period, the site shall be reclaimed in accordance with a plan approved by the CEO. The affected land must be restored to a condition that is similar to or compatible with the conditions that existed before excavation. Such plan shall include:

1. A vegetative cover by seeding shall be established within one year of the completion of excavation. Vegetative cover shall be declared acceptable after one year if: (1) the planting of trees and shrubs results in a permanent stand or stand capable of regeneration and succession, sufficient to ensure a 75 percent survival rate; and (2) the planting of all materials results in permanent 90 percent ground coverage.
2. All structures and facilities shall be removed and, once no longer in productive use, all access roads, haul roads, and other support roads shall be reclaimed.
3. The final graded slope shall be two to one (2.5:1) slope or flatter.
4. Reclamation of the pit shall not be made with any substance or material that could either have a harmful leachate or create an impermeable base.
5. All affected lands shall be reclaimed within one (1) year.

Section 10 Mobile Homes and Mobile Home Parks.

1. General Requirements.

- A. All mobile home units to be relocated to within the Town from outside of the Town and any mobile home unit from within the Town to be relocated to another lot within the Town shall be placed on a permanent foundation; have residential siding; have a pitched roof covered with shingles or other materials approved by the CEO; meet the requirements of subsection 2, below; and be approved by the CEO. The design and construction requirements contained herein shall not be applied to prevent the location of units in Town constructed prior to June 15, 1976.
- B. Any mobile home unit to be relocated to within the Town from outside of the Town and any mobile home unit from within the Town to be relocated to another lot within the Town shall have all required improvements completed and certifications for the mobile home unit prior to moving the unit to any lot.

2. Mobile Homes.

The following standards shall apply to all mobile homes built before June 15, 1976, or not built according to the National Manufactured Housing Construction and Safety Standards Act of 1974, US Code, Title 42, Chapter 70, to be located on an individual lot or in a mobile home park in the Town.

A. Exit Facilities - Exterior Door.

1. Required egress doors shall not be located where a lockable interior door must be used in order to exit.
2. Homes shall have a minimum of two (2) exterior doors not less than 12' from each other as measured in any straight line direction regardless of the length of the travel between doors. One of the required doors must be accessible from the doorway of each bedroom without traveling more than 35'.
3. All exterior swinging doors shall provide a minimum of 32" wide by 74" high clear opening. All exterior sliding glass doors shall provide a minimum of 32" wide by 72" high clear opening. Locks shall not require the use of a key from the inside.

B. Exit Facilities - Egress Windows and Devices.

Homes shall have the following emergency egress facilities:

1. Every room designed expressly for sleeping purposes, unless it has an exit door, shall have at least one outside window or approved exit device. If an exit window or device is installed, it shall be listed in accordance with procedures and requirements of NFPA Life Safety Code 101, fourth edition.
2. The bottom of the window opening shall not be more than 44" above the floor.
3. Locks, latches, operating handles, tabs, and any other window, screen or storm window devices, which need to be operated in order to permit exiting, shall not be located in excess of 54" from the finished floor.

C. Interior Doors.

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

D. Fire Detection Equipment.

1. At least one operating smoke detector shall be installed in the home in the following locations:
 - a. A smoke detector shall be installed on any wall in the hallway or space communicating with each bedroom area between the living area and the first bedroom door, unless a door separates the living area from that bedroom area, in which case the detector shall be installed on the living area side and bedroom side. Homes having bedroom areas separated by any one or combination of

communication areas such as kitchen, dining room, living room, or family room (but not a bathroom or utility room) shall have at least one detector protecting each bedroom area.

- b. When located in hallways, the detector shall be between the return air intake and the living area.
- c. The smoke detector shall not be placed in a location which impairs its effectiveness.
- d. Smoke detectors shall be labeled as conforming with the requirements of Underwriters Laboratory Standards No. 217, Third Edition, 1985.
- e. Each smoke detector shall be installed in accordance with its listing. The top of the detector shall be located on a wall 6" to 12" below the ceiling. However, when a detector is mounted on an interior wall below a sloping ceiling, it shall be located 6" to 12" below the intersection on the connecting exterior wall and the sloping ceiling (cathedral ceilings).

E. Flame Spread. (from the NFPA Life Safety Code 101, fourth edition)

1. Ceiling interior finish shall not have a flame spread rating exceeding 75.
2. Walls or ceilings adjacent to or enclosing a furnace or water heater shall have an interior finish with a flame spread rating not to exceed 25. Sealants and other trim material 2" or less in width used to finish adjacent surfaces within this space are exempt if supported by framing members or by materials having a flame spread rating not exceeding 25.
3. Exposed interior finishes adjacent to the cooking range shall have a flame spread rating not exceeding 50.
4. Kitchen cabinet doors, countertops, back splashes, exposed bottoms, and end panels shall have a flame spread rating not exceeding 200.
5. Finish surfaces of plastic bathtubs, shower units, and tub or shower doors shall not exceed a flame spread rating of 200.
6. No burner of a surface cooking unit shall be closer than 12" horizontal to a window or an exterior door.

F. Kitchen Cabinet Protectors.

1. The bottom and sides of combustible kitchen cabinets over cooking ranges, to a horizontal distance of 6" from the outside edge of the cooking range, shall be protected with at least 5/16th" thick gypsum board or equivalent limited combustible material. One-inch nominal framing members and trim are exempted from this requirement. The cabinet area over the cooking range or cook tops shall be protected by a metal hood with not less than a 3" eyebrow projecting horizontally from the cabinet face. The 5/16th" thick gypsum board or equivalent material which is above the top of the hood may be supported by the hood. A 3/8th" enclosed air space shall be provided between the bottom surface of the cabinet and the gypsum board or equivalent material. The hood shall be at least as wide as the cooking range.
2. The metal hood shall not be required if there is an oven installed between the cabinet and the range.
3. Ranges shall have a vertical clearance above the cooking top of not less than 24" to the bottom of combustible cabinets.

G. Carpeting.

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

H. Roof Loads.

All homes with roofs added after construction shall require the CEO to inspect the roof to determine that the roof can withhold one-hundred (100) pounds per square foot.

I. Heating and Fuel Burning System.

A person holding a master license issued by the State of Maine Oil and Solid Fuel Examining Board shall inspect and certify that the heating and fuel system meets the requirements of NFPA-31 Installation of Oil Burning Equipment as adopted by the Board, or other applicable standards.

J. Electrical System.

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

3. Mobile Home Parks.

Mobile home parks shall comply with the standards of the Maine Manufactured Housing Board and the Portage Lake Subdivision Ordinance, unless otherwise provided in this Section, and shall conform to all applicable federal, state, and local laws and regulations.

A. It shall be unlawful for any person to construct, maintain, or operate within the limits of the Town of Portage Lake any mobile home park unless such person shall first obtain a license thereof. Such license shall be issued by the CEO and shall expire on the 365th day following the issuance thereof. An application for a mobile home park license shall be filed with the CEO. Such application shall be in writing and signed by the applicant and shall contain the following information:

1. Name and address of applicant.
2. The location of the mobile home park with a clear legal description of its bounds.
3. A plan drawn to scale of the mobile home park showing in detail, roadways, driveways, trailer sites, service buildings, and playground areas.
4. A listing of utilities and sanitation facilities.

B. The CEO shall refer the application to the Planning Board for its consideration and action. Before the Board renders a favorable decision upon the application, there shall be a favorable recommendation in writing from the CEO, Highway Foreman, Police Chief, and Fire Chief, addressing any problems within their respective areas of expertise. Upon receiving the application for license from the Planning Board with its action endorsed thereon, if such endorsement be favorable, the CEO shall issue the license. The licensing year will be from the 1st of May to the 30th of April at midnight of each year. Licenses shall be transferable on application to the CEO upon full compliance with the terms of this Ordinance.

C. A mobile home park shall be so located as to be free from hazards or environmental factors which could be injurious to the health, welfare, or safety of occupants such as objectionable smoke, odors, noise, dust, or possibility of flood, erosion, excessive dampness, or infestation by rodents or insects.

D. The Town shall require each lot in a mobile home park be provided with the following minimal dimensional requirements:

1. A mobile home park shall contain a minimum of 10 acres and shall have a minimum frontage on a public road of 50 feet and that portion of the park which contains mobile home park lots shall have a minimum width of 200 feet. There shall be at least five (5) mobile homes park lots available at first occupancy. No less than 10% of the gross area of the mobile home park shall be devoted to recreational facilities which may include usable open space, ornamental space, active recreation, and sports grounds and community buildings.

2. Lots served by a public wastewater disposal system.

- a. Minimum lot area: 7500 SF
- b. Minimum lot width: 75 feet

3. Lots served by individual subsurface wastewater disposal systems.

- a. Minimum lot area: 20,000 SF

- b. Minimum lot width: 100 feet
 - 4. Minimum Setbacks.
 - a. Structures shall not be located less than ten (10') feet from any mobile home park individual lot line.
 - b. Mobile homes in a mobile home park adjacent to a public road shall be set back from the road a distance equal to the setback requirements for other residential development in that District.
 - c. No mobile home park lot may have direct vehicular access onto a state or locally-maintained road.
 - 5. A 50 foot wide buffer strip shall be provided along all property lines that abut residential land. In addition, no structures, roads, or utilities may be placed in the buffer strip except that they may cross a buffer strip to provide services to the mobile home park.
 - 6. No mobile home park lot may be sold or conveyed unless such lot sold meets the lot size and dimensional requirements of the District in which it is located.
- E. Road Design, Circulation, and Traffic Impacts.
- 1. Roads within a park shall be designed by a Maine Registered Professional Engineer.
 - 2. The layout and general development plan for roads and driveways within the park, together with the location and dimensions of access junctions with existing public roads and rights-of-way shall be approved by the Planning Board.
 - 3. Roads which the applicant proposes to be dedicated as public rights-of-way, shall be designed and constructed in accordance with the road design and construction of the Town.
 - 4. Roads which the applicant proposes to remain private rights-of-way shall meet the following minimum geometric design standards.
 - a. Minimum right-of-way width: 23'
 - b. Minimum width of traveled way: 20'
 - 5. One-way roads shall have a minimum right-of-way of 18' and a minimum paved surface of 14'. On-street parking shall be prohibited.
 - 6. No individual lot within a park shall have direct vehicle access onto an existing public road.
 - 7. On-street parking shall be prohibited unless an 8' parking lane is provided, in which case on-street parking may be permitted only on the side of the road where the parking lane is located.
 - 8. Curvilinear roads shall be utilized wherever possible. No road within the park shall be more than 200' without a curve or a bend.
 - 9. Cul-de-sac turnarounds shall have a minimum radii of 50' at the outer edge of the pavement, exclusive of any parking areas.
 - 10. The intersection of any road within a park and an existing public road shall meet the following standards.
 - a. The angle of intersection shall be ninety (90) degrees. The minimum angle of intersection shall be seventy-five (75) degrees.
 - b. The maximum permissible grade within seventy-five (75') feet of an intersection shall be two (2) percent.
 - c. A minimum sight distance of ten (10') feet for every mile per hour of posted speed limit on the existing road shall be provided. Sight distances shall be measured from the driver's seat of a vehicle that is ten (10') feet behind the curb or edge of shoulder line, with the height of the eye 3 1/2' above the pavement and the height of the object 4 1/4'.
 - d. The centerline of any road within a park intersecting an existing public road shall be no less than 125' from the centerline of any other road intersecting that public road.
 - 11. The application shall contain an estimate of the average daily traffic (ADT) projected to be generated by the park. Estimates of traffic generation shall be based on the *Trip Generation Manual*, latest edition, published by the Institute of Traffic Engineers. If the park is projected to generate more than

500 vehicle trips per day, the application shall also include a traffic impact analysis, by a Maine Registered Professional Engineer with experience in transportation engineering.

12. Any park expected to generate average daily traffic (ADT) of 200 trips or more shall have at least two (2) road connections with existing public roads. Any road within a park with an ADT of 200 trips or more per day, shall have at least two (2) road connections leading to existing public roads, other roads within the park, or other roads shown on an approved subdivision plan.

F. Utility Requirements. All parks shall provide permanent electrical, water, and sewage disposal connections to each mobile home park lot in accordance with applicable federal, state, and local rules, laws, ordinances, and regulations. No public utility, water, sanitary sewer, grading or construction of roads, grading of lands or lots, construction of buildings, or any utility company of any kind may install services to any development, until a Final Plan of such development shall be duly prepared, submitted, reviewed, approved, and endorsed and unless written authorization attesting to the validity and currency of all local permits required under this Ordinance has been issued. Following installation of service, the installer shall forward the written authorization to the CEO indicating that installation has been completed to the development.

G. Lighting. Outdoor lighting should be provided to adequately illuminate internal roads and pedestrian walkways. Lights shall be sized and directed to avoid adverse impact on adjacent properties.

H. Solid Waste Removal. Refuse cans shall be provided which have tight fitting covers and provision shall be made for the regular removal of refuse from the park and any condition which may provide harborage for rodents shall be prevented.

I. Park Administration.

1. The owner or operator of a park shall be responsible for ensuring the maintenance of all park-owned structures and their sites. Park management shall conform to state laws. Compliance with this Ordinance shall not exempt the park owner, developer, or manager from complying with other applicable federal, state, and local rules, laws, codes, ordinances, and regulations.
2. No development or subdivision which is approved under this Section as a park may be converted to another use without the approval of the Planning Board, and meeting the appropriate lot size, lot width, setback, and other applicable federal, state, and local rules, laws, codes, ordinances, and regulations. The plan to be recorded at the appropriate Aroostook County Registry of Deeds and filed with the Town shall include the following restrictions as well as any other notes or conditions of approval.
 - a. The land within the park shall remain in unified ownership and the fee to lots or portions of the lots shall not be transferred.
 - b. No dwelling unit other than a mobile home shall be located within the park.
3. All mobile home park operators shall be required, as a licensing condition, to have available for inspection by any authorized local and state officials at all times, an accurate register containing the following information:
 - a. Name of each mobile home owner.
 - b. Location within the park - lot number.
 - c. Date of entry and/or departure.
 - d. Make, model, year, serial number, dimension of trailer, number of bedrooms, location of kitchen and cost of the mobile home.

Section 11 Signs.

A. Introduction.

It is the intent of this Section to establish standards for signs within the Town. It is further intended that signs shall not detract from the visual environment of a property; that they maintain and enhance the aesthetic environment; they create and maintain an attractive business climate; minimize the possible adverse effect of signs on nearby public and private property; encourage the effective use of signs as a means of communication; and improve and maintain pedestrian and traffic safety. Creativity in sign design is encouraged to allow a variety of signs, subject to the standards and permit requirements of this Section.

B. General Requirements.

1. All permanent on-premise signs erected prior to the effective date of this Ordinance are allowed to be maintained.
2. Signs must be kept clean, legible, and free from all hazards such as, but not limited to, faulty wiring, loose fastenings, or deterioration, and must be maintained at all times in such condition so as not to be detrimental to the public health or safety, detract from the physical appearance and the natural beauty of the Town, or constitute a distraction or obstruction that may impair traffic safety.
3. Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this Section, all signs shall be constructed of permanent materials, and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.
4. If a building fronts upon more than one (1) road, one additional sign, either wall or free standing, shall be permitted facing the other road in conformance with this Section.
6. Except for a changeable copy sign (as defined herein), no sign shall be illuminated with flashing, moving, or animated-type lights. Illuminated signs shall be illuminated only with steady white light shielded and directed solely at the sign, concealed from direct view, and constructed in such a manner as to deflect light away from adjacent properties and roads.

C. Setbacks.

1. No sign shall be erected adjacent to any road in such a manner as to obstruct clear and free vision, or where, by reason of its position, shape, color, or wording the sign may interfere with or obstruct the view of, or be confused with any authorized traffic sign, signal, or device or otherwise constitute a hazard to pedestrian or vehicular traffic.
2. All signs, except for temporary signs, shall meet the following setbacks.
 - a. A minimum of fifteen (15) feet from the outside edge of the paved portion of any road.
 - b. All signs shall be setback a minimum of fifteen (15) feet from side and rear lot lines.

E. Permitted Signs.

1. The following signs are permitted and **do not** require review by the Planning Board or a permit by the CEO, except where noted.
 - a. One directory sign of the establishments occupying a building may be affixed to the exterior wall of the building at each entrance to the building. Such directory shall not exceed an area determined on the basis of two (2) square feet for each establishment occupying the building.
 - b. One sign not exceeding two (2) square feet used to display the principal structure's road or building number.
 - c. One real estate sign not exceeding six (6) square feet relating to the sale, rental, or lease of the premises. Such sign shall be removed within one (1) week after the property transaction.
 - d. One sign combined for a building contractor, architect, and engineer. Each sign shall not exceed sixteen (16) square feet, relating to construction projects. Such sign shall be removed within one (1) week after construction is completed.

- e. Official Business Directional Signs (OBDS) as provided by state law.
 - f. Outdoor signs not exceeding four (4) square feet per sign identifying restrooms, parking, and similar information.
 - g. Memorial signs or tablets, names of buildings, and date of construction, or historic markers when cut into masonry, bronze, or other permanent material affixed to the structure or placed on the property.
 - h. Signs relating to trespassing and hunting shall be permitted without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
 - i. Signs not exceeding four (4) square feet per sign which identify entrances and exits to parking and service areas.
 - j. Four (4) or less flags or insignia per lot. Flags of the United States, Maine, Aroostook County, Canada, or any other flag allowed by the Selectmen, provided that such flag shall not exceed sixty (60) square feet in area and shall not be flown from a pole the top of which is more than 40 feet in height. These flags shall be flown in accordance with protocol established by the Congress of the United State for the stars and stripes.
 - k. Traffic safety signs, directional signs, or emergency warning signs, erected by a government agency, a public utility, or the Town.
 - l. Legal notices, identification, information, or directional signs erected or required by governmental bodies or the Town.
 - m. Any sign inside a building, not attached to a window or door, that is not legible from a property line of the lot that the premise is located.
 - n. Works of art that do not include a commercial message.
 - o. Informational signs of public utility providers regarding their poles, lines, pipes, or facilities.
 - p. Signs posted within a window or door shall not cover more than 30% of the window or door area.
 - q. Signs displayed for less than thirty (30) days to advertise school, non-profit, civic, church, and like events.
 - r. Signs describing farm products for sale on the premise, not to exceed thirty-two (32) square feet in total surface area.
 - s. Signs displayed to advertise garage sales, yard sales, and the like (as defined herein). They shall be removed within 48 hours of the date of the sale.
 - t. Prior to installation, a sign designed to be transported by trailer on wheels shall be reviewed by the CEO and when allowed a permit to be issued by the CEO.
2. The following signs require review and approval by the Planning Board and when allowed a permit to be issued by the CEO.
- a. On each principal building there is permitted either one wall sign attached or one free standing sign for each occupant.
 - 1. Wall Sign.
 - a. If the proposed sign is to be attached to a building without the use of overhanging frames or brackets, the "wall sign" shall not extend or project more than twelve (12) inches from the building surface. Cut out letters should not project more than six (6) inches from the building wall.
 - b. Wall signs shall be restricted to an area not more than fifteen (15) percent of the wall area including windows and doors of the wall upon which such sign is affixed or attached, or eight (8) square feet, whichever is larger, and such signs shall not protrude above the structural wall of which it is a part.
 - c. If the proposed sign is to be attached to a building with the use of a frame or bracket to project the sign out and not up, the "projecting wall sign" shall extend no lower than ten (10) feet above ground level, project perpendicular from the wall at an angle of ninety (90) degrees, and have a total surface area (accumulated for both sides) not to exceed thirty-two (32) square feet.
 - 2. Free Standing Sign.

- a. Free standing signs may be located within the required front yard, but no nearer than five (5) feet from either side lot line or rear lot line and up to, but not overhanging, the road right-of-way.
 - b. The free standing sign shall not exceed one-hundred and twenty (120) square feet in total area for single faced signs, or sixty (60) square feet on each side of double-faced signs. For lots with more than 200 feet of contiguous road frontage on a single road, the total sign surface area may be increased by 0.4 square feet for every linear foot of the contiguous frontage in excess of 200 feet.
 - c. The maximum vertical height of a free standing sign shall be twenty-five (25) feet above average ground level.
 - d. The maximum horizontal width of a free standing sign shall be eight (8) feet.
 - e. Multi-tenant or unit commercial development which lacks road frontage and is served by a right-of-way may have one free standing sign not to exceed one-hundred and twenty (120) square feet.
 - f. Appropriate landscaping should be planted and maintained around the base of the sign.
- b. One sign, either wall or free standing, not exceeding thirty-two (32) square feet on the premises of public or semi-public buildings, and charitable or religious institutions. These signs may incorporate a bulletin board.
 - c. Temporary signs displayed for more than thirty (30) days, but less than ninety (90) days. (See: "*Temporary Signs*", herein.)
 - d. Awning and Canopy signs. Canopies over fuel islands shall only advertise fuel and fuel products.
 - e. Multi-family development or a subdivision with an identifying name (i.e. "Portage Lake Mews"):
 - 1. One sign shall be mounted flat on the wall or be free standing for each entrance from a public road.
 - 2. Signs shall be illuminated only by a steady stationary light(s) of single color shielded and directed solely at the sign and not casting light off the premises.
 - 3. The total sign area shall not exceed sixteen (16) square feet a side, be higher than four (4) feet above average ground grade, and be wider than eight (8) feet in width.
 - 4. Appropriate landscaping should be planted and maintained around the base of the sign.

F. Prohibited Signs.

The following types of signs are prohibited.

- 1. A sign painted on or attached to stationary vehicle, except for a sign relating to the sale of the vehicle and a sign identifying the related business when the vehicle is being used in the normal day-to-day operations of that business. For the purpose of this Section, a stationary vehicle means any vehicle not registered and inspected as required by Maine law.
- 2. Inflatable signs, tethered balloons, and pennants, except associated with special sales or events.
- 3. A sign relating to any premise which has been out of business for more than ninety (90) days. The owner or their agent shall be responsible for removing such sign.
- 4. Billboards.
- 5. A commercial sign painted or drawn on rocks or other natural features.
- 6. Searchlights.

G. Non-Conforming Signs.

- 1. Non-conforming signs and their supporting hardware shall be removed within twelve (12) months of the effective date of this Ordinance.
- 2. Existing non-conforming temporary signs and their supporting hardware shall be removed within three (3) months of the adoption of this Ordinance, with future use directed by "*Temporary Signs*", below.
- 3. No non-conforming sign may be enlarged or altered in such a manner as to aggravate the non-conforming condition.

4. No illumination may be added to any non-conforming sign, except if such illumination complies with the provisions of this Section.
5. A non-conforming sign may not be moved except for maintenance, change in message or repair, or replacement to bring the sign into conformity with this Section.
6. The message of a non-conforming sign may be changed so long as it does not create any new non-conformities.

Section 13 Wireless Telecommunications Facility Siting.

A. Purpose. The purpose of this Section is to provide a process and a set of standards for the construction of wireless telecommunications facilities in order to:

1. Implement a municipal policy concerning telecommunications facilities providers and services;
2. Establish clear guidelines, standards and time frames for the exercise of municipal authority to regulate telecommunications facilities;
3. Allow competition in telecommunications service;
4. Encourage the provision of advanced telecommunications services to the largest number of businesses, institutions, and residents of the municipality;
5. Permit and manage reasonable access to the public ways of the municipality for telecommunications purposes on a competitively neutral basis;
6. Conserve the limited physical capacity of the public ways held in public trust by the municipality;
7. Ensure that all telecommunications carriers providing facilities or services within the municipality comply with the ordinances;
8. Ensure that the municipality can continue to fairly and responsibly protect the public health, safety and welfare;
9. Encourage the siting of wireless telecommunications facilities to colocate, therefore helping to minimize visual impacts on the community; and
10. Enable the municipality to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition, and technological development.

B. Applicability.

1. This subsection applies to all construction and expansion of wireless telecommunications facilities, except as provided in the following.
 - a. Temporary wireless communication facilities for emergency communications by public officials;
 - b. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC);
 - c. Parabolic Antennas less than 7 feet in diameter, that are an accessory use of the property;
 - d. Maintenance, repair, or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility;
 - e. Temporary wireless telecommunications facilities, in operation for a maximum period of one hundred eighty (180) days; and
 - f. An antenna that is an accessory use to a residential dwelling unit.

C. Application.

An application for approval by the Planning Board must be submitted to the CEO and include the following information:

1. Documentation of the applicant's right, title, or interest in the property on which the facility is to be sited, including name and address of the property owner and the applicant.
2. A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility will comply with FCC regulations.
3. A USGS 7.5 minute topographic map showing the location of all structures and wireless telecommunications facilities above 150 feet in height above ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed facility, unless this information has been previously made available to the municipality. This requirement may be met by submitting current information (within thirty (30) days of the date the application is filed) from the FCC Tower Registration Database.
4. A site plan prepared and certified by a Maine Registered Professional Engineer, with documented experience in facility design, indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, and setbacks from property lines. The site plan must include:

- a. Certification by the Engineer that the proposed facility complies with all American National Standards Institute (ANSI) and other applicable technical codes; and
 - b. A boundary survey performed by a land surveyor licensed by the State of Maine.
5. Elevation drawings of the proposed facility, and any other proposed structures, showing height above sea level.
 6. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing; the color of the structure; and the proposed lighting method.
 7. Photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or their designee, during the pre-application conference. Each photo must be labeled as to the line of sight and elevation. The photos must show the color of the facility and method of screening.
 8. A narrative description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.
 9. Evidence demonstrating that no existing building or structure can accommodate the applicant's proposed facility, which may consist of any one of the following:
 - a. Evidence that no existing facilities are located within the targeted market coverage area as required to meet applicant's engineering requirements.
 - b. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements.
 - c. Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:
 1. Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.
 2. The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.
 3. Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.
 - d. The fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable.
 10. Identification of any archaeological, pre-historic, or historic sites, buildings, structures or objects, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see: 16 U.S.C. 470w(5); 36 CFR 60 and 800) or by the local historical society.
 11. A signed statement that commits the owner of the wireless telecommunications facility, and their successors in interest, to:
 - a. Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - b. Negotiate in good faith for shared use by third parties;
 - c. Allow shared use if an applicant agrees in writing to pay reasonable charges for colocation; and
 - d. Require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.

12. A form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned.
13. Evidence that a notice of the application has been published in a local newspaper of general circulation in the community.
14. If applicable, evidence that the applicant demonstrated continued compliance with all applicable FCC radio frequency emissions regulations.

D. General Requirements.

An application for approval must meet the following standards.

1. If an applicant proposes to locate a new wireless telecommunications facility, or expand an existing facility, on municipal property, the applicant must show the following:
 - a. The proposed facility will not interfere with the intended purpose of the property; and
 - b. The applicant has adequate liability insurance and a lease agreement with the municipality that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.
2. A new wireless telecommunications facility and related equipment must be designed and constructed to accommodate future colocation of at least three additional wireless telecommunications facilities or providers.
3. A new wireless telecommunications facility shall not exceed a height that would require it to have lighting or marking according to FCC requirements.
4. A new or expanded wireless telecommunications facility must be set back two hundred percent (200%) of its height from all property lines.
5. A new wireless telecommunications facility and related equipment must have a planted buffer fifteen (15) feet wide by six (6) feet in height around the perimeter of the lot on which the facility is located to be screened from view by abutting properties. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable.
6. A new wireless telecommunications facility must have a ten (10) foot fence to discourage trespass on the facility and to discourage climbing on any structure by trespassers.
7. A new wireless telecommunications facility shall not be illuminated, except that security lighting may be approved as long as it is shielded to retain light within the boundaries of the site.
8. A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment.
9. A new wireless telecommunications facility must comply with the current Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures".
10. Photo simulations shall be evaluated by the Planning Board based on the following criteria:
 - a. Representativeness, in that the simulation represents important and typical views of the project;
 - b. Accuracy, in that the similarity between the simulation and the reality will be easily recognizable to the average citizen;
 - c. Visual clarity, in that the details, parts, and overall contents shall be clearly recognizable; and
 - d. Legitimacy, in that the simulation is defensible as to the veracity of its attempts to reproduce reality.
11. In determining the visual impact of the proposed facility, the Planning Board shall use the following criteria:
 - a. The proposed wireless telecommunications facility will be visible against the skyline from at least one vantage point on a State or locally designated "Scenic Highway," as identified either by State law or by the municipality; or
 - b. The proposed wireless telecommunications facility will be visible from at least two vantage points on a State or local highway and visible no less than one thousand (1000) feet apart.

In making that determination of whether or not the proposed facility would have an undue adverse visual impact on the scenic or natural beauty of the scenic corridor or viewshed, the Planning Board shall consider:

- a. The period of time during which the proposed facility would be viewed by the traveling public on a public highway or in a public right-of-way;
 - b. The frequency of the view of the proposed facility as experienced by the traveling public;
 - c. The degree to which the view of the proposed facility is screened by existing vegetation, the topography of the land, and existing structures;
 - d. Background features in the line of sight to the proposed facility that obscure the facility or make it more conspicuous;
 - e. The distance of the proposed facility from the viewing vantage point and the proportion of the facility that is visible above the skyline;
 - f. The number of vehicles or pedestrians traveling on a public highway, in the public right-of-way, or on water at or near the critical vantage point or points;
 - g. The sensitivity and unique value of the particular view affected by the proposed facility; and
 - h. The disruption to a viewshed that provides significant context to a historic or scenic resource.
12. Construction, repair, replacement, or operation of a back-up power generator during a power failure, or testing of a back-up generator, shall be exempt from noise standards between 8AM and 9PM.
 13. The proposed facility will not have an adverse impact upon archaeological, pre-historic, or historic sites, buildings, structures or objects, architecture, archaeology, engineering, or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800), in the Maine Critical Areas program, or by the local historical society.
 14. Upon review of the applicant's report, proceedings from any public hearing, or other information which is part of the public record, the Planning Board shall make a written finding that either the proposed facility does or does not have an adverse impact upon the scenic or natural beauty of the land proposed to be developed as viewed from the public right-of-way or water body or trail within the municipality. These findings shall be clearly outlined and in writing.
 15. Every year on the anniversary date of application approval, the applicant shall demonstrate continued compliance with all applicable FCC radio frequency emissions regulations.

G. Abandonment.

1. A wireless telecommunications facility not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner of an abandoned facility shall be notified in writing by the CEO to remove the facility within ninety (90) days of receipt of a written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to show that the facility has been in use or under repair during the period.
2. If the owner fails to show that the facility has been in use or under repair, they shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the Selectmen shall cause the facility to be removed at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, structures, and the reestablishment of vegetation.
3. Financial responsibility for ensuring compliance with any reclamation, closure, and post closure maintenance requirements of a permit and the clean-up and corrective action costs of permitted or accidental releases must be fulfilled in a trust fund as provided for within this Ordinance. The owner of the facility may apply to the Selectmen through the Planning Board for release of surety when the facility and related equipment and structures are removed to the satisfaction of the Planning Board and Selectmen.

Section 14 Building Code.

1. General.

- A. The 1999 Edition of the *BOCA National Building Code* (BOCA) as published by the Building Officials & Code Administrators International, Inc. and the 1995 Edition of the *CABO One and Two Family Dwelling Code* (CABO) as published by the Council of American Building Officials, are adopted by this reference and made a part of this Ordinance with the same force and effect as though set out in full herein, as the *Building Code of the Town of Portage Lake*, subject to the additions and deletions set forth in this Section.
- B. There shall be submitted with all applications for a Building Permit, two (2) copies of the building plan drawn to scale showing: the exact dimensions of the building and lot to be build upon; all buildings, existing and proposed (location, shape, size, height, and setbacks); required off-street parking and loading spaces, existing and proposed; and such additional information as may be necessary to determine and provide for enforcement of this Ordinance. A soil suitability test may be required for construction on land that may be unsuitable for development.
- C. One copy of the building plan shall be returned to the applicant when approved by the CEO who shall have marked such copy approved and attested to same by their signature together with the permit. The second copy of such application, plans, and permit, similarly marked, approved or disapproved, shall be retained by the CEO and shall be kept on file as a public record in the Town Office. Failure of the CEO to issue written notice of a decision within thirty (30) days of the date of filing of the application shall constitute refusal of the permit.

2. Copies on File with Town Clerk.

Pursuant to Title 30-A MRSA §3003 a copy of the *BOCA National Building Code* and the *CABO One and Two Family Dwelling Code* shall be on file in the Town Office for public use during normal business hours.

3. Insertions to and Deletions from BOCA National Building Code.

A. Insertions.

The following are hereby added to the *BOCA National Building Code*:

1. Section 101.1 by inserting "the Town of Portage Lake".
2. Section 107.6.1 by replacing that portion that reads "private sewage disposal code listed in Chapter 35 shall be submitted with the site plan" with "State of Maine Department of Human Services (DHS) shall be submitted with the site plan on form HHE-200."
3. Sections 108.6. In addition to the sentence, insert, "Such permit or approval may also be revoked by the CEO if the issuance thereof was based on a mistake of law."
4. Section 112.3.1 by deleting and inserting "A fee for each examination, permit, or inspection shall be paid. Such fee shall be set by the Town's legislative body."
5. Section 117.2 by replacing "of not less than (amount) or not more than (amount)" with "in an amount authorized by Title 30-A MRSA §4452".
6. Section 201.3 by deleting and inserting, "Where terms defined in this code or in the plumbing, fire prevention, or mechanical codes listed in Chapter 35 conflict with any of the terms defined in the Portage Lake Land Use Ordinance, the definitions contained in the Portage Lake Land Use Ordinance shall control."
7. Section 3408.2 insert... "the effective date of the Portage Lake Land Use Ordinance" after "...existing prior to..."

B. Deletions.

The following chapters, sections, or portions thereof are hereby deleted from the *BOCA National Building Code*:

1. Section 104

2. Section 105.6
3. Section 105.8
4. Section 107.1, item 6
5. Sections 121.2 through and including 121.7
6. Chapter 10
7. Chapter 11
8. Chapter 13
9. Chapter 29
10. Chapter 30
11. Sections 3101.0 through and including 3102.14.1
12. Chapter 35 Referenced Standards–Standard reference number IPC-97 ICC International Plumbing Code-with 1998 and 1999 Supplements.
13. Chapter 35 Referenced Standards–Standard reference number IPSDC-97 ICC International Private Sewage Disposal Code with 1998 and 1999 Supplements.
14. Chapter 35 Referenced Standards- Standard reference number IECC-98 ICC International Energy Conservation Code with 1999 Supplement.
15. Chapter 35 Referenced Standards- Standard reference number IOTFDC-98 ICC International One & Two Family Dwelling Code.

4. Insertions to and Deletions from *CABO One and Two Family Dwelling Code*.

A. Insertions.

The following are hereby added to the *CABO One and Two Family Dwelling Code*:

1. Section 106.2 by replacing the part that reads “the city” with “the Town.”
2. Section 111.1 by replacing the portion that reads “a permit is required by the building official.” with “a permit is required by the building official or plumbing inspector.”
3. Section 2902.2 by replacing the portion that reads “and are first approved by the building official” with “and are first approved by the Licensed Plumbing Inspector (LPI).”

B. Deletions.

The following chapters, sections, or portions thereof are hereby deleted from the *CABO One and Two Family Dwelling Code*:

1. Section 107
2. Section 116
3. Sections 2903.4 through and including 2903.5.2
4. Sections 3001.1
5. Chapter 31
6. Chapter 32
7. Chapter 33
8. Chapter 34
9. Chapter 35
10. Chapter 36
11. Chapter 37
12. Chapter 38
13. Section 4702 Referenced standards ANSI Z21.22-1986, ANSI Z124.1-1987, ANSI Z124.2-1987 ANSI Z124.3-1986, ANSI Z124.4-1986, ANSI Z124.6-1990, ANSI/NSF 14-1990, ASME/ANSI A112.4.1-1993, ASME/ANSI A112.19.1-1987, ASME/ANSI A112.19.2M-1991, ASME/ANSI A112.19.3M-1987, ASME/ANSI A112.19.4M-1984, ASME/ANSI A112.19.5-1979, ASME/ANSI A112.19.6-1990, ASME/ANSI A112.19.7M-1987, ASME/ANSI A112.19.8M-1987, ASME/ANSI A112.21.1-1991, ASSE 105, ASSE/ANSI 1001-1988, ASSE/ANSI 1002-1979 (1986), ASSE/ANSI 1003-1981, ASSE/ANSI 1006-1986, ASSE/ANSI 1007-1973, ASSE/ANSI 1008-1973 (1986), ASSE/ANSI 1010-1982, ASSE/ANSI 1011-1982, ASSE/ANSI 1014-1979, ASSE/ANSI 1016-1979, ASSE/ANSI 1019-1987, ASSE/ANSI 1023-1979, ASSE/ANSI 1025-1978, ASSE/ANSI 1037-1986, ASTM A 74-1987,

ASTM A 377-1984, ASTM B 42-1993, ASTM B 43-1988, ASTM B 75-1986, ASTM B 88-1993, ASTM B135-1986a, ASTM B 306-1988, ASTM B 370-1988, ASTM B 477-1989, ASTM B 813-1991, ASTM B 828-1992, ASTM C 14-1988, ASTM C425-1988, ASTM D 1527-1987, ASTM D 1785-1991, ASTM D 1861-1988,ASTM D 2104-1989A,ASTM D 2235-88,ASTM D 2239-1989, ASTM D 2241-1989, ASTM D 2282-1989, ASTM D 2447-1989, ASTM D 2466-1990A, ASTM D 2467-1990, ASTM D 2468-1992, ASTM D 2564-1991, ASTM D 2609-1990, ASTM D 2661-1991, ASTM D 2665-199 LB, ASTM D 2666-1989, ASTM D 2672-1989, ASTM D 2737-93, ASTM D 2751-1991, ASTM D 2846-1992, ASTM D 2949-89, ASTM D 3000-1989, ASTM D 3-34-1989, ASTM D 3212-1989, ASTM D 3261-1990, ASTM D 3309-1992, ASTM D 4068-1986A, ASTM F 409-1988, ASTM F 438-1990, ASTM F 439-1990, ASTM F 441-1989, ASTM F 442-1989, ASTM F 493-1989, ASTM F 628-1991, ASTM F 656-89A, ASTM F 845-1988, ASTM F 876-1992, ASTM F 877-1989, ASTM F 891-1991, ASTM F 1380-1992, CISPI HS74-1986, CISPI 301-1985, CSA B602M-1990, CSA 0437-M92

14. Appendix B in its entirety.

15. Appendix C in its entirety.

Section 15 Performance Guarantee, Financial Capacity, and Financial Assurance.

1. Performance Guarantee.

A. Types of Guarantees. With submittal of the application for Final Plan approval and required by the Planning Board, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs. The conditions and the amount of the performance guarantee shall be established by the CEO after reviewing the cost estimates for improvements submitted with the Final Plan by the developer and the review of those estimates for accuracy by the appropriate Town Officials, departments, utilities, and/or agencies.

1. 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 of Portage Lake*", the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the Town of Portage Lake 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 applicant unless the Town has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required improvements.
2. 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 applicant, and the procedures for collection by the Town. The bond documents shall specifically reference the application for which approval is sought.
3. Letter of Credit. An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for construction and may not be used for any other project or loan.
4. Phasing of Development. The CEO or Planning Board may approve plans to develop an application in separate and distinct phases. This may be accomplished by limiting final approval to those areas abutting that section of any proposed road which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of development in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.
5. Conditional Agreement. The CEO or Planning Board may provide for the applicant 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:
 - a. (Subdivisions only) No more than four (4) lots may be sold or built upon;
 - b. It is certified by the Planning Board that all of the required improvements have been installed in accordance with all local Ordinances and the regulations of the appropriate utilities; or
 - c. A performance guarantee, acceptable to the Town, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

Notice of the agreement and any conditions shall be indicated on the Final Plan which is recorded at the Aroostook County Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 15, herein.

- 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 applicant shall be in default and the Town shall have access to the funds to finish construction.
- C. Release of Guarantee. Prior to the release of any part of the performance guarantee, the Town Selectmen shall determine to its satisfaction, upon the approval of the Planning Board and the CEO and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

- D. Default. If, upon inspection, the CEO finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, they shall so report in writing to the Town Manager, Selectmen, the Planning Board, and the applicant or builder. The Town shall take any steps necessary to preserve the Town's rights.
- E. Extension. The Planning Board may recommend a maximum extension of 12 months to the guaranteed performance period when the applicant can demonstrate, to the satisfaction of the Planning Board and the Town Officers, good cause for such extension. Such recommendation shall be referred to the Town Officers for official action.

2. Financial Capacity.

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria and the standards of this Ordinance. When the applicant proposes to construct the buildings, as well as the development improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Planning Board shall consider the proposed time frame for construction and the effects of inflation.

3. Financial Assurance.

Financial responsibility for ensuring compliance with any reclamation, closure, and post-closure maintenance requirements of a permit, and the cleanup and corrective action costs of permitted or accidental releases, must be fulfilled through a trust fund as provided by this subsection.

A. Computation of Financial Assurance.

- 1. The Planning Board may request the Selectmen retain, at the applicant's expense, an expert consultant(s) with proven experience in financial assurances, to review an application and report back to the Planning Board on the:
 - a. Potential impacts and estimated costs;
 - b. Type of financial assurance;
 - c. Amount of financial assurance; and
 - d. Length of time to hold assurance.

The consultant shall be fully qualified to provide the required information and shall be mutually acceptable to the municipality and the applicant. The consultant shall estimate the cost of such review and the applicant shall deposit with the municipality the full estimated cost which the municipality shall place in an escrow account. The municipality shall pay the consultant from the escrow account. If the balance in the escrow account is drawn down by 75 percent, the CEO shall notify the applicant and require an additional amount. After a final decision on the application has been rendered, any balance remaining in the account, plus any accrued interest, shall be returned to the applicant within thirty (30) days of the decision.

- 2. The type and amount of the financial assurance required of an applicant must be approved by the Selectmen. As annually or otherwise determined by the Planning Board according to this subsection, the amount of the trust fund must be, at a minimum, the estimated cost to a third party for:
 - a. Completing the reclamation for all disturbed areas and all areas expected to be disturbed within the upcoming year;
 - b. Closure and post-closure maintenance requirements for waste already generated together with waste expected to be generated within the upcoming year; and
 - c. Corrective action costs as required by a corrective action plan or as otherwise determined by the Planning Board or DEP under this subsection.

B. Trust Fund Requirements. The permittee shall pay into a trust fund established for the benefit of the Town as follows:

1. The trust fund shall be funded by the permittee through cash deposits. In lieu of cash deposits, the permittee may provide one or more irrevocable letters of credit in a total amount (including previously provided and unexpired letters) equal to 100% of the total of all annual cash deposits otherwise required under this subsection.
2. The trust fund shall be established in a financial institution, acting as trustee, with trust assets under management of not less than \$200 million and whose unsecured long-term debt is rated "A-1" or better by Moody's Investor Service or "AA" or better by Standard and Poors. In addition, the trustee shall have capital stock and surplus aggregating not less than \$25 million and a primary capital to asset ratio of not less than 8% and equity to total assets ratio of not less than 5%, determined in accordance with accounting rules of the primary federal regulator of the trustee.
3. The initial deposit into the trust fund for reclamation costs, identified in (1)(a) above, shall be made on or prior to site disturbance. Subsequent payments shall be made on or prior to the next subsequent anniversary date of permit issuance, and annually thereafter.
4. The initial deposit into the trust fund for financial assurance for closure and post-closure maintenance, identified in (1)(b) above, shall be made in advance of the first placement of waste in a retention unit(s). Subsequent payments shall be made on or prior to the next subsequent anniversary date of permit issuance, and annually thereafter.
5. The amount and payment schedule for financial assurance for corrective action, identified in (1)(c) above, shall be as specified in the corrective action plan or as otherwise determined by the Planning Board under this rule.
6. Annual deposits or increases in the required trust fund amount shall be made from the beginning of operations until the end of the post-closure period. Without limitation, changes in the amount in the trust fund may be required due to modifications of the permit, changed financial or site conditions, technology changes, inflation, anticipated changes in mining activity and waste unit utilization, or changes in requirements for closure, post-closure maintenance, corrective action, or reclamation. The permittee shall annually report to the Planning Board, subject to the Planning Board's approval, an estimate of cost changes as provided in this subsection. The permit remains in effect only if all required deposits or increases are made within thirty (30) days of the due date provided in this subsection. The obligation to make deposits or adjust the letter of credit amount ceases only upon approval from the Planning Board.
7. When computing the annual inflation adjustment for reclamation, closure, post-closure, or corrective action trust funds, the Planning Board and the permittee must use the Implicit Price Deflator for Gross National Product as published by the US Department of Commerce in "Survey of Current Business," or a successor index.
8. All interest or other income resulting from the investment of funds in the trust fund shall be deposited into the trust fund, may be used to offset subsequent payments into the trust fund, and shall be subject to the same restrictions as the principal.
9. If a permit is suspended, revoked, or not renewed, the permittee shall continue to make deposits and ensure the irrevocable letter of credit will cover required costs according to this subsection.
10. The Town shall be a party to the trust agreement as beneficiary and shall have the right to withdraw and use part or all of the funds in the trust fund or to require the liquidation of the assets of the trust fund, including any letter of credit, at its sole discretion, to carry out reclamation, closure, post-closure, and corrective action requirements as the Planning Board determines necessary. The trust agreement shall provide that there shall be no withdrawals from the trust fund except as authorized in writing by the Selectmen.
11. The financial assurance cost estimates shall be made in US dollars in accordance with established estimating practices and shall not incorporate any salvage value that may be realized by the sale of materials, wastes, site structures or equipment, land, or other assets associated with the site.
12. The proposed trust agreement shall be submitted to the Planning Board and Selectmen for review and shall be subject to the Selectmen's approval.

C. Management of the Trust Fund.

1. The trust fund shall not constitute an asset of the trustee or permittee and shall be established in such a manner so as to ensure the funds in the account will be available to the Town and not any creditor, including in the event of bankruptcy or reorganization of the trustee or permittee. The permittee shall pay all costs of managing the fund and compensating the trustee.
2. The trustee shall not invest assets of the trust fund in any real estate or real estate investment trust (as defined in the Internal Revenue Code of 1986, 26 U.S.C. 856(a), as amended), any contract for the future sale or delivery of commodities or foreign currency, any corporate or municipal bond not rated "A-1" or better by Moody's Investors Service or "AA" or better" by Standard and Poors, any equity instrument the issuer of which does not have at least one class of securities registered with the United States Securities and Exchange Commission under the Securities Exchange Act of 1934, 15 U.S.C. 78a, et seq., as amended, or any security issued by the permittee or applicant or any affiliate (as such term is defined in the Investment Company Act of 1940, 15 U.S.C. 80a-1, et seq.) thereof.
3. The trustee shall invest the assets of the fund in a manner that assures to the greatest possible extent the availability of the assets in liquid form on notice of thirty (30) days or less and also assures the safety of the principal of the trust fund and the availability of the assets of the trust fund for a vital public purpose.
4. The trustee shall notify the Selectmen, who shall notify the Planning Board, immediately in the event that any payment or letter of credit has not been received from the permittee by the due date.
5. With respect to any letter of credit held by the trustee in the trust fund, the trustee must assure that the letter of credit is issued by a financial institution meeting the requirements of (E)(3) below, and that the other requirements of (E) below, are satisfied.
6. The trustee shall submit to the Selectmen an annual statement of deposits, letters of credit, investments, and any income and principal in the trust fund, and changes in the same over the prior year.

D. Close-Out or Release of the Trust Fund.

1. When requesting close-out of the trust fund, the permittee shall submit to the Planning Board an environmental evaluation of the site, waste units, reclamation and any required corrective action to ensure that any remaining problems are identified and corrected before financial assurance is released.
2. When the Selectmen, on the recommendation of the Planning Board, makes a determination to release funds from the trust fund, it shall notify the trustee and the permittee in writing of the decision. At that time, the Selectmen shall supply the trustee and permittee with written approval to transfer the excess funds or to close the account. The Town does not release the permittee from any reclamation, closure, post-closure, or corrective action requirements or third party liability as a result of releasing any funds.

E. Letter of Credit Requirements. The following requirements shall apply to all financial assurances utilizing a letter of credit:

1. The letter of credit must be unconditional, irrevocable, issued for a period of at least one (1) year, and otherwise in a form satisfactory to the Selectmen, on the recommendation of the Planning Board. At least ninety (90) days before the expiration date, the financial institution issuing the letter of credit must notify the trustee, the permittee, and the Selectmen if the letter of credit will not be renewed for an additional 1-year period, and the letter of credit shall so provide. If the permittee is unable to obtain a letter of credit that complies with this subsection prior to forty-five (45) days before the expiration of the current letter of credit, the trustee shall immediately draw all funds under the letter of credit and deposit those in the trust fund. The trustee must also take all other measures necessary to maintain the letter(s) of credit as provided herein and to assure such letter(s) do not expire unless replaced with another duly qualified letter.
2. The letter of credit shall be issued so as to be drawn upon unconditionally by the trustee to meet the terms of the trust fund or otherwise at the call of the Selectmen.
3. The financial institution issuing the letter of credit must meet the following financial criteria, as reviewed no less often than annually by the trustee:

- a. Its unsecured long-term debt is rated "A-1" or better by Moody's Investor Service, or "AA" or better by Standard and Poors.
 - b. It has assets of not less than \$1 billion and capital stock and surplus of not less than \$100 million and a primary capital ratio of not less than 8% and equity to total assets ratio of not less than 5% determined in accordance with accounting rules of the primary federal regulator of the financial institution.
 - c. In the event that an issuer of a letter of credit ever fails to meet these criteria, the trustee shall immediately order the permittee to replace it with a properly qualifying letter of credit, failing which the trustee shall immediately liquidate the letter of credit.
4. The proposed letter of credit shall be submitted to the Planning Board and Selectmen for review and Selectmen for approval.
 5. In the event the Planning Board delivers to the trustee a certificate so requesting and signed by the Selectmen, the trustee shall draw down the full amount available under the letter of credit specified in the certificate and shall add to the trust fund the amount drawn down.
 6. If the trustee draws on any letter of credit, the trustee shall promptly report to the Selectmen and the permittee the amount of such draft, the section or sections of the trust agreement calling for such a draft, and the disposition of the proceeds of such draft.
 7. A financial arrangement in the form of a bond, but that otherwise qualifies as a letter of credit meeting the requirements of this subsection, shall be considered a letter of credit for purposes of this subsection.
- F. Proof of Insurance. The applicant must include, as part of a financial responsibility plan, and provide annually thereafter as part of the required annual report of this subsection, proof of pollution liability insurance for the site for sudden and accidental occurrences. The need for non-sudden occurrence insurance shall be assessed by the Planning Board on a case-by-case basis. The Planning Board will make the final decision as to the necessary amount and the need for such insurance. The insurance underwriter(s) must be approved by the Planning Board. Requirements include, but are not limited to, the following:
1. Pollution insurance coverage must be provided during operation, reclamation, closure, and, where any wastes will remain on the site after closure, during the post-closure maintenance period. Coverage shall remain in effect for a minimum of two (2) years or a time period so designated by the Planning Board.
 2. The level of coverage for sudden and accidental insurance must be at least \$2 million per occurrence and \$4 million annual aggregate, unless because of a greater risk, a higher minimum is required by the Planning Board for a particular site.
 3. All pollution insurance coverage amounts must be exclusive of legal defense costs.
 4. An applicant may not self-insure. If liability insurance is unavailable, a \$2 million letter of credit drawn upon a reputable bank which meets the criteria of (E)(3) above, may be utilized in lieu of liability insurance for sudden and accidental occurrences.
 5. The liability insurance policy may not be written as a "claims made" policy unless approved by the Planning Board.

Section 16 Permits, Administration, and Enforcement.

1. General.

- A. No application for a Land Use Permit or Certificate of Occupancy shall be accepted unless accompanied by any necessary fees, a copy of the deed to the property in question, proof of one surveyed monument as well as metes and bounds, a scaled site plan, and a general narrative of intended work to be submitted by the owner, authorized agent, and/or contractor.
- B. No Land Use Permit or Certificate of Occupancy shall be issued for the construction, alteration, enlargement, moving, use, or change of use of any land or building unless the required fees are paid and the CEO determines that all of the requirements have been met and that the development shall conform in all respects to the applicable provisions of this Ordinance and with other applicable federal, state, and local rules, laws, regulations, and ordinances.
- C. Application for a Land Use Permit or Certificate of Occupancy made after the activity for which the permit is required shall be accompanied by a fee equal to double the amount of the initial fee.
- D. Standard Conditions of Approval for All Permits. The following conditions shall apply to any Land Use Permit or Certificate of Occupancy in Portage Lake.
 - 1. The permit certificate must be posted in a visible location on the property during development of the site and construction of all structures approved by the permit.
 - 2. The applicant shall secure and comply with all applicable licenses, permits, and authorizations of all federal, state, and local agencies.
 - 3. Setbacks of all structures, including accessory structures, from waterbodies, roads, and property boundary lines shall be as specified in conditions of permit approval.
 - 4. In the event the applicant should sell or lease the property within the term of the permit, the buyer or lessee shall be provided a copy of the approved permit and advised of the conditions of approval. The new owner or lessee must contact the CEO to have the permit transferred into the new name and to reflect any changes proposed from the original application and permit approval.
 - 5. The scenic character and healthful condition of the area covered under the permit shall be maintained. The area must be kept free of litter, trash, junk cars and other vehicles, and any other materials that may constitute a hazardous or nuisance condition.
 - 6. Once construction is complete, the applicant shall notify the CEO that all requirements and conditions of approval have been met. The applicant shall submit all information requested by the CEO demonstrating compliance with the terms of the application and the conditions of approval. Following notification of completion, the CEO may arrange and conduct a compliance inspection.

2. Land Use Permit.

- A. No building or structure shall be erected, altered, enlarged, or moved until a Land Use Permit has been issued by the CEO. Permits shall expire one (1) year from date of issue and may be renewed once. There shall be a renewal fee. All intended activities as stated in the original permit shall begin within the term of the permit issuance date and be completed within two (2) years from date of issuance of the permit. If significant progress on construction has not been made within six (6) months from the date the permit was issued, the permit shall expire. If such activities are not begun and completed within the time limitation, the permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Town. All applications for permits shall be in accordance with applicable provisions of this Ordinance.
- B. Application for a Land Use Permit shall be in writing and contain all information pertinent to the requirements of this Ordinance, including a statement setting forth the intended use of the proposed new, altered, or relocated building or structure. The CEO shall issue the permit if they find, after proper examination of the application, that the building or structure and its intended use will comply with the provisions of this Ordinance.
- C. There shall be submitted with all applications for a Land Use Permit, two (2) copies of a site plan drawn to scale showing: the exact dimensions of the lot to be build upon; all buildings, existing and proposed (location, shape, size, height, and setbacks); required off-street parking and loading spaces; existing, proposed, and such additional information as may be necessary to determine and provide for enforcement

of this Ordinance. A soil suitability test may be required for construction on land not served by public sewer.

- D. One copy of the site plan shall be returned to the applicant when approved by the CEO who shall have marked such copy approved and attested to same by their signature on such copy together with the permit. The second copy of such application and plans, similarly marked, approved or disapproved, shall be retained by the CEO and shall be kept on file as a public record in the Town Office. Failure of the CEO to issue written notice of a decision within thirty (30) days of the date of filing of the application shall constitute refusal of the permit. A plumbing and electrical permit, when required, shall be obtained before a land use permit is issued.

3. Certificate of Occupancy.

- A. No land use shall be changed in use, nor building or structure hereafter completed, altered, enlarged, or relocated, or changed in use until a Certificate of Occupancy has been issued by the CEO, stating that the proposed use complies with applicable provisions of this Ordinance and with all applicable federal, state, and local rules, laws, regulations, and ordinances. Any person who sells, leases, or occupies a new building in the Town after the effective date of this Ordinance and prior to the issuance of a Certificate of Occupancy by the CEO shall be in violation of this Ordinance and subject to its penalties.
- B. An application for a Certificate of Occupancy shall be applied for at the same time of application for the Land Use Permit. No permit for the excavation, erection, repairs, or alterations to any building shall be issued until an application has been made for a Certificate of Occupancy.
- C. A Certificate of Occupancy shall be required for the following uses:
 - 1. The increase in the number of dwelling units in a building.
 - 2. The establishment of any home occupation.
 - 3. A change in a non-conforming use of land or building.
 - 4. The occupancy and use or change of use of vacant land except for the raising of crops.
 - 5. A change in use of an existing building, whether or not alteration is involved.
- D. Prior to the issuance of the Certificate of Occupancy, the CEO shall check and determine that all requirements under the applicable provisions of this Ordinance and with all applicable federal, state, and local rules, laws, regulations, and ordinances have been met.
- E. Any person desiring to change the use, but not the structure of the building or structure erected, or the use of the premises, shall apply in writing to the CEO for a Certificate of Occupancy setting forth the new use under the application. The CEO, under finding after examination that such new use complies with the provisions of this Ordinance, shall issue the Certificate of Occupancy applied for.

4. Code Enforcement Officer Shall Act.

The CEO shall act upon all applications for a Land Use Permit or Certificate of Occupancy within thirty (30) days after receipt of an application. Notice of approval, approval with conditions, or refusal to issue the Land Use Permit or Certificate of Occupancy shall be given to the applicant or their authorized agent in writing within seven (7) days of such action stating the reason for said decision.

5. Inspection.

- A. At least ten (10) days prior to commencing construction of improvements, the applicant shall notify the CEO in writing or in person of the time when the developer proposes to commence construction of such improvements, so that the Town can cause inspection to be made to assure that all local specifications, requirements, and conditions of approval, if applicable, shall be met during the construction of the improvements, and to assure the satisfactory completion of required improvements and utilities.
- B. If the CEO finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the applicant, the CEO shall so report in writing to the Planning Board, applicant, and developer. The Town shall take any steps necessary to preserve the Town's rights.

- C. If at any time before or during the construction of the required improvements it appears to be necessary or desirable to modify the improvements, the CEO is authorized to approve minor modifications due to unforeseen circumstances. The CEO shall issue any approval under this Ordinance in writing and shall transmit a copy of the approval to the Planning Board. Revised plans shall be filed with the Planning Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the applicant shall obtain permission to modify the plans from the Planning Board.
- D. Prior to the sale of any lot, the applicant shall provide the CEO with a letter from a Maine Licensed Professional Surveyor stating that all monumentation shown on the Plan has been installed.

6. Code Enforcement Officer.

- A. It shall be the duty of the CEO to administer and enforce the provisions of this Ordinance. If the CEO shall find that any provision of this Ordinance is being violated, the CEO shall notify the property owner and the person responsible for such violations in writing indicating the nature of the violation and ordering the action necessary to correct it. The CEO shall send a copy of such notice to the Planning Board and said notice shall be maintained as part of the permanent record. The failure of the CEO to follow the notice procedure set forth within this Section shall not prevent the Town from taking any legal action to enforce this Ordinance and to pursue all available legal remedies, including without limitation, injunctive relief, fines, and attorney fees. The CEO shall have the authority to issue a Stop Work Order upon a finding that work has been commenced or completed prior to receipt of all approvals required by this Ordinance or contrary to the terms of an approved plan. The CEO shall order the removal of illegal buildings, structures, additions, materials, or work being done, or shall take any other action authorized by this Ordinance to insure compliance with, or to prevent violation of, their provisions. Any construction or site work not in conformity with an approved plan and/or permit shall constitute a violation of this Ordinance. Work shall recommence only after such Order has been lifted.
- B. The CEO shall maintain the current addresses and phone numbers of federal and state agencies with which an applicant may want to check to determine what other rules, codes, laws, regulations, or ordinances apply to a proposed development. In addition, the CEO shall maintain a current file of all pertinent local statutes, ordinances, regulations, codes, and plans relating to land-use regulation. The CEO shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances and waivers granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis the CEO shall submit a summary of such record for the shoreland areas as defined to the Director of the Bureau of Land Quality Control within the Maine Department of Environmental Protection.
- C. The CEO shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to approval. The CEO may enter any property at reasonable hours and enter any structure with the consent of the property owner, occupant, or agent, to inspect the property or structure for compliance with the laws or ordinances. If consent is denied they should obtain an administrative warrant before entering the property. The CEO may revoke a permit after proper notification and an opportunity for a hearing if it was issued in error or if based on erroneous information.

7. Violations.

- A. The following provisions shall apply to all development plans reviewed and approved by the Town.
 - 1. A person, shall not convey, offer, or agree to convey any building, structure, or land in a development which has not been approved by the Planning Board as required by this Ordinance.
 - 2. Any person after receiving the approval who constructs the development in a manner other than depicted on the approved Plan(s) or amendment(s) or in violation of any condition imposed shall be in violation of this Ordinance.
 - 3. No public utility, water, sanitary sewer, grading or construction of roads, grading of lands or lots, construction of buildings, or any utility company of any kind may install services to any development, until a final plan of such development shall be duly prepared, submitted, reviewed, approved, and endorsed and unless written authorization attesting to the validity and currency of all local permits required under this Ordinance have been issued. Following installation of service, the installer shall

forward written authorization to the CEO indicating installation has been completed to the development.

4. No permit or certificate for a building or use shall be issued unless the development has been approved under this Ordinance and Title 38, §481-490 (Site Location for Development), if applicable.
5. Whenever a development is exempt from Title 38 MRSA §481-490, because of the operation of Title 38, §488 (5, Subdivision Exemptions) that fact must be noted on the final plan. The person submitting the final plan for recording shall prepare a sworn certificate that must be expressly noted on the face of the final plan. This certificate shall:
 - a. Indicate the name of the current property owner;
 - b. Identify the property by references to the last recorded deed in its chain of title and by reference to the development plan;
 - c. Indicate that an exemption from Title 38, §481-490, has been exercised;
 - d. Indicate that the requirements of Title 38, §488, (5), have been and shall be satisfied; and
 - e. Indicate date of notification of Department of Environmental Protection under Title 38, §488, (5).

In the case of a subdivision, the exemption is not valid until recorded in the Aroostook County Registry of Deeds. Recording must occur within ninety (90) days of the final subdivision approval or the exemption is void.

6. Any person who sells, leases, or conveys for consideration any land, dwelling unit, or building in a development approved under this Ordinance and exempt from Title 38, §481-490, because of the operation of Title 38, §488, (5), shall include in the instrument of sale, lease, or conveyance a covenant to the transferee that all of the requirements of Title 38, §488, (5), have all been and shall be satisfied.

8. Fines.

Any person, firm, or corporation being the owner, authorized agent, contractor, or having control or use of any structure or premises who violates any of the provisions of this Ordinance shall upon adjudication be fined in accordance with provisions of Title 30-A MRSA §4452. Each day such a violation is permitted to exist after notification shall constitute a separate offense. Fines shall be payable to the "*Town of Portage Lake*".

Section 17 Planning Board.

1. Appointment.

- A. Planning Board members shall be: legal residents of the Town, citizens of the United States, no less than 18 years of age, appointed by the Selectpeople, and sworn in by the Town Clerk or other person authorized to administer oaths before the first regularly scheduled Planning Board meeting following their appointment.
- B. The Board shall consist of five (5) members. Members shall be appointed to the Board so that their terms are staggered (2-2-1). Neither a municipal officer nor their spouse may be a member of the Board.
- C. The term of office for each Board member shall be three (3) years and shall be eligible for re-appointment.
- D. When there is a permanent vacancy declared, the Selectpeople may within sixty (60) days of its occurrence be required to appoint a person to serve for the unexpired term. A vacancy may be declared by the members of the Board upon the resignation or death of any member, or when a member ceases to be a legal resident of the Town, or when a member fails to attend three (3) consecutive meetings without written explanation, or fails to attend at least 75 percent of all meetings during the preceding twelve (12) month period. When a vacancy is declared, the Chair shall immediately so advise the Selectpeople in writing. The Board may recommend to the Selectpeople that the attendance provision be waived for cause, in which case no vacancy will then exist until the Selectpeople disapprove the recommendation.
- E. Any member can be removed for cause by the Selectpeople before expiration of their term, but only after an advertised Public Hearing at which time the member has an opportunity to refute specific charges. The term "for cause" shall include failure to attend three (3) consecutive Board meetings or hearings without sufficient justification, or failure to attend at least 75 percent of all meetings during the preceding twelve (12) month period, and voting when the member has a conflict of interest.
- F. The members of the Board shall receive no compensation for their services while under appointment.
- G. Planning Board members are expected to be knowledgeable of laws, ordinances, regulations, and Board policies and to abide by them.

2. Organization and Rules.

- A. The members of the Board shall elect a Chair and a Recording/Corresponding Secretary, or other officers as needed, from among its members by a majority vote and create and fill such other offices as it may determine at the first regularly scheduled Planning Board meeting following the Annual Town Meeting. The term of all offices shall be one (1) year with eligibility for reelection.
 - 1. The Chair shall preside at all meetings and hearings of the Planning Board. The Chair has the authority to appoint members to any committees, to call all work sessions, and to preside over executive sessions. The Chair shall be responsible for: drafting agendas of regular meetings or special meetings, distribution of the notice of the meetings or hearings, and correspondence of the Board. In the absence of the Chair for a meeting or hearing, the members present shall choose a "Chair" for the meeting or hearing from their membership. The designated Chair shall have the same powers and duties as the customary Chair and shall relinquish those powers and duties at the end of the meeting or hearing.
 - 2. The Recording/Corresponding Secretary shall be responsible for the minutes and records of the Board shall keep a record of all resolutions, votes, transaction, correspondences, findings, and conclusions of the Board and other duties as maybe normally carried out by the secretary. All records shall be deemed public and may be inspected during normal business hours. Any members of the public may obtain a copy of the record from the Board upon payment of the cost of reproduction, and postage.
- B. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members, except the member who is being challenged.
- C. The Board should hold at least one regular meeting each month.
- D. No meeting of the Board shall be held without a quorum consisting of three (3) members. A quorum shall not include anyone who can not participate due to a conflict of interest. "Conflict of interest" means direct or indirect pecuniary interest, which shall include pecuniary benefit to any member of the person's immediate family, their employer, or the employer of any member of the person's immediate family. It shall also include a situation where the Board member, by reason of their interest, is placed in a situation of

temptation to serve their own personal interest, instead of the public's interest. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members present, except the member challenged.

- E. All matters before the Board requiring a vote shall be decided by a vote of no less than a unanimous vote of three (3) members.
- F. No meeting of the Board shall be held without a quorum consisting of three (3) members or alternate members authorized to vote.
- G. Planning Board business shall be conducted in accordance with local, state, and federal laws and Robert's Rules of Order.
- H. The Board shall adopt rules for transaction of business.
- I. The Chair may call a special meeting of the Board on 24-hour notice to the Board members, Chair of the Selectpeople, CEO, and the media.
- J. The Board may employ, after the Selectpeople's review and approval, such staff and/or experts as provided in local ordinances or regulations, within budget limitations, and to Town contracting and personnel procedures, to aid the Board in its work. Retention of such staff and/or expert(s) shall be made by a majority vote of the Board membership.

3. Duties and Power

- A. The Board shall perform such duties and exercise such powers as are provided by local ordinance/regulations and charter and the laws of the State of Maine, to include:
 - a. Directing and overseeing the activity of the comprehensive planning program;
 - b. Reviewing development proposals;
 - c. Facilitating the interpretation of land use ordinances;
 - d. Projecting a course through community planning for the Town's future which may be modified for rescheduling projects or introducing new methods to meet the shifts of the Town's situations;
 - e. Undertaking duties to conduct community planning activity in a responsive manner;
 - f. Conducting a municipal planning program using a framework of:
 - 1. Goals;
 - 2. Objectives;
 - 3. Project or Proposal; and
 - 4. Priority;
 - g. Being conversant about vital matters, to guide and to direct towards channels to better the future of the Town;
 - h. Seeing that all Board members have an obligation to act reasonable and promptly in making operating policy broad enough to insure permanent uninterrupted usefulness of its effort;
 - i. Ensuring Town officials, along with the Board and all committees, in successfully planning public participation, public relations, and citizen involvement; and
 - j. Becoming a recognized discretionary power of local government which, for planning purposes, may be applied at any time if the locality chooses.
- B. The Board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.

4. Meeting Organization.

- A. Agendas.
 - 1. Regular meeting agendas shall follow the following format:
 - a. Call to order and determine the presence of a quorum.
 - b. Public hearing (if any is scheduled).
 - c. Minutes of the previous meeting and correspondence.

- d. Old business.
 - e. New business.
 - f. Other.
 - g. Adjournment.
2. Agendas shall be posted in the Town Office and two other public locations within Town, and mailed to the Board members at least seven (7) days before the meeting.
 3. No item on the Agenda may be brought up for discussion after 8:55 PM. Items not brought up for discussion because of this deadline are to be placed on the Agenda of the next regular meeting or on the agenda of a special meeting held at the convenience of the applicant and a quorum of the Board.
 4. Applications shall be received at the Town Office by the CEO no later than ten (10) days prior to the meeting and shall be placed on the next available slot for new applications on the Board's agenda, and the applicant so notified of the date and time. At that initial meeting the Board shall make written findings whether the application is complete, and take all necessary steps to notify the applicant of the Board's decision

B. Regular Meetings.

1. Regular meetings of the Planning Board shall be held on the second Thursday of the month at the time specified on the municipal calendar. The meeting shall be held at the Municipal Building or other suitable meeting place. The Chair may schedule special meetings on 24-hour notice to the Planning Board members, Town Manager, Chair of the Selectpeople, CEO, and the media.
2. All meetings shall be open to the public.
3. In the event a quorum is not present, the Board members are authorized to request that the Chair reschedule the meeting to another date and adjourn the meeting. If the date is other than a regular meeting date, the Secretary shall have the responsibility of providing adequate notice to the Board members, Town officials, and the general public.
4. All comments addressed to the Board shall be made through the Chair.
5. All matters shall be decided by a roll call vote. A majority of the entire Board's voting members (3) is needed to pass a motion.
6. All decisions must be based on whether the applicant has provided sufficient evidence to prove that all applicable law and ordinance requirements have been complied with.

C. Work Sessions.

1. The Chair may, with the approval of the majority of the Board, call work sessions for the purpose of updating the Comprehensive Plan, Subdivision Ordinance, Zoning Ordinance, Site Design Review Criteria, Shoreland Zoning Ordinance, Planning Board by-laws, and other information work items relating to the Board's activities, providing that the public is notified. A quorum shall be present to conduct any business.
2. Work sessions are open to the public. The general public shall be barred from addressing the Board, unless a majority of the Board permits the public to speak.

D. Executive Sessions.

1. Upon the vote of 60 percent of the Board members to do so, the Board may call for an Executive Session. A motion to go into Executive Session shall indicate the precise nature of the business of the Executive Session.
2. No other matters may be considered in that particular Executive Session. Within the Executive Session it shall be the Chair's responsibility to ensure that only that business for which the session was called will be discussed, and no official action will be taken.
3. No ordinance, rule, order, resolution, regulation, contract, appointment, or other official actions shall be finally approved at an Executive Session.
4. Deliberations may be conducted in Executive Sessions on the following matters and no others:
 - a. Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation, or dismissal of an individual or group of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against a person or persons subject to the following conditions:
 1. An Executive Session may be held only if public discussion could be reasonably expected to cause damage to the reputation or the individual's right to privacy would be violated;
 2. Any person charged or investigated shall be permitted to be present at an Executive Session if that person desires;
 3. Any person charged or investigated may request in writing that the investigation of hearing of charges or complaints against them be conducted in open session. A request, if made to the agency, must be honored; and
 4. Any person bringing charges, complaints or allegations of misconduct against the individual under discussion shall be permitted to be present.

This paragraph does not apply to discussion of a budget or budget proposal.

- b. Discussion or consideration of the condition, acquisition, or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency.
- c. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers, and matters where the duties of the public body's counsel to his client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the State, municipality, or other public agency or person at a substantial disadvantage.
- d. Discussions of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute.

5. Public Hearings.

- A. The Board, by majority vote at a regular or special meeting, may schedule a Public Hearing on an application within the time limits established by state law or local ordinance.
- B. The Board shall cause notice of the date, time, and place of such hearing, the location of the proposed building or lot, and the general nature of the question involved, to be given to the person making the application and to be published in a newspaper of general circulation in at least seven (7) days prior to the hearing. The Board shall also cause notice of the hearing to be given to the Selectpeople at least twenty (20) days in advance. The owners of the property abutting that property, or impacted upon, for which the application is taken shall be notified by mail at least seven (7) days prior to the date of the hearing.
- C. The Board shall provide, as a matter of policy for exclusion, irrelevant, immaterial, or unduly repetitious evidence.
- D. Order of Business at a Public Hearing.
 1. The Chair calls the hearing to order and determines whether there is a quorum.

2. The Chair then describes the purpose of the hearing, the nature of the case, and the general procedures to be followed.
3. The Board decides whether the application has sufficient right, title, or interest to appear before the Board.
4. The Board determines whether it has jurisdiction over the application.
5. The Board determines which individuals attending the hearing are “interested parties”. “Interested Parties” are those persons who request to offer testimony and evidence and to participate in oral cross-examination. They would include the abutting property owners, property owners directly impacted by the application, and those who might be adversely affected by the Board’s decision. Parties may be required by the Board consolidate or join their appearances in part or in whole if their interests or contention are substantially similar and such consolidation would expedite the hearing. The Selectpeople and the CEO shall automatically be made parties to the proceeding. Interested parties will be required to state for the record their name, residence, business or professional affiliation, the nature of their interest in the hearing, and whether or not they represent another individual, firm, association, organization, partnership, trust, company, corporation, state agency, or other legal entity for the purpose of the hearing.
6. The Chair gives a statement of the case and incorporates into the record correspondences and reports filed with the Board prior to the hearing. This material shall be available for public inspection.
7. The applicant is given the opportunity to present their case without interruption.
8. The Board and the interested parties may ask questions of the applicant through the Chair.
9. The interested parties are given the opportunity to present their testimony, starting with proponents followed by opponents. The Board may call its own witnesses, such as the CEO.
10. The applicant may ask questions of the interested parties and Board witnesses directly.
11. All parties are given the opportunity to refute or rebut statements made throughout the hearing.
12. The Board shall receive comments and questions from all observers and interested citizens who wish to express their views.
13. The hearing is closed after all parties have been heard. If additional time is needed, the hearing may be continued to a later date. All interested parties shall be notified of the date, time and the place of the continued hearing, and the reason for the continuance.
14. Upon such request made prior to or during the course of the hearing, the Chair may permit persons participating in any hearing pursuant to those by-laws to file written statements with the Board for inclusion in the record after the conclusion of the hearing, within such time and upon such notification to the other participants as the Chair may require.
15. Board members and its consultants have the right to prepare findings and conclusions at any public meeting prior to the decision being finalized. The Board may waive any of the above rules upon good cause shown. Any participant or other member of the public may obtain a copy of the record from the Board upon payment of the cost of transcription, reproduction, and postage.

6. Decisions.

- A. Decisions by the Board shall be made within the time limits established by the state law and local ordinances and regulations.
- B. The final decision on any matter before the Board shall be issued as a written order signed by the Chair. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, and signed minutes of the meeting/hearing shall constitute the record. All decisions shall become a part of the record and shall include a specific statement of findings and conclusions as well as the reason or basis therefore, upon all the material issues of fact, law, or discretion presented and the appropriate order, relief or denial therefore. At a minimum, the record should specifically state that the applicant has/has not met all applicable state statutory requirements, all applicable Town ordinances, and all applicants Town regulations, and those legal documents shall be specifically referenced.
- C. The Board, in reaching said decision, shall be guided by standards specified in the applicable statute, ordinance, or regulation as well as by community goals and policies as specified in a comprehensive plan, and by the findings of the Board in each case.
- D. Notice of any decision, including the findings and conclusions/minutes, shall be sent by mail or hand delivered to the applicant, their representative or agent within seven (7) days of being rendered.

- E. Decisions of the Board shall be immediately filed in the office of the Town Clerk and shall be made public record. The date of filing of each decision shall be entered in the official records and minutes of the Board.
 - F. An appeal of a decision of the Board shall be heard by the Board of Appeals and is governed by state and local laws.
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Section 18 Board of Appeals.

1. Establishment and Administration.

- A. The Board of Appeals is hereby established. The word "Board" within this Section shall mean Board of Appeals.
- B. Board members shall be; legal residents of the Town, citizens of the United States, appointed by the Selectpeople, no less than 18 years of age, and sworn in by the Town Clerk or other person authorized to administer oaths.
- C. The Board use shall consist of three (3) members and one (1) alternate member. Members shall be appointed to the Board so that their terms are staggered (1-1-1). Neither a municipal officer nor their spouse may be a member or alternate member of the Board.
- D. The term of office for each Board member shall be three (3) years and shall be eligible for re-appointment. The term of office for an alternate shall be one (1) year.
- E. When there is a permanent vacancy declared, the Selectpeople shall within sixty (60) days of its occurrence be required to appoint a person to serve for the unexpired term. A vacancy may be declared by the voting members of the Board upon the resignation or death of any member, or when a member ceases to be a voting resident of the Town, or when a member fails to attend three (3) consecutive Board meetings without written explanation, or fails to attend at least 75 percent of all meetings during the preceding twelve (12) month period. When a vacancy is declared, the Chair shall immediately so advise the Selectpeople in writing. The Board may recommend to the Selectpeople that the attendance provision be waived for cause, in which case no vacancy will then exist until the Selectpeople disapprove the recommendation.
- F. Any member can be removed for cause by the Selectpeople before expiration of their term, but only after an advertised Public Hearing at which time the member has an opportunity to refute specific charges. The term "for cause" shall include failure to attend three (3) consecutive Board meetings or hearings without sufficient justification, and voting when the member has a conflict of interest.
- G. The members of the Board shall receive no compensation for their services while under appointment.
- H. Board members are expected to be knowledgeable of laws, ordinances, regulations, and Board policies and to abide by them.

2. Organization and Rules.

- A. The voting members of the Board shall elect a Chair and a Secretary, or other officers as needed, from among its members by a majority vote and create and fill such other offices as it may determine at the first regularly scheduled Board meeting following the Annual Town Meeting. The term of all offices shall be one (1) year with eligibility for reelection.
 - 1. The Chair shall preside at all meetings and hearings of the Board. The Chair has the authority to appoint all committees, to call all work sessions, designate which alternate member shall serve in place of a regular member, and to preside over executive sessions. In the absence of the Chair from a meeting or hearing, the members present and able to vote shall choose a "Chair" for the meeting or hearing from their membership. The designated Chair shall have the same powers and duties as the customary Chair and shall relinquish those powers and duties at the end of the meeting or hearing.
 - 2. The Secretary shall be responsible for the minutes and records of the Board, shall keep a record of all resolutions, votes, transactions, correspondences, findings and conclusions of the Board and other duties as may be normally carried out by the secretary. All records shall be deemed public and may be inspected during normal business hours. Any member of the public may obtain a copy of the record from the Board upon payment of the cost of reproduction and postage. In addition, the Secretary shall be responsible for the agendas of regular meetings and special meetings in collaboration with the Chair, causing distribution of the notice of the meetings and hearings to be made, correspondence of the Board, and other duties as may be normally carried out by the Secretary.
- B. When a member is unable to act because of interest, physical incapacity, absence, or any other reason satisfactory to the Chair, the Chair shall designate an alternate member to sit in their chair.

- C. An alternate member may attend all meetings of the Board and participate in its proceedings, but may vote only when they have been designated by the Chair to sit for a member.
- D. No meeting of the Board shall be held without three (3) members or alternate members authorized to vote in attendance. It shall not include anyone who can not participate due to a conflict of interest. "Conflict of interest" means direct or indirect pecuniary interest, which shall include pecuniary benefit to any member of the person's immediate family, their employer, or the employer of any member of the person's immediate family. It shall also include a situation where the Board member, by reason of their interest, is placed in a situation of temptation to serve their own personal interest, instead of the public's interest. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members present, except the member challenged.
- E. Board business shall be conducted in accordance with local, state, and federal laws and Robert's Rules of Order.
- F. The Board shall adopt rules for transaction of business.
- G. The Chair may schedule special meetings of the Board on 24-hour notice to the Board members, Town Manager, Chair of the Selectpeople, CEO, and the media.
- H. The Board may employ, after the Selectpeople's review and approval, such staff and/or experts as provided in local ordinances or regulations, within budget limitations, and to Town contracting and personnel procedures, to aid the Board in its work. Retention of such staff and/or expert(s) shall be made by a majority vote of the Board membership.
- I. Agendas.
 - 1. Regular meeting agendas shall follow the following format:
 - a. Call to order and determine the presence of a quorum.
 - b. Public Hearing (if any is scheduled)
 - c. Minutes of the previous meeting and correspondence.
 - d. Old business.
 - e. New business.
 - f. Other.
 - g. Adjournment.
 - 2. Agendas shall be posted in the Town Office and mailed to the Board members at least seven (7) days before the meeting.
 - 3. No item on the Agenda may be brought up for discussion after 8:55 PM. Items not brought up for discussion because of this deadline are to be placed on the Agenda of the next regular meeting or on the agenda of a special meeting held at the convenience of the applicant and a quorum of the Board membership. This rule may be waived by a unanimous vote of the Board.
 - 4. New applications shall be received at the Town Office by the CEO no later than ten (10) days prior to the meeting and shall be placed on the next available slot for new applications on the Board's agenda, and the applicant so notified of the date and time.
- J. Work Sessions.
 - 1. The Chair may, with the approval of the majority of the Board, call work sessions relating to the Board's Activities, providing that the public is notified. A quorum shall be present to conduct any business.
 - 2. Work sessions are open to the public. The general public shall be barred from addressing the Board, unless a majority of the Board permits the public to speak.
- K. Executive Sessions.
 - 1. Upon the vote of 60 percent of the Board members to do so, the Board may call for an Executive Session. A motion to go into Executive Session shall indicate the precise nature of the business of the Executive Session.

2. No other matters may be considered in that particular Executive Session. Within the Executive Session it shall be the Chair's responsibility to ensure that only that business for which the session was called will be discussed, and no official action will be taken.
3. No ordinance, rule, order, resolution, regulation, contract, appointment, or other official actions shall be finally approved at an Executive Session.
4. Deliberations may be conducted in Executive Sessions on the following matters and no others:
 - a. Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation, or dismissal of an individual or group of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against a person or persons subject to the following conditions:
 1. An Executive Session may be held only if public discussion could be reasonably expected to cause damage to the reputation or the individual's right to privacy would be violated;
 2. Any person charged or investigated shall be permitted to be present at an Executive Session if that person desires;
 3. Any person charged or investigated may request in writing that the investigation of hearing of charges or complaints against them be conducted in open session. A request, if made to the agency, must be honored; and
 4. Any person bringing charges, complaints or allegations of misconduct against the individual under discussion shall be permitted to be present.

This paragraph does not apply to discussion of a budget or budget proposal.

- b. Discussion or consideration of the condition, acquisition, or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency.
- c. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers, and matters where the duties of the public body's counsel to his client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the State, municipality, or other public agency or person at a substantial disadvantage.
- d. Discussions of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute.

3. Duties and Powers.

The Board of Appeals shall have the following powers and duties:

A. Administrative Appeals.

To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the CEO or Planning Board in the enforcement or administration of this Ordinance, provided the Board of Appeals shall have no jurisdiction to review the merits of an approval or denial by the Planning Board, nor to consider the imposition of conditions of approval or the failure to impose one or more conditions. When errors of administrative procedures or interpretation are found, the case shall be remanded back to the CEO or Planning Board for correction.

B. Variance Appeals.

To hear and decide applications requesting variance from the terms of this Ordinance not in contradiction to the public interest in respect to a parcel of land or to an existing building thereon, where a literal enforcement of this Ordinance would result in unnecessary hardship. The Board shall consider conditions and safeguards in conformity with this Ordinance in granting any variance by majority vote.

1. The Board shall not grant variances, under any circumstances, for uses indicated as "No" (Not Permitted) in any Land Use District of this Ordinance.
2. Variances are obtainable only for lot size, frontage, height, setbacks, and maximum building coverage requirements.
3. The Board shall not grant a variance unless it finds that all of the following criteria are met:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted. Such hardship may be found by the Board of Appeals where this Ordinance, as applied to the applicant's property, substantially destroys or decreases the value of the property in question for any permitted use to which the land or property can reasonably be put; 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 shall 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. Mere inconvenience to the property owner shall not satisfy this requirement.
4. Disability Variance. A disability variance may be granted by the Board to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. The Board shall restrict any variance granted under this Section solely to the installation of equipment or the construction of structures necessary for access to or egress from the property 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 on the property. For the purposes of this subsection, a disability shall have the same meaning as a physical or mental handicap under Title 5 MRSA §4553 and the term "structures necessary for access to or egress from the property" is defined to include railing, wall, or roof systems necessary for the safety or effectiveness of the structure.
5. The Board shall limit any variances granted as strictly as possible in order to preserve the terms of the ordinance as much as possible, and it may impose such conditions to a variance as it deems necessary, to this end.
6. A copy of all variances granted in Shoreland Areas by the Board shall be submitted to the Department of Environmental Protection within fourteen (14) days of the Board's decision.
7. If the Board grants a variance under this Section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of granting, shall be prepared in a recordable form by the Board. This certificate must be recorded in the Aroostook County Registry of Deeds by the applicant within ninety (90) days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection. The right to relief from the terms of this Ordinance granted by a variance shall expire if the work or change is not substantially completed within one year from the date of final written approval. For the purpose of this subsection, the date of the final written approval shall be the date stated on the written approval. The Board shall notify the Chair of the Selectpeople and the Planning Board of any variance granted under the provisions of this Ordinance.

C. Setback Reduction Appeals.

To hear and decide upon appeal in specific cases a reduction from the standard setback requirements for a single-family dwelling. The Board may reduce setbacks by no more than 20 percent, provided that the Board finds that the appeal meets the requirements stated below. In no case shall the reduction be more than five (5) feet from any property line. A setback reduction appeal shall NOT be construed as a variance to relieve undue hardship. Setback reduction may be granted to properties which are either conforming or non-conforming in regard to lot, structure, or use. Upon granting a setback reduction which complies with the standards in subsection 1, below, the Board may attach reasonable conditions which it finds necessary to protect the privacy of abutting property owners and neighbors. These conditions are limited to specifications for landscaping, fencing, parking, construction provided herein if the Board finds that the applicant has proved that the reduction, if granted, will meet the following criteria:

1. The setback reduction will not encroach upon or further reduce a non-conforming setback from the normal high water line of a Shoreland District;
2. The lot in question was created before the effective date of this Ordinance as evidenced by a recorded deed or subdivision plan;
3. The lot is a single-family dwelling or within a District where a single-family dwelling is permitted and is the primary year-round residence of the applicant;
4. The setback reduction will not allow construction or renovation which will create additional new dwelling units;
5. The setback reduction is due to the unique circumstances of the property and not the general conditions of the neighborhood;
6. The setback reduction will not alter the essential character of the locality;
7. The hardship is not the result of an action taken by the applicant or a prior owner;
8. The granting of the setback reduction will not substantially reduce or impair the use of abutting property; and
9. The granting of the setback reduction is based on demonstrated need, not convenience, and no other feasible alternative is available.
10. Setback reductions shall be subject to the following:
 - a. The maximum setback reduction shall be 20 percent in front, rear, and side yards.
 - b. Any action which extends the footprint of the principal structure must not exceed the height of the principal structure, except where the principal structure height is also increased as part of the addition project to the same height as the addition.
 - c. Only one setback reduction shall be allowed per lot after the effective date of this Ordinance. Whenever the Board grants a setback reduction under this Section, a certificate indicating the name of the current property owner identifying the property by reference to the last recorded deed in the chain of title indicating the fact that a setback reduction including any conditions on the setback has been granted and the date of the granting shall be prepared in a recordable form and shall be recorded by the applicant in the Aroostook County Registry of Deeds within ninety (90) days of final approval or the setback reduction shall be void. No rights may accrue to the setback reduction recipient or their heirs, successors, or assigns unless and until the recording is made within ninety (90) days.

4. Appeal Procedure.

A. Making an Appeal.

1. An appeal shall be submitted to the Board in writing accompanied by statements and/or photographs which shall become part of the record. Each variance application shall indicate in writing that it has satisfied the required approval standards and each administrative appeal shall indicate the basis for the claim that the CEO and/or Planning Board has erred in administering or interpreting the ordinance. In either case, the variance applicant or the appellant shall also indicate in writing that they understand that it is their burden to prove their case to the Board.
2. An appeal of an administrative decision of the Planning Board or CEO may be taken to the Board of Appeals by an aggrieved party. Such appeal shall be made within thirty (30) days of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

Note: An administrative decision does not include enforcement actions. A decision of the CEO to take enforcement action for violations of this Ordinance, or any permit issued pursuant to this Ordinance, is not appealable to the Board.

3. For a variance appeal the applicant shall submit:
 - a. A sketch drawn to scale showing lot lines, location of existing building, and other physical features pertinent to the variance request; and
 - b. A concise written statement stating what variance is requested and why it should be granted.

4. Upon being notified of an appeal, the Planning Board and/or CEO shall transmit to the Board of Appeals all the papers specifying the record of the decision appealed from. Each appeal shall be accompanied by a fee to cover advertising and administrative costs. If the actual cost of advertising and notification exceeds the fee paid, the applicant shall pay the balance. The Board shall hold a public hearing on the appeal within forty-five (45) days. No action shall be taken on an appeal should the fee not be paid prior to the Hearing. The fee shall be made payable to the "*Town of Portage Lake*" and is not refundable.

B. Procedure on Appeal.

1. At least fourteen (14) days prior to the date of the hearing on such appeal, the Board shall cause to be posted in three (3) prominent locations throughout the Town a notice which includes:
 - a. The name of the person appealing.
 - b. A brief description of the property involved.
 - c. A brief description of the decision appealed from, or the nature of a variance appeal.
 - d. The time and place of the Board's hearing.
2. At least ten (10) days prior to the date set for hearing, the Board shall also cause the Town Clerk to give similar written notice to:
 - a. All property owners of record whose properties abut the affected property.
 - b. The person making the appeal, and
 - c. The Planning Board, the CEO, and any other parties of record.

C. Hearings.

1. The Board may receive any oral or documentary evidence, but shall provide as a matter of policy for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. Every party shall have the right to present their case or defense by oral or documentary evidence to submit rebuttal evidence and to conduct such cross-examinations as may be required for a full and true disclosure of the facts.
2. The appellant'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 Chair.
3. At any Hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause. For example, if the Board determines that the appeal before it was inappropriately classified the Board shall give the applicant the opportunity to amend the application and continue the Hearing until the public has been properly notified of the appeal's reclassification and of the time and place when the hearing shall continue.
4. The CEO shall attend all Hearings and may present to the Board all plans, photographs, or other material deemed appropriate for an understanding of the appeal.
5. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record.
6. The record may be kept open after the Hearing by order of the Chair until a date established by the order.

5. Decisions of the Board of Appeals.

- A. All matters shall be decided by a roll call vote. A majority of the entire Board's voting members (2) is necessary to reverse any motion, order, requirement, decision, or determination, or to decide in favor of the applicant on any matter on which it is required to pass under this Ordinance, or to affect any variation in the application of this Ordinance. When a motion results in a tie vote the motion fails.
- B. The Board shall decide all appeals in an open session of the Board within thirty (30) days after the Hearing, and shall issue a written decision on all appeals.

- C. All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefore, upon all the material issues of fact, law, or discretion presented, and the appropriate order, relief, or denial thereof. Notice of any decision shall be mailed or hand delivered to the petitioner, their representative or agent, the Planning Board, agency or office, the CEO, and the Selectpeople within seven (7) days of the decision date.
- D. Upon notification of the granting of an appeal by the Board, the CEO shall immediately issue a Permit in accordance with the conditions of the approval, unless the applicant's proposal requires subdivision or site design review. In the case of a variance appeal, the applicant shall register the variance in the Aroostook County Registry of Deeds in accordance with Title 30-A MRSA §4353.5 within ninety (90) days of the date of the final written approval of the variance or the variance is void. The applicant shall provide proof of registration to the CEO, prior to the issuance of the Permit.
- E. Appeals may be taken within forty-five (45) days from any decision of the Board of Appeals to Superior Court.
- F. Any Board of Appeals reconsideration of an original decision must be reconsidered and the proceedings completed within thirty (30) days of the vote on the original decision.
- G. The right to relief from the terms of this Ordinance granted by vote of the Board in a specific case shall expire if the work or change is not substantially completed within one year.
- H. A second appeal of a similar nature shall not be heard by the Board within one year from the date of denial of the first appeal. However, re-appeal may be made to the Board if substantial new evidence shall be found or an error or mistake in law or misunderstanding of fact shall have been found.
- I. The Board may impose such conditions and safeguards regarding location, character, fencing, screening, landscaping, or other features as it may deem advisable in furthering the intent and purpose of this Ordinance.
- J. The Board, with the advice and assistance of the CEO, shall maintain a current map indicating by means of appropriate symbols, colors, or other notations the locations in which it has taken approving actions.
- K. The Board shall not have the power to permit any industrial use in a business district, any business use in a residential district, or any residential use in an industrial district, except as may be provided within this Ordinance.

6. Stay of Proceedings.

An appeal stays all legal proceedings related to the action appealed from unless the CEO or Planning Board, from whom the appeal is taken, certifies to the Board of Appeals, after the notice of appeal has been filed with the CEO or Board of Appeals, that by reason of facts stated in the certificate a stay would, in the CEO's or Board of Appeal's opinion, cause irreparable harm to property or create a threat to the life or health of any person including the appellant. In such case, the CEO or Board of Appeals, if legally authorized by state law or local ordinance, may seek injunctive relief or, in appropriate cases, refer the matter to the Selectpeople for prosecution.

Section 19 Schedule of Fees, Charges, and Expenses.

The Town shall establish annually, on the advice of the Planning Board and CEO, a schedule of fees, charges, and expenses for matters pertaining to this Ordinance. The schedule of fees shall be posted in the Town Office, and may be altered or amended after a public hearing by the Selectmen. Until all applicable fees, charges, and expenses have been paid in full by the applicant, no action shall be taken on any application or appeal.

- 1. Site Design Review.**
Application Fee \$25, plus \$10 per 1000 SF of gross floor area.
- 2. Subdivision Review**
 - A. Sketch Plan Application Fee \$25
 - B. Preliminary Plan Fee \$25, plus \$10 per lot or dwelling unit.
 - C. Final Plan Fee No fee if Preliminary Plan fee is paid. Otherwise, \$25, plus \$10 per lot or dwelling unit.
- 3. Signs**
 - A. Permanent Application Fee \$10 per sign
 - B. Temporary Application Fee \$10 per sign
- 4. Land Use Permit**
 - A. Residential Use

<u>Cost of Improvement</u>	<u>Fee</u>
0 - \$5000	\$5.00
\$5001 - \$35,000	\$10.00
\$35,001 - \$75,000	\$25.00
\$75,001 - over	\$50.00
 - B. Commercial and/or Industrial Use

<u>Cost of Improvement</u>	<u>Fee</u>
0 - \$75,000	\$25.00
\$75,001 - \$100,000	\$60.00
over \$100,000	0.005% of cost of improvement.
 - C. Renewal of Land Use Permit \$5
- 5. Demolition Permit** \$5 Note: The demolished remains must be hauled away; the land must be restored to equal or better condition to abutting landowners; and all work must be completed within thirty (30) days of the demolition unless ordered by the Fire Chief or other authority.
- 6. New/Used Merchandise Sale Permit** \$5 Valid for thirty (30) days from date of issue.
- 7. Automobile Graveyard, Junkyard, and Automobile Recycling Operation Permit**

Within 100 feet of a public way: \$200 per year for each permit, plus cost of advertising public hearing.
More than 100 feet from a public way: \$50 per year for each permit, plus cost of advertising public hearing.
Automobile Recycling Operation: \$50 per year for Each permit, plus cost of advertising public hearing.
- 11. After-the-Fact Permit** Double the appropriate permit fee.

Section 20 Amendments.

1. Initiation.

A proposal for an amendment to this Ordinance may be initiated by:

- A. The Planning Board, by majority vote of the Board;
- B. The Selectmen, through a request to the Planning Board;
- C. An individual, through a request to the Planning Board; or
- D. A written petition of a number of voters equal to at least ten percent (10%) of the voters in the last gubernatorial election.

2. Procedure.

- A. Any proposal for an amendment shall be made to the Planning Board in writing stating the specific changes requested. When a change in zoning boundaries is proposed, the application shall state the nature, extent, and location of the boundary change proposal, and shall be accompanied by a scale drawing showing the areas to be changed, with dimensions. When an amendment is proposed by other than the Selectmen or the Planning Board, a fee shall accompany the proposal to cover the costs of hearings and advertisements.
- B. Within thirty (30) days of receiving an amendment, the Planning Board shall hold a public hearing on the proposed amendment, and unless the amendment has been submitted by the Selectmen or by a petition the Board, shall vote whether to forward the amendment to the Selectmen. The Board shall make a written recommendation regarding passage to the Selectmen prior to any action on the amendment by the Selectmen.
- C. The Selectmen shall hold a public hearing on the proposed amendment. Notice of the hearing shall be posted at three (3) prominent locations throughout the Town at least fourteen (14) days prior to the hearing. The notice shall contain the time, date, and place of hearing, and sufficient detail about the proposed changes as to give adequate notice of their content. If the proposed changes are extensive, a brief summary of the changes, together with an indication that a full text is available at the Town Clerk's office shall be adequate notice. Written notice of the hearing shall also be mailed at least fourteen (14) days prior to the hearing to property owners which are in or abutting a portion of the municipality affected by a zoning change which prohibits commercial and industrial uses where currently permitted or permits them where currently prohibited.

3. Adoption.

Any amendment to this Ordinance shall be adopted at an Annual or Special Town Meeting.

Section 21 Definitions.

1. Construction of Language.

The following definitions shall apply to the *Land Use Ordinance of the Town of Portage Lake*. In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have the meaning implied by their context in the Ordinance, their ordinarily accepted meaning, or as defined herein. In the case of any difference of meaning or implication between the text of the Ordinance, illustration, or table, the text shall control.

- A. The word "person" includes firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity.
- B. The present tense includes the future tense, the singular number includes the plural, and the plural numbers includes the singular.
- C. The word "shall" is mandatory, the word "may" is permissive.
- D. The word "lot" includes the words "plot" and "parcel".
- E. The words "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."
- F. The word "Town" shall mean the Town of Portage Lake, Maine.
- G. The word "CEO" shall mean the Code Enforcement Officer for the Town of Portage Lake.
- H. The term "this Ordinance" shall mean the Land Use Ordinance for the Town of Portage Lake.

2. Definitions.

- 1. Abandoned: The stopping of an activity, use, business, in addition to: actions taken by an owner or representative that removes the major portion of materials, goods, equipment, facilities, or parts thereof necessary for the operation of the activity, use, business. Also contains the element of abandoned and/or change to a less intensive use of the property/structure.
- 2. Abattoir: A building or structure specifically designed to accommodate the penning and slaughtering of live animals and the preliminary processing of animal carcasses and may include the packing, treating, storing, and sale of the product on the premises.
- 3. Accessory Use or Structure: A use or structure which is customarily and in fact both incidental and subordinate to the principal use of the structure. The term "incidental" in reference to the principal use or structure shall mean subordinate and minor in significance to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. In shoreland areas, 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.
- 4. Adult Entertainment: The regular presentation, for a fee or incidentally to another service, of material or exhibitions distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" as defined below for observation by patrons therein.
- 5. Adult Entertainment Establishment: Any commercial establishment—including but not limited to: "adult bookstore", "adult video store", "adult theater", "adult nightclub", sexual encounter center, massage parlor, rap parlor, lingerie modeling, or sauna—which for a fee or incidentally to another service, regularly presents material or exhibitions distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" as defined below for observation by patrons therein. Adult entertainment establishment further means any commercial establishment to which the public patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls, separate from the common areas of the premises for the purpose of viewing sexually oriented motion pictures, sexually-oriented movies, sexually oriented films, adult videos, or wherein an entertainer provides sexually oriented entertainment to a member of the public, a patron, or a member.

6. Adult Bookstore: An establishment having a majority of its stock and trade or a majority of its floor space in books, magazines, other periodicals, or any other items which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined below for observation of the patrons or members therein; or in conjunction therewith has facilities for the presentation of sexually oriented entertainment, including but not limited to, sexually oriented movies, adult videos, sexually oriented films, or sexually oriented live entertainment, for observation by patrons or members therein.
7. Sexually Oriented: Any exhibition of any motion pictures, films, videos, or live performance, display or dance of any type, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers which has a significant or substantial portion of such performance any actual or simulated performance of “specified anatomical areas,” as defined below, for observation by patrons or members therein.
8. Adult Theater: An enclosed building regularly used for presenting films, motion pictures, video cassettes, slides, or other photographic reproductions or other material depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined below, for observation by patrons or members therein.
9. Adult Nightclub: A theater, concert hall, auditorium, nightclub, bar, restaurant, or similar commercial establishment which regularly features live performances that are characterized by any actual or simulated performance of “specified sexual activities” or the exposure of “specified anatomical areas”.
10. Adult Video Store: A commercial establishment having a majority of its stock or a majority of its floor space dedicated to “adult videos”—as defined below—which are rented or sold or presented for a fee or incidentally to another service; or in conjunction therewith, regularly presents on the premises sexually oriented motion pictures of sexually oriented films, “adult videos” or sexually oriented live exhibitions which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” for observation by patrons or members therein.
11. Adult Videos: A video, CD, laser disk, or similar medium with a cover that depicts “specified sexual activities” or “specified anatomical areas” or a transparent or less than opaque cover through which “specified sexual activities” or “specified anatomical areas” can be viewed.
12. Massage Parlor: Any place where, for any form of consideration, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body occurs as part of or in connection with any specified sexual activity, or where any person providing such treatment, manipulation, or service related thereto exposes any specified anatomical area. This term shall not apply to a place wherein registered physical therapists treat only patients recommended by a licensed physician and operate only under such physician's direction.
13. Nude Modeling Studio: Any place where a person who appears in a state of nudity, or displays any specified anatomical area is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.
14. Specific Anatomical Area:

Less than opaquely covered human genitals, pubic region or pubic hair; or
 Less than opaquely covered perineum, buttock, or anus; or
 Less than opaquely covered female breast below a point immediately above the top of the areola;
 or
 Human male genitals in a discernibly erect or turgid state, even if completely and opaquely covered.

Specific Sexual Activities:

Human genitals in a discernable state of sexual stimulation or arousal; or
 Acts or representations of human masturbation, sexual intercourse, sodomy, bestiality, excretory functions, sadism, masochism, lewd exhibition of genitals; or
 Fondling or other erotic touching of human genitals, pubic region or pubic hair, perineum, buttock or anus, or female breast.

15. Agent: Any one having written authorization to act in behalf of a property owner, signed by the property owner.
16. Aggrieved Party: An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under an 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.
17. Agriculture: The production, keeping, or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.
18. Agricultural Products, Processing, and Storage: Establishments engaged in the manufacturing, processing, and/or packaging of foods, dairy products, commercial composting, and storage of such products.
19. Agricultural Sales and Service: The use of buildings or land for the sale of equipment or products or services to those engaged in agriculture.
20. Alteration: Any change, addition, or modification in construction. other than cosmetic or decorative, or any change in the structural members of buildings such as bearing walls, columns, beams, or girders.
21. Amusement Facility: Any private, commercial premises which are maintained or operated primarily for the amusement, patronage, or recreation of the public, containing four (4) or more table sports, pinball machines, video games, or similar mechanical or electronic games, collectively, whether activated by coins, tokens, or discs, or whether activated through remote control by the management.
22. Animal Husbandry: The keeping of any domesticated animals other than customary household pets.
23. Antique Shop: A building offering primarily antiques for sale. An antique for the purpose of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, of or belonging to the past, at least 30 years old. Antique shop does not include "secondhand store."
24. Applicant: The person applying for approval under an ordinance.
25. Aquaculture: The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.
26. Aquifer: A geological unit in which porous and permeable conditions exist and thus are capable of yielding usable amounts of water. (See: MDEP Aquifer Maps)
27. Aquifer Recharge Area: An area that has soils and geological features that are conducive to allowing significant amounts of surface water to percolate into groundwater. (See: MDEP Aquifer Maps)
28. Archaeological/Historic Site/Structure: Means any site or structure that is:

Listed individually in the national Register of Historic Places or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the national Register;

Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the Secretary of the Interior to qualify as a registered historic district;

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

Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (a) by an approved state program as determined by the Secretary of the Interior; or (b) directly by the Secretary of the Interior in states without approved programs.

29. Area of Special Flood Hazard: The land in the floodplain having a one percent or greater change of flooding in any given year.
30. Artificial Monument: A man-made object used to mark and identify the corner or line of property boundaries. Artificial monuments are to be in conformance with current standards of the Maine Board of Licensure for Professional Land Surveyors. The term "artificial monument" includes the following:
- A granite monument;
 - A concrete monument;
 - A drill hole in ledge;
 - A metal pipe or pin; or
 - A steel bar no less than 1/2" in diameter and 3' in length.
31. Assembly and Packaging: See: Definition for "Industrial, Light"
32. Authorized Agent: An individual or firm having written authorization to act on behalf of a property owner or applicant. The authorization shall be signed by the property owner or applicant.
33. Automobile (Vehicle) Body Shop: A business engaged in vehicle body, frame, or fender straightening and repair and painting and undercoating.
34. Automobile (Vehicle) Car Wash: A structure with machine or hand-operated facilities for the washing, cleaning, polishing, or waxing of motor vehicles.
35. Automobile (Vehicle) Graveyard: A yard, field, or other area used to store two (2) or more unserviceable, discarded, worn-out, or junked motor vehicles as defined in Title 29, Section 1, subsection 7, or parts of such vehicles. "Automobile graveyard" does not include any area used for temporary storage by an establishment or place of business which is primarily engaged in doing vehicle body repair work to make repairs or render a motor vehicle serviceable. "Automobile graveyard" does include an area used for vehicle dismantling, salvage, and recycling operations. For the purposes of this definition, "Unserviceable" shall mean, not ready for use or not presently useable.
36. Automobile (Vehicle) Recycling Business: The business premises of a person who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, provided that 80 percent of the business premises specified in the site plan (Title 30-A, MRSA, Section 3755-A, subsection 1, paragraph C) is used for automobile recycling business.
37. Automobile (Vehicle) Recycling or Recycling Operations: The dismantling of motor vehicles for the purpose of reselling the component parts of the vehicle or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles.
38. Automobile (Vehicle) Repair Garage: A building where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame, or fender straightening and repair; over-all painting and under-coating of automobiles.
39. Automobile (Vehicle) Service Station: A building where gasoline, or any other automobile engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease are retailed directly to the public on the premises; including storage of unlicensed vehicles and not including body, frame or fender straightening and repair.
40. Automobile (Vehicle) Storage: A building designed and used for the storage of vehicles, operated as a business with a service charge or fee being paid to the owner or operator for the parking of or storage of privately owned vehicles.

41. Average Daily Traffic (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.
42. 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 flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.
43. Base Flood: Means the flood having a one percent change of being equaled or exceeded in any given year, alternately referred to as the 100 year flood.
44. Basement: The enclosed area underneath a structure, typically having a masonry floor and walls which comprise the structure's foundation. The clear height up to the joists supporting the floor directly above is three (3) feet or greater.
45. Bathroom: A room with a bathtub and/or shower, toilet, and washstand.
46. Bed and Breakfast: Any dwelling in which transient lodging or boarding and lodging are provided and offered to the public for compensation for less than one week. The dwelling shall also be occupied by a permanent resident. There shall be no provision for cooking in any of the individual guest rooms.
47. Billboard: A sign, structure, or surface which is available for advertising purposes for goods or services rendered off the premises.
48. Boarding (Lodging) Facility: Any residential structure where lodging and with or without meals are provided for compensation for a period of at least one week, and where a family residing in the building acts as proprietor or owner. There shall be no provision for cooking in any individual guest room.
49. 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.
50. Buffer: A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.
51. Building: Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or personal property.
52. Building Coverage: (See: Lot Coverage)
53. Building Height: The vertical distance measured between the average finished grade of the ground at the front of a building and the highest point of the roof, not including chimneys, spires towers, or similar accessory structures.
54. Bulk Grain Storage: Establishments primarily engaged in the warehousing and storage of grain for resale or own use other than normal storage associated with on-site consumption.
55. Business Directional Sign: A sign erected and maintained in accordance with the Maine Traveler Information Services Act, 23 MRSA §1901, et. seq. which points the way to public accommodations and facilities or other commercial facilities.
56. Business, Commercial, or Industrial Sign: An attached or freestanding structure which directs attention to a business or profession conducted on that premises.
57. 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.

58. Canopy Sign: Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area.
59. Capital Improvements Program (CIP): The Town's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.
60. Cemetery: Property used for the interring of the dead.
61. Certificate of Compliance: A document signed by the CEO stating that a structure is in compliance with all of the provisions of the Floodplain Management Ordinance.
62. Change of Use: A change from one category in the land use table to another or the addition of a new category of use to an existing use.
63. Changeable Copy Sign: A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight (8) times per day shall be considered an animated sign and not a changeable copy sign for purposes of an ordinance. A sign on which the copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy for the purposes of an ordinance.
64. Child Day Care Facility: Any dwelling, building, or portion thereof which child day care services are provided including any on-site outdoor play area. Child day care facilities shall be further differentiated by the following three classifications:
- Family Day Care Home: Any premises or dwelling unit other than the child's own home where the child care areas are being used as a family residence, operated for profit or not for profit, in which child day care is provided at any one time on a regular basis to three, four, five, or six children, who are not relatives of the caregiver. Day care service for children in this type of facility is different from "babysitting."
- Group Day Care Home: A facility in which care is provided for more than six (6), but less than twelve (12) children, at any one time, where the child care areas are being used as a family residence.
- Day Care Center: A facility which is licensed to provide care for seven (7) or more children at any one time where the child care areas are not being used as a family residence.
65. Church: A building or structure, or group of buildings or structures, designed, primarily intended, and used for the conduct of religious services, excluding Sunday School.
66. Clinic: An establishment where patients are accepted for treatment by a group of physicians practicing medicine together, but shall not offer domicilliary arrangements; medical or dental.
67. Club: Any association of persons organized for social, religious, benevolent, or academic purposes; whose facilities are open to members and guests including fraternities, sororities, and social organizations.
68. Club, Private: Any building or rooms, which serves as a meeting place for an incorporated or unincorporated association for civic, social, cultural, religious, literary, political, recreational, or like activities, operated for the benefit of its members and not for the general public.
69. Club, Recreational: Any building or land which serves as a meeting place or recreation area for an incorporated or unincorporated association or group operated for the benefit of its members and guests and not open to the general public, and not engaged in activities customarily carried on by a business for pecuniary gain.
70. Cluster Development: A development designed to promote the creation of open space by a reduction in dimensional and area requirements.

71. Code Enforcement Officer (CEO): A person appointed by the Town Officers to administer and enforce an ordinance. Reference to the CEO may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.
72. Coffee Kiosk. A business in a free-standing building that sells coffee, or other beverages, and remade bakery goods, from a drive-through window to customers seated in their vehicles for consumption off the premises and that provides no indoor or outdoor seating.
73. Commercial Composting: The processing and sale of more than 1000 cubic yards of compost per year.
74. Commercial Recreation: Any commercial enterprise which receives a fee in return for the provision of some recreational activity, including but not limited to: racquet clubs, health facility and amusement parks, but not including amusement centers.
75. Commercial Use: Commercial shall include the use of lands, buildings, or structures, other than home occupations, the intent and result of which activity is the production of income from the buying and selling of goods and services, exclusive of rental of residential buildings and dwelling units.
76. Common Driveway: A vehicle accessway serving two dwelling units.
77. Common Open Space: Land within or related to a subdivision, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the subdivision or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the usable open space, such as for outdoor recreation.
78. Community Center: A building which provides a meeting place for local, non-profit community organizations on a regular basis. The center shall not be engaged in activities customarily carried on by a business.
79. Complete Application: An application shall be considered complete upon submission of the required fee, a signed application, and all information required by the appropriate application, except as validly waived by the vote of the Planning Board to waive the submission of required information.
80. Comprehensive Plan: A document or interrelated documents adopted by the Town's legislative body, containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and a strategy for implementation of the policies.
81. Confined Animal Feeding Operations: Specialized livestock production enterprises with confined beef cattle and hog feeding and poultry and egg farms and accessory structures. These operations have large animal populations restricted to small areas.
82. Conforming: A building, structure, use of land, or portion thereof, which complies with all the provisions of an appropriate ordinance.
83. Congregate Housing: A multi-family development with central dining facilities serving functionally impaired persons.
84. Conservation Easement: A non-possessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic, or open space values of real property; assuring its availability for agricultural, forest, recreational, or open space use; protecting natural resources; or maintaining air and water quality.
85. Constructed: Includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, paving, drainage, and the like, shall be considered as part of construction.

86. Copy Shop: A building that provides duplicating services using photocopying, blueprint, and offset printing equipment, and may include collating and binding of booklets and reports.
87. Data Processing Facility: A building primarily involved in the compiling, storage, and maintenance of documents, records, and other types of information in digital form utilizing a mainframe computer. This term does not include general business offices, computer-related sales establishments, and business or personal services.
88. Deck: An uncovered, unenclosed structure with a floor, elevated above ground level with or without a railing no higher than four (4) feet.
89. Decorative Changes: Repainting or re-siding; removing or replacing trim, railings, or other non-structural architectural details; or the addition, removal or change of location of windows and doors.
90. Deer Wintering Areas: Areas used by deer during the winter for protection from deep snows, cold winds, and low temperatures, as identified by the Maine Department of Inland Fisheries and Wildlife.
91. Demolition/Waste Disposal: A facility including a landfill operated by a public, quasi-public, or private entity which purpose is to dispose of useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing, including by way of an example, and not by limitation to, rubbish, garbage, scrap metals, junk, refuse, inert material, landscape refuse, and demolition debris. The definition does not, however, include commercial hazardous waste disposal facilities or recycling of products.
92. Density: The number of dwelling units per acre of land.
93. Developed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.
94. Development: Any man-made changes to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.
95. Dimensional Requirements: Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore or road frontage, and height.
96. Direct Watershed: That portion of the watershed which does not first drain through an upstream lake.
97. Disability, Physical or Mental: Any disability infirmity, malformation, disfigurement, congenial defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness, and includes the physical or mental condition of a person that constitutes a substantial disability as determined by a physician or, in the case of mental disability, by a psychiatrist or psychologist, as well as any other health or sensory impairment that requires special education, vocational rehabilitation, or related services.
98. District: A specified portion of the Town, delineated on the Official Portage Lake Zoning Map, within which certain regulations and requirements or various combinations thereof apply under the provisions of the Zoning Ordinance of the Town of Portage Lake.
99. Drive-Up/Through Facility: An establishment that, by design of physical facilities or by service, encourages customers to receive a service or obtain a product that may be used or consumed in a motor vehicle on the premises while remaining in the vehicle. Such as, but not limited to, Automated Teller Machines (ATMs).
100. Driveway: A vehicular access-way less than five hundred (500) feet in length serving two (2) lots or less.

101. Duplex: (See: Two-Family Dwelling) A building containing two (2) dwelling units for occupation by not more than two (2) families.
102. Dwelling: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters. The term shall include mobile homes and manufactured housing, but not recreational vehicles.
- Single-Family Dwelling: A building containing only one (1) dwelling unit for occupation by not more than one (1) family.
- Two-Family Dwelling: A building containing only two (2) dwelling units, for occupation by not more than two (2) families.
- Multi-Family Dwelling: A building containing three (3) or more dwelling units, such buildings being designed for residential use and occupancy by three (3) or more families living independently of one another; with the number of families not exceeding the number of dwelling units.
103. Dwelling Unit: A room or suite of rooms designed and equipped exclusively for use by one family as a habitation and which contains independent living, cooking, sleeping, bathing and sanitary facilities. The term includes manufactured housing, but not recreational vehicles.
104. Easement: A right, such as a right-of-way, afforded a person to make limited use of another's real property.
105. Elderly Housing Complex: A dwelling complex that is occupied by a minimum of ten (10) persons, 62 years of age or older, and/or handicapped persons, as a residential living environment with other persons 62 years of age or older and/or handicapped persons.
106. 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.
107. Engineered Subsurface Waste Water Disposal System: A subsurface waste water disposal system designed, installed, and operated as a single unit to treat 2000 gallons per day or more; or any system designed to treat wastewater with characteristics significantly different from domestic wastewater.
108. Essential Services: The construction, alteration or maintenance of 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.
109. 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.
110. Expansion of Use: The addition of weeks or months to a business operating season; the addition of hours to a business day; the use of more floor area or ground area; or the provision of additional seats or seating capacity.
111. Extended Stay Motel: A building containing three or more guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes for guests and contain kitchen facilities for food preparation, including, but not limited to, such facilities as refrigerators, stoves, and ovens.
112. Exterior Walls: Siding materials such as clapboards, shingles, and shakes, including synthetic or metal siding manufactured to closely resemble clapboards, shingles, and shakes. This term shall also include

masonry, wood board-and-batten, and "Texture 1-11" exterior plywood, but shall not include artificial masonry, or fake board-and-batten made from metal or plastic.

113. Family: One or more persons occupying a premises and living as a single housekeeping unit.
114. Farm Parcel: A tract or parcel of land devoted primarily to agricultural uses, together with a dwelling and/or other accessory uses.
115. Farm-Related Business: A business operated on a farm parcel related to or supportive of agricultural activities, such as, but not limited to, blacksmithing, farm implement repair, and/or roadside sale of agricultural products.
116. Farm Stand: A structure designed, arranged, or used for the display and sale of agricultural products primarily grown or produced on the premises upon which the stand is located. A farm stand may be located on premises that the products are not grown upon, provided such premise is owned by the operator.
117. Fence: Any artificially constructed barrier of any material, or combination thereof, erected to enclose or screen areas of land. To further distinguish types of fences: (a) a boundary fence encloses a parcel of property; and (b) a privacy fence blocks part or all of the property from the view of the neighbors. Privacy fences may be solid and taller than other types of fences. For the purposes of this Ordinance, a fence is not an accessory structure.
118. Filling: Depositing or dumping any matter on or into the ground or water.
119. Final Plan: The final drawings on which the applicant's plan of subdivision is presented to the Planning Board for approval and which, if approved, shall be recorded at the Aroostook County Registry of Deeds.
120. Firewood Processing, Commercial: The cutting, sawing, and/or splitting of logs or cord wood to be suitable for fuel which primary purpose is for the wholesale or retail sale of more than 25 cords in a calendar year.
121. Flag: Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.
122. Flashing Sign: Any sign, which, by method or manner of illumination, flashes on or off, winks, or blinks with varying degrees of light intensity, shows motion, or creates the illusion of motion or revolves in a manner to create the illusion of being on or off.
123. Floating Slab: A reinforced concrete slab which is designed to withstand pressures both from below and above.
124. Flood Insurance Rate Map: The official map on which the Dept. of Housing and Urban Development or the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to Portage Lake.
125. Floodplain: The lands adjacent to a body of water which have been or may be covered by the base flood.
126. Floodplain Soils: The following soil series as described and identified by the SCS in the Soil Survey for Aroostook County, Maine:

Alluvial	Hadley	Medomak	Winooski
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127. Floor Area, Gross: The sum, in square feet of the floor areas of all roofed portions of a building, as measured from the exterior faces of the exterior walls.

128. Floor Area, Net: The total of all floor areas of a building, excluding the following: stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and floors below the first or ground floor, except when used for human habitation or service to the public.
129. Floor Area Ratio: A ratio derived by dividing the gross floor area of a building by the area of the lot.
130. Floor Area (Shoreland Areas): 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.
131. 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.
132. Forested Wetland: A freshwater wetland dominated by woody vegetation that is six (6) meters tall or taller.
(6 meters = 19.865 feet)
133. Forestry: The operation of timber tracks, tree farms, forest nurseries, the gathering of forest products, or the performance of forest services.
134. Foundation: The supporting substructure of a building or other structure, including, but not limited to, basements, slabs, sills, posts, or frostwalls.
135. Freestanding Sign: Any sign supported by structures or supports that are placed on, or anchored in, the ground and are independent from any building or other structure.
136. Freshwater Wetland: Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

 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
 Not considered part of a great pond, river, stream, or brook.
137. Frontage: The horizontal distance, measured in a straight line, between the intersections of the side lot lines with the front lot line.
138. Frontage, Road: The horizontal distance, measured in a straight line, extending between the side lot lines and the road right-of-way.
139. Frontage, Shore: The horizontal distance, measured in a straight line, between the intersections of the lot lines with the shoreline at the normal high water line.
140. Frost Wall: A masonry foundation wall extending below the ground surface, supported by footings located below the frost line to protect structures from frost heaves.
141. 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 which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, retail and wholesale fish marketing facilities, waterfront dock and facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site.
142. Garage: An accessory building, or part of a principal building, including a car port, used primarily for the storage of motor vehicles as an accessory use.

143. Gasoline Service Station: See: Automobile Service Station
144. Government Office: A building or complex of buildings that house municipal offices and services, and which may include cultural, recreational, athletic, convention, and entertainment facilities owned and/or operated by a government agency.
145. Gravel Pit: (See: Mineral Extraction)
146. Great Pond: Any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres.
147. Group Home: A housing facility for eight (8) or fewer persons with disabilities that is approved, certified, or licensed by the State, including a group home, foster home, or intermediate care facility. Disability is defined the same as "handicap" in the federal Fair Housing Act. Community living arrangements are deemed a single-family use for the purposes of zoning. Wherever a single family dwelling is permitted, community living arrangements must also be permitted.
148. Growth Area: An area delineated in an adopted local comprehensive plan, within which development is encouraged, supported with adequate levels of public services, is compatible with future land-use designations and implementation actions of the comprehensive plan; outside of which "urban" type development is discouraged. A growth area shall allow existing or proposed land uses at minimum densities sufficient to permit growth that is projected for the succeeding 10 year period, along with existing or proposed services to adequately support that growth.
149. Guest House: See: Inn.
150. Hazardous Wastes: As defined in MRSA Title 38, Section 1303, as may be amended.
151. Height of a Structure: See: Building Height
152. Helipad: Any landing area used for the taking off and landing of private helicopters for the purposes of picking-up or discharging passengers or cargo. Use of the landing area is by permission only. ("Helipad" should not be confused with a "heliport" which provides enhanced services and facilities.)
153. High Intensity Soil Survey: A soil Survey conducted by a Certified Soil Scientist, meeting the standards of the national Cooperative Soil Survey, which identifies soil types down to 1/10 acre or less at a scale equivalent to the subdivision plan submitted. The mapping units shall be the soil series, Single soil test pits and their evaluation shall not be considered to constitute high intensity soil surveys.
154. Home Improvement Center: A building of more than 30,000 square feet of gross floor area, engaged in the retail sale of various basic hardware items, tools, builders' hardware, building materials, paint and glass, household goods, animal supplies, garden supplies, and/or cutlery. At least 75 percent of the gross floor area shall be for retail sales.
155. Home Occupation: An occupation or profession which is customarily conducted on or in a residential structure or property and which is clearly incidental to and compatible with the residential use of the property and surrounding residential uses.
156. Homeowners Association: A community association which is organized in a residential development in which individual owners share common interests in open space and/or facilities.
157. Hospital: An institution providing, but not limited to, overnight health services, primarily for in-patients, and medical or surgical care for the sick or injured, including as an integral part of the institution such

related facilities as laboratories, out-patient departments, training facilities, central services facilities, and staff offices.

158. Hotel: A building in which lodging or meals and lodging are offered to the general public for compensation and in which ingress and egress to and from the rooms are made primarily through an inside lobby or office. The hotel may contain such accessory services and facilities as news stands, personal grooming facilities and restaurants.
159. Impervious Surface Ratio: A measure of the intensity of the land use that is determined by dividing the total area of all impervious surfaces on the site by the area of the lot. For the purpose of an ordinance, impervious surfaces include buildings, structures, paved and gravel surfaces.
160. 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 gravel pads, parking areas, fire places, or tent platforms.
161. Industrial Park or Development: A subdivision developed exclusively for industrial uses, or a subdivision planned for industrial uses and developed and managed as a unit, usually with provision for common services for the users.
162. Industrial, Heavy: The use of real estate, building, or structure, or any portion thereof, for the processing and manufacturing of materials or products predominately from extracted raw materials, or use engaged in storage of, or manufacturing processes using flammable, or explosive materials, or storage or manufacturing processes that potentially involve hazardous or nuisance conditions, such as, but not limited to, noise, smoke, vibration, odor, or appearance.
163. Industrial, Light: A use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabricating, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, and excluding industrial processes which utilize extracted or raw materials, flammable or explosive materials, or which will not create nuisance conditions, such as, but limited to, noise, smoke, vibration, odor, or appearance.
164. Infill Development: Development of vacant, skipped-over parcels of land, or the reuse or change of use of a previously developed parcel or group of parcels, or the intensification of a use or change of use by rehabilitation of an entire building, in an otherwise built-up area. Infill development should provide an attractive alternative to new development by reducing loss of critical and resource lands to new development and by focusing on strengthening and harmoniously fitting into older neighborhoods.
165. Inn: A building, which contains a dwelling unit occupied by an owner or resident manager, in which up to ten (10) lodging rooms or lodging rooms and meals are offered to the general public for compensation, and in which entrance to bedrooms is made through a lobby or other common room. Inn includes such terms as guest house, lodging house and tourist house.
166. Intensive Agricultural Use: Agricultural activities which typically are associated with one or more of the following impacts: strong offensive odors; substantial run-off; large concentrations of animal waste; noise; and/or extensive use of chemical, compost, and manure piles. Intensive Agricultural Uses include, but are not necessarily limited to: a) slaughter areas; b) areas for the storage or processing of manure or garbage; and c) structures housing more than 50 animal units.
167. Junkyard: A yard, field, or other area used as place of storage for:
 - Discarded, worn-out, junked plumbing, heating supplies, household appliances, and furniture;
 - Discarded, scrap, and junked lumber;
 - Old or scrap cooper, brass, rope, rags, batteries, paper trash, rubber debris, plastic debris, waste, and all scrap iron, steel, and other scrap ferrous or non-ferrous material, and

Garbage dumps, waste dumps, and sanitary landfills.

168. Kenel: Any place, building, tract of land, abode, enclosure, or vehicle where three (3) or more pets owned singly or jointly are kept for any purpose, including but not limited to breeding, hunting, show, field trials or exhibition, or where three (3) or more pets are kept for their owners in return for a fee. This definition shall not apply to dogs or cats under the age of six (6) months.
169. Laundry, Self-Serve: A business that provides home type washing, drying, and/or ironing machines for hire to be used by customers on the premises.
170. Level of Service: A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the Highway Capacity manual, latest edition, published by the National Academy of Sciences, Transportation Research Board. There are six (6) levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.
171. Livestock: Domestic animals kept or raised for use or profit, such as, but not limited to, cattle, horses, sheep, or pigs, that are typically kept outside of the home.
172. Lot: A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by an ordinance, and having frontage upon a public street, right-of-way or private way.
173. Lot Area: The land area enclosed within the boundary lines of the lot not including the area of any land which is: part of a right of way for a thoroughfare or easement, such as, but not limited to, surface drainage easements or traveled rights of way (but not including any utility easement servicing that lot); or the land below the normal high-water line of a water body; or upland edge of a wetland; or which is a forested or freshwater wetland.
174. Lot, Corner: A lot with at least two (2) contiguous sides abutting upon a street or right of way.
175. Lot, Coverage: The percentage of the lot covered by all impervious structures.
176. Lot, Interior: Any lot other than a corner lot.
177. Lot Lines: The lines bounding a lot as defined below:
- Front Lot Line: On an interior lot, the lot line abutting the street or right-of-way; or, on a corner lot each lot line abutting the street or right-of-way; or, on a through lot, the lot line abutting the street providing primary access to the lot; or, on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained.
- Rear Lot Line: The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.
- Side Lot Line: Any lot line other than the front lot line or rear lot line.
178. Lot, Minimum Area: The required area within a district for a single lot or use.
179. Lot of Record: A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file in the Aroostook County Registry of Deeds.
180. Lot, Shorefront: Any lot abutting a body of water.
181. Lot, Through: Any interior lot having frontages on two (2) or more parallel streets or rights of way, or lying between a street and a body of water, or a right of way and a body of water, or between two (2)

bodies of water, as distinguished from a corner lot. All sides of through lots adjacent to streets, rights of way, and bodies of water shall be considered frontage, and front yards shall be provided as required.

182. Lot Width, Minimum: The closest distance between the side lot lines of a lot.
183. Manufacturing: The mechanical or chemical transformation of material or substance into new products, either finished or semi-finished for use as raw material in another process, and including the assembling of component parts, the manufacturing of products, and the blending of materials. The term also includes repair services, exclusive of motor vehicles, where such services are performed in a facility larger than a tradesman's shop, as defined within this Section.
184. 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.
185. Massage Establishment. A building, room, or place, other than a hospital or medical center, where non-medical or non-surgical manipulative exercises or devices are practiced upon the human body manually or otherwise by any person other than a physician, surgeon, dentist, occupational therapist, chiropractor, or osteopath with or without the use of therapeutic, electrical, mechanical, or bathing devices. For the purposes of this definition the term shall include: health club, spa, or beauty salon; and shall not include: "Adult Entertainment-Massage Parlor" as defined herein.
186. Mechanized Recreation: Recreation activities which require the use of motors or engines for the operation of equipment or participation in the activity.
187. Micro-Brewery: A building for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on or off premises, with a capacity of not more than 15,000 barrels per year. The facility may include other uses such as a standard restaurant, bar, or use as otherwise permitted in the zoning district.
188. Mineral Exploration: The 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 exploration shall not include testing for a quarry.
189. Mineral Extraction: Any operation within any twelve (12) successive 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. Mineral extraction shall not include the term quarry.
190. Mixed Use: A property or zoning district where various uses, such as commercial, institutional, and residential are in close proximity to each other and combined in a single building, on a single parcel, or within a zoning district as an integrated development with significant functional interrelationships and a coherent physical design, is permitted.
191. Mobile Home, Newer: A structural unit designed for occupancy and constructed after June 15, 1976, which the manufacturer certifies is constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode is 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained in the unit. This term also includes any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, US Code, Title 42, Section 5401, et seq.

192. Mobile Home, Older: A structural unit designed for occupancy and constructed before June 15, 1976, which has not been constructed in compliance with the United States Department of Housing and Urban Development standards, transportable in one or more sections, which in the traveling mode is 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained in the unit.
193. Mobile Home Park: A plot of land designed and/or used to accommodate three (3) or more mobile homes.
194. Mobile Home Park Lot: The area of land on which an individual mobile home is situated on within a mobile home park and which is reserved for use by the occupants of that unit. The Town requires all lots to be indicated on the mobile home park plan.
195. Mobile Home Subdivision or Development: A parcel of land approved by the Planning Board under the Subdivision Ordinance for the placement of a mobile home on individually owned lots.
196. Modular Homes: Those units which the manufacturer certifies are constructed in compliance with Title 10, Chapter 957, Section 9001 et seq., and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on permanent foundations when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained in the unit.
197. Motel: A building or group of buildings in which lodging is offered to the general public for compensation, and where entrance to rooms is made directly from the outside of the building. Motel includes such terms as tourist cabins and tourist court. Any transient accommodations which does not meet the definitions of Bed and Breakfast, Hotel or Inn shall be deemed to be a motel for the purposes of an ordinance.
198. Natural Resource Based Use: The use of land and/or structures for the initial manufacturing, processing, fabricating, assembly, and/or packing of goods or products of raw natural resource materials (land, water, plant, and animal life) indigenous to the municipality or immediate area. With respect to this definition, "Initial" refers to the first phase of manufacturing, processing, fabricating, assembly, and/or packing, beginning with raw materials, rather than secondary manufacture or handling. Such uses include, but are not limited to: raw material storage, agricultural product packing, sawmills, blacksmithing, farm implement repair, or roadside sale of agricultural products.
199. Neighborhood Convenience Store: An establishment of less than 1,500 square feet of floor space primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages, newspapers, and limited household supplies and hardware. Convenience stores shall not include fuel pumps or the selling of fuel for motor vehicles. Typical uses include neighborhood markets and country stores.
200. Net Residential Acreage: The total acreage available for a subdivision, and shown on the proposed subdivision plan, minus the area for streets or access and the areas which are unsuitable for development.
201. Net Residential Density: The number of dwelling units per net residential area.
202. New Construction: Structures for which the "start of construction" commenced on or after the effective date of an ordinance.
203. Non-Conforming Lot of Record: A lot shown on a plan or deed recorded prior to the effective date of an ordinance or amendment which, does not meet the area, frontage, width or depth requirements of the District in which it is located.
204. Non-Conforming Sign: Any sign that does not conform to the requirements of an ordinance.

205. 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 an ordinance or subsequent amendments took effect.
206. Non-Conforming Use: Use of buildings, structures, premises, land or parts thereof which is not permitted in the District in which it is situated or which does not meet the performance standards prescribed for it by an ordinance, but which is allowed to remain solely because it was in lawful existence at the time an ordinance or subsequent amendments took effect.
207. Non-Residential Use: Any land use which does not include a dwelling unit as a principal use. Non-residential use shall include open space, recreational, commercial, business, or industrial uses.
208. Normal High-Water Line of Waters: That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land (by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups: Upland grasses, aster, lady slipper, wintergreen, partridge berry, sarsaparilla, pines, cedars, oaks, ashes, alders, elms and maples). In the case of wetlands adjacent to rivers and Great Ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water. In places where the shore or bank is of such character that the high water line cannot be easily determined (rock slides, ledges, rapidly eroding, or slumping banks) the normal high water line shall be estimated from places where it can be determined by the above method.
209. Nursing Home: Any facility which provides meals, lodging and nursing care for compensation.
210. 100 Year Flood: The flood having a one percent chance of being equaled or exceeded in any given year.
211. Open Space Use: A use not involving: a structure; earth-moving activity; or the removal or destruction of vegetative cover, spawning grounds, or fish, aquatic life, bird and other wildlife habitat.
212. Ordinance: Any legislative action of the Town's legislative body which has the force of law, including but not limited to, any amendment or repeal of any ordinance.
213. Parking Space: An area on a lot intended for the use of temporary parking of a personal vehicle. Each parking space shall be nine feet by nineteen feet (9' X 19'), exclusive of drives or aisles for the parking of vehicles, and have a means of access to a public street.
214. Parks and Recreation: Non-commercially operated recreation facilities open to the general public including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities, but not including campgrounds, commercial recreation and amusement centers.
215. Passive Recreation: Outdoor recreational activities which involve no structural or mechanical components or facilities, or earth moving, such as hiking, fishing, hunting, etc.
216. Patio: An uncovered floor, usually made of concrete, brick or other masonry material, which is not elevated above the surface of the ground in any manner.
217. 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.
218. Permanent Foundation: A permanent foundation means all of the following:
- A full, poured concrete or masonry foundation;
 - A poured concrete frost wall or a mortared masonry frost wall, with or without a concrete floor;

A reinforced, floating concrete pad for which the Town may require an engineer's certification if it is to be placed on soil with high frost susceptibility;
Any foundation, reviewed and approved in writing by the CEO, using advanced technologies.

219. Permitted (Allowed) Use: Uses which are listed as permitted uses in the various districts set forth in an ordinance. The term shall not include prohibited uses.
220. Personal Property: Property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.
221. Personal Services: A business which provides services but not goods such as, hairdressers, shoe repair, real estate, and insurance etc.
222. Person: An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two (2) or more individuals having a joint or common interest, or other legal entity.
223. Pet Cemetery: A parcel of land, building, and/or structure used for the interring of animal remains.
224. 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.
225. Pitched, Shingled Roof: A roof with a pitch of two (2) or more vertical units for every twelve (12) horizontal units of measurement and which is covered with asphalt or fiberglass composition shingles or other approved materials, but specifically excludes corrugated metal roofing material.
226. Planning Board: The Planning Board for the Town of Portage Lake.
227. Pond: See: Body of Water.
228. Preliminary Subdivision Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.
229. Primary System: Those portions of the state highway system which the Department of Transportation has by official designation incorporated into the Federal-Aid Primary System.
230. Prime Farmland: Land that has been identified in the comprehensive plan that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oil-seed crops, and meets all of the criteria established by the US Department of Agriculture.
231. Principal Structure: The 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.
232. Principal Use: The primary use other than one which is wholly incidental or accessory to another use on the same premises.
233. Private Road: A private way meeting Portage Lake's road construction standards for preparation, sub-base, and base.
234. Professional (Business) Offices: The place of business for doctors, lawyers, accountants, financial advisors, architects, surveyors, psychiatrists, psychologists, counselors, real estate, insurance, and the like

or in which a business conducts its administrative, financial, or clerical operations, including financial institutions and other financial services, but not retail sales, personal services, or the use of trucks as part of the business operation.

235. Projecting Sign: Any sign affixed to a building or a wall in such a manner that its leading edge extends more than six (6) inches beyond the surface of the building of such building or wall.
236. Property Line: (See: Lot Line)
237. 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.
238. Public Hearing: A meeting called by a board, commission, committee, agency, or district to hear and receive verbal and written testimony on a specific project(s), application(s) ordinance(s) which will be followed at some point in time by a vote of the board, commission, committee, agency, or district or other body for approval, denial, or approval with conditions.
239. Public Improvements: The furnishing, installing, connecting, and completing all of the street grading, paving, storm drainage, and utilities or other improvements specified by the Planning Board.
240. Public Utility: Any person, firm, corporation, municipal department, board, or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation, sanitary sewage disposal, or water to the public.
241. Public Water System: A water supply system that provides water to at least fifteen (15) service connections or services water to at least 25 individuals daily for at least thirty (30) days a year.
242. Quarry: A place where stone is excavated from rock.
243. Recent Floodplain Soils: See: Floodplain Soils
244. Reconstructed: The rebuilding of a road or section of a road to improve its serviceability.
245. Recording Plan: A copy of the final plan which is recorded at the Aroostook County Registry of Deeds, northern office.
246. 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.
247. 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 currently registered with the State Division of Motor Vehicles.
248. Recycling Center: A building that is not a junkyard in which used materials, such as, but not limited to, newspaper, cardboard, magazines, glass, and metal cans, are separated and processed prior to shipment to others who will use these materials to manufacture new products.
249. Recycling Collection Point: An incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items would be allowed at the collection point.
250. Repair: To take necessary action to fix normal damage or storm damage.

251. 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.
252. Residential Dwelling Unit: See: Dwelling Unit.
253. Residential Sign: Any sign located in a district zoned for residential uses that contains no commercial message except advertising goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements of an ordinance.
254. Residential Use: Any land use which includes a dwelling unit used as a principal use.
255. Restaurant: An establishment where meals are prepared and served to the public for consumption for compensation.
256. Restaurant, Commercial/Recreation: A business which provides as a principal use the combination of family-oriented recreation and on-premises dining where neither the recreation nor the on-premises dining is clearly accessory or incidental to the operation of the other. For the purposes of this definition, recreation may include, but is not limited to: television and motion pictures; sound and sight systems; mechanical and/or electronic operated games; animated mechanical devices and/or rides; and live entertainment.
257. Restaurant, Drive-In: A business involving the preparation and serving of meals for consumption on the premises in a motor vehicle or off the premises, normally requiring short amounts of time between the period of ordering and serving of the meal which is served in edible or disposable containers.
258. Restaurant, Entertainment: A business where food and drink are prepared, served, and consumed, within a building that includes, as an integral component of the facility, electronic or mechanical games of skill, simulation, and virtual reality, play areas, video arcades or similar uses, billiards, and other similar forms of amusement.
259. Restaurant, Fast Food: A business involving the preparation and serving of meals for consumption on the premises or off the premises, normally requiring short amounts of time between the period of ordering and serving of the meal which is served in edible or disposable containers.
260. Restaurant, Standard: A business involving the preparation and serving of meals for consumption on the premises, requiring moderate amounts of time between the period of ordering and serving of the meal.
261. Resubdivision: The division of an existing subdivision or any change in the plan for an approved subdivision which effects the lot lines, including land transactions by the subdivider not indicated on the approved plan.
262. Retail Business: A business establishment engaged in the sale, rental, or lease of goods or services to the ultimate consumer for direct use or consumption and not for resale.
263. Right-of-Way: A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electrical transmission line, oil or gas pipeline, water main, sanitary sewer main, stormwater main, shade trees, or other auxiliary uses, either public or private, on which an irrevocable right-of-passage has been recorded for the use.
264. 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.
265. 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.
266. Riverine: Means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

267. Road: A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles, 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.

268. Roof Sign: Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest point of the roof.

269. Satellite Receiving Dishes: A device used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

270. Schools:

Public and Private - including Parochial School: An institution for education or instruction where any branch or branches of knowledge is imparted and which satisfied wither of the following requirements:

The school is not operated for a profit or a gainful business; or
The school teaches courses of study which are sufficient to qualify attendance there as in compliance with State compulsory education requirements.

Commercial School: An institutions which is commercial or profit-oriented. Examples thereof are dancing, music, riding, correspondence, aquatic schools, driving or business.

271. Seasonal Dwelling: A dwelling unit lived in for periods aggregating less than seven (7) months of the year and is not the principal residence of the owner.

272. Secondhand Merchandise, Retail Sales: A building where retail sales of previously used merchandise, such as clothing, household furnishings or appliances, and sports/recreational equipment. This definition does not include secondhand motor vehicles, parts, or accessories; yard sales; or used merchandise sales, as defined herein.

273. Self-Service Storage Facility: A building, which may be in a controlled access or fenced compound, that contains leased or owned individual, compartmentalized, and controlled access stalls or lockers for the storage of consumer goods or wares, business equipment, or contractor's supplies.

274. Service Business: Establishments engaged in providing services for individuals and businesses such as sundries, beauty shops, barbershops, advertising and equipment leasing.

275. Service Drop: Any utility line extension which does not cross or run beneath any portion of a water body provided that:

In the case of electric service:

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
the total length of the extension is less than one thousand (1,000) feet.

In the case of telephone service:

the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles; or
the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

276. Setback: The horizontal distance from a lot line to the nearest part of a structure, road, parking space, or other regulated object or area.
277. Setback from Water: The horizontal distance from the normal high water line to the nearest part of a structure.
278. Shopping Center: Any concentration of two or more retail stores or service establishments under one ownership or management containing 15,000 square feet or more of gross floor area.
279. Shore Frontage: The length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water line.
280. Shoreland Zone: See Portage Lake Shoreland Zoning Ordinance
281. Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in an ordinance as a reference for unobstructed road visibility.
282. Sign: A display surface, fabric or device containing organized and related elements (letter, pictures, products, or sculptures) composed to form a single unit, designed to convey information visually and which is exposed to the public view. In cases where matter is displayed in a random or unconnected manner without an organized relationship, each such component shall constitute a sign.
283. Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval. May be used by the applicant as the basis for preparing the subdivision plans as part of the application for subdivision approval.
284. Stable, Private: An accessory building in which sheltered animals are kept for the use of the occupants of the premises and not for remuneration, hire, or sale.
285. Stable, Public: An accessory building in which sheltered animals are kept for the use of the occupants for remuneration, hire, sale, boarding, riding, or show.
286. 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 waterbody or wetland within a shoreland zone, or as depicted on the Official Portage Lake Zoning Map, or as further described in the applicable overlay district standards, whichever is applicable.
287. Street: An existing state, county, or Town way; a street dedicated for public use and shown upon a plan duly approved by the Planning Board and recorded in the County Registry of Deeds: or a street dedicated for public use and shown on a plan duly recorded in the County Registry of Deeds prior to the establishment of the Planning Board and the grant to the Planning Board of its power to approve plans. The term "street" shall not include those ways which have been discontinued or abandoned.
288. Strip Development: Business, commercial, industrial, or residential development usually immediately adjacent to and parallel to an arterial or collector roadway, generally one lot deep or less than 250 feet in depth.
289. 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. The term includes structures temporarily or permanently located, such as decks and satellite receiving dishes, but in land areas outside of Shoreland Areas, including signs, sidewalks, fences, patios, driveways, and parking lots are not defined as structures.

290. Subdivision: The division of a tract or parcel of land or structure(s) into 3 or more lots, units, or combination thereof, within any 5 year period that begins on or after September 23, 1971, whether accomplished by sale, lease, development, buildings or otherwise. The Planning Board shall refer to the most current edition of Title 30-A MRSA §4401-4407 in determining applicability of exceptions and reviewing subdivisions.
291. 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.
292. Substantial Expansion: Floorspace increase of 25% or new materials or processes not normally associated with the existing use. In shoreland areas, if any portion of a structure is less than the required setback from the normal high-water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure.
293. Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored before the damage occurred. For purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
294. Substantial Review: A substantial review of an application, as required by law at the time of the application, shall consist of a review of that application to determine whether the application complies with the review criteria and other applicable requirements of law.
295. Substantial Start/Construction: Following the issuance of a permit, if completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost is not made within one (1) year of the date of the permit, the permit shall lapse and become void.
296. Subsurface Sewage Disposal System: A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or waste water on or beneath the surface of the earth.
297. Suspended Sign: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.
298. Sustained Slope: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.
299. Swimming Pool: An outdoor man-made receptacle or excavation designed to hold water to a depth of at least 24 inches, primarily for swimming or bathing, whether in the ground or above the ground.
300. Temporary Movable Sign: Any sign not permanently attached to the ground, a building, or other permanent structure by direct attachment to a rigid well, frame, or structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T-frames; and balloons used as signs.
301. Theater: A building containing a specialized area for showing motion pictures (a motion picture theater has a projection screen) or for stage performances, with a box or ticket office, parking facilities, lobby areas, restrooms, concession stands, signs and marquee displays, and other service and maintenance facilities.
302. Timber Harvesting: The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction

303. Town/City Center: A location within the municipality containing an orderly mix of land uses that meets the daily needs of residents. This mix is intended to contain convenience retail, food services, personnel, and business service uses; community facilities including parks, schools, libraries, and places of worship; and residential uses of a density and location that would accommodate direct pedestrian linkages to the non-residential facilities. These should be arranged in a manner which is focused around a central open space.
304. 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 thereof.
305. Tradesman's Shop: A building or part thereof where small scale manufacturing is performed by a tradesman, requiring manual or mechanical skills and may include a carpenter's shop, a locksmith's shop, a gunsmith's shop, a tinsmith's shop, a commercial welder's shop, or similar uses.
306. Trail: A route or path, other than a roadway, and related facilities, developed and used primarily for recreational or transportation activities, including but not limited to, hiking, walking, cross-country skiing, snowmobiling, horseback riding, bicycling, and dogsledding.
307. Transportation Terminal: A facility or station serving as one end or junction of one or more means of public conveyance, to include rail, bus, limousine, taxi, or other commercial motor carrier, and all ancillary structures, yards, and other appurtenances incidental thereto.
308. Tributary Stream: A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the term "stream" as defined elsewhere in this Section, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.
309. Trucking/Distribution Terminal: An establishment primarily engaged in furnishing trucking or transfer services with or without storage.
310. Underground Storage Facility: An underground system of tanks, pipes, pumps, vaults, fixed containers, and appurtenant structures, singly or in any combination which are used or designed to be used for the storage, transmission, or dispensing of oil or any hazardous substance. Underground storage facilities shall not include storage facilities housed entirely in a basement or other below grade area of a building or structure.
311. Undue Hardship: The words "undue hardship" shall take its statutory definition.
312. Urban Fringe: An area at the edge of an urban area usually made up of mixed residential, agricultural, and urban land uses at lower densities than the core area.
313. Use: The manner in which land or a structure is arranged, designed, or intended, or is occupied.
314. Usable Open Space: That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding 10%.
315. Used Merchandise Sale: The outdoor sale of used articles, conducted for more than five (5) consecutive days or for more than two (2) weekends per year, and shall require a permit from the CEO. Used Merchandise Sales includes flea market.

316. Variance: A variance is a relaxation of the terms of Zoning Ordinance. Variances permissible under the Zoning Ordinance are limited to dimensional and area requirements. No variance shall be granted for the establishment of any use otherwise prohibited, nor shall a variance be granted because of the presence of non-conformities in the immediate or adjacent areas.
317. Vegetation: All live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 above ground level.
318. Vehicle Sales: Any business which involves a parking or display area for the sale of new or used cars, trucks, motorcycles, campers, farm equipment, recreational vehicles, mobile homes, or similar products.
319. Vehicle Convenience Store: A building for a combination service station (gasoline, motor oil, lubricants, or other minor accessories) and retail sales of food and other items typically found in a supermarket, with the gross floor area not to exceed 2,000 square feet, excluding any automotive service or repair areas. In addition, there may be 50 square feet of accessory outdoor storage.
320. Veterinary Hospital or Clinic: A building used for the diagnosis, care and treatment of ailing or injured animals which may include overnight accommodations. The overnight boarding of healthy animals shall be considered a kennel.
321. Video Store: A business primarily engaged in the retail sale, rental, or lease of video tapes, films, CD-ROMs, laser discs, electronic games, cassettes, or other electronic media and associated electronic merchandise.
322. Volume of a Structure: The volume of all portions of a structure located in Shoreland Areas enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.
323. Wall Sign: Any sign attached parallel to, but within six (6) inches of, a wall, painted on the wall surface of, or erected and confined within limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.
324. Warehousing/Storage: The storage of goods, wares, and merchandise in a warehouse.
325. Water Body: Any great pond, river, stream, or brook.
326. Water Crossing: Any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the water course. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings.
327. Wetlands Associated with Great Ponds and Rivers: Wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.
328. Wetland: See: Freshwater Wetland or Forested Wetland
329. Window Sign: Any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes, or glass and is visible from the exterior of the window.
330. Wholesale Business: The use of land and/or buildings engaged in the selling of merchandise to retailers to industry, commercial, institutional, farm, or professional business users or other wholesalers as distinguished from the sale to the general public.

Portage Lake Shoreland Zoning Ordinance

ATTEST: A TRUE COPY.
Carine M. Kowher
PORTAGE LAKE TOWN CLERK

Portage Lake Shoreland Zoning Ordinance

Amended by the Residents on: March 23, 2018

Town Selectpersons

David M Pierce, Chair

Barry Kenney

Daniel C. Higgins

Planning Board Members

Patrick Kelley, Chair

Darey Gagnon

Otis Nelson

Teri DeMerchant

Lucy Hutchinson

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Portage Lake Shoreland Zoning Ordinance

Amended by the Residents on: March 23, 2018

Town Selectpersons



David M Pierce, Chair

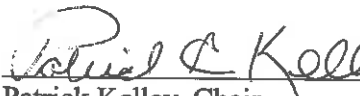


Barry Kenney

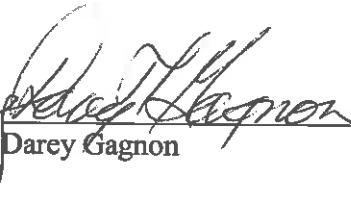


Daniel C. Higgins

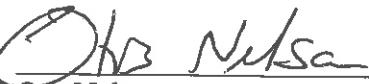
Planning Board Members



Patrick Kelley, Chair



Darcy Gagnon



Otis Nelson

Teri DeMerchant

Lucy Hutchinson

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PORTAGE LAKE SHORELAND ZONING ORDINANCES

Shoreland Zoning Ordinance for the Municipality of Portage Lake

1. **Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.
2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of Portage Lake and Fish River, except as follows: Hayward Street beginning to end including all of Map 20 Lot 2; West Cottage Road from Hayward Street ending at Map 10 Lot 1, inclusively; East Cottage Road from and including all of Map 20 Lot 3 ending at Map 24 Lot 19, inclusively; where this Ordinance shall apply to all except land from the centerline of the aforementioned streets and roads to the normal high-water line of Portage Lake and all of Map 20 Lot 2 and Map 20 Lot 3. This Ordinance applies to all land areas within 250 feet, horizontal distance, of the 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. **A. Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was adopted by the municipal legislative body on June 14, 1991, and as amended March 2016. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.
- B. Repeal of Municipal Regulation of Timber Harvesting.** The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A section 438-B(5), the following provisions of this Ordinance are repealed:
 - Section 14. Table of Land Uses, Item 3 (Forest management activities except for timber harvesting), Item 4 (Timber harvesting) and Item 27 (Land management roads);
 - Section 15(O) in its entirety; and

- Section 17. Definitions, the definitions of “forest management activities”, “forest stand”, “harvest area”, “licensed forester”, “residual basal area”, “residual stand”, “skid trail”, “slash”, “timber harvesting”, and “timber harvesting and related activities”.
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) Stream Protection
 - B. **Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.
 - C. **Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.
 - D. **Changes to the Official Shoreland Zoning Map.** If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days

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

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

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

12. Non-conformance

A. Purpose. It is the intent of this Ordinance to promote land use conformities, except that 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.** All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 15(B)(1). 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) Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.

- (b) Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1).
- (i) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
- (c) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1) or Section 12(C)(1)(a), above.
- (i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
- (ii) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.
- (iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.
- (d) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing

and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.

- (2) **Foundations.** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(3) Relocation, below.
- (3) **Relocation.** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 15(S). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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

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

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
- (4) **Reconstruction or Replacement.** Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or 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 footprint of the reconstructed or replaced structure at its new location. If the total footprint 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)(3) 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)(3) above, the physical condition and type of foundation present, if any.

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

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, 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) above.
- (2) **Resumption Prohibited.** A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the

structure has been used or maintained for residential purposes during the preceding five (5) year period.

- (3) **Change of Use.** An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(5) 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 June 14, 1991 and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

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

13. Establishment of Districts

- A. Resource Protection District.** The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial, General Development I, or Commercial Fisheries/Maritime Activities Districts need not be included within the Resource Protection District.
- (1) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
 - (2) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
 - (3) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
- 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, the General Development Districts, or the Commercial Fisheries/Maritime Activities District.
- C. Stream Protection District.** The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal 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

SP - Stream Protection

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

TABLE 1. LAND USES IN THE SHORELAND ZONE

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

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

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

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

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

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

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

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

⁸Except as provided in Section 15(H)(4).

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

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

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

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

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		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	30,000	150
(ii) Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure		
(i) Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for Commercial Fisheries and Maritime Activities	40,000	200
(ii) Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	NONE	NONE
(iii) Within the Shoreland Zone Adjacent to Non-tidal Areas	60,000	300
(c) Public and Private Recreational Facilities		
(i) Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	40,000	200

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

B. Principal and Accessory Structures

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

In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- (b) All principal structures along Significant River Segments as listed in 38 M.R.S.A. section 437 (see Appendix A), shall be set back a minimum of one hundred and twenty-five (125) feet, horizontal distance, from the normal high-water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.
- (c) For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.

- (d) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or 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 floodplain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
- (4) Non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as nonvegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.

- (5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
- (a) The site has been previously altered and an effective vegetated buffer does not exist;
 - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - (d) The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management

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

- (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
- (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of 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, and Shoreline Stabilization

- (1) No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15(A), a second structure may be allowed and may remain as long as the lot is not further divided.
- (2) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (3) The location shall not interfere with existing developed or natural beach areas.
- (4) The facility shall be located so as to minimize adverse effects on fisheries.
- (5) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.

- (6) 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.
- (7) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the *Natural Resources Protection Act*.
- (8) 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.
- (9) Except in the General Development Districts and Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.
- (10) Vegetation may be removed in excess of the standards in Section 15(P) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.
 - (a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.
 - (b) Revegetation must occur in accordance with Section 15(S).
- (11) A deck over a river may be exempted from the shoreland setback requirements if it is part of a downtown revitalization project that is defined in a project plan approved by the legislative body of the municipality, and may include the revitalization of structures formerly used as mills that do not meet the structure setback requirements, if the deck meets the following requirements:
 - (a) The total deck area attached to the structure does not exceed 700 square feet;
 - (b) The deck is cantilevered over a segment of a river that is located within the boundaries of the downtown revitalization project;
 - (c) The deck is attached to or accessory to an allowed commercial use in a structure that was constructed prior to 1971 and is located within the downtown revitalization project;
 - (d) The construction of the deck complies with all other applicable standards, except the shoreline setback requirements in section 15(B); and
 - (e) The construction of the deck complies with all other state and federal laws.

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

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

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

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
- (3) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

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

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops

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

G. Parking Areas

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in Districts shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
 - (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - (b) Internal travel aisles: Approximately twenty (20) feet wide.

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

- (1) Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty

(50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

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

- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.
- (3) New permanent roads are not allowed within the shoreland zone along Significant River Segments except:
 - (a) To provide access to structures or facilities within the zone; or
 - (b) When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
- (4) 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.
- (5) 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(T).
- (6) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (7) 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.

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

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

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

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

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

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

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

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

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

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

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

(4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.

- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff

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

K. Septic Waste Disposal

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

L. Essential Services

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

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

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(4) below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within

seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.

- (3) Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing vegetation.
- (4) 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.
- (5) 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 former Maine Department of Agriculture on November 1, 2001, and the *Nutrient Management Law* (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in

existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

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

O-1. Timber Harvesting – REPEALED – Bureau of Forestry will administer the regulation of all forestry activities within the municipality.

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

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

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

- (2) Except in areas as described in Section P(1), above, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, or within a strip extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
 - (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.
 - (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

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

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

The following shall govern in applying this point system:

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

For the purposes of Section 15(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 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, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section Q, below, unless existing new tree growth is present.
 - (f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 15.P(2).
- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary

stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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

- (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. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

- (1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
 - (a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
 - (b) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.
 - (c) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.

- (d) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
 - (e) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.
- (2) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
- (a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
 - (i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
 - (ii) Stumps from the storm-damaged trees may not be removed;
 - (iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
 - (iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
 - (b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

R. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15(P), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

- (1) The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15(P) apply;
- (2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;

- (3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
- (4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;
- (5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:
 - (a) A coastal wetland; or
 - (b) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.
- (6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
 - (a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
 - (b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
 - (c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.
- (7) The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

S. Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section 15(P), to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

- (1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a

scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

- (2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
- (3) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
- (4) Revegetation activities must meet the following requirements for trees and saplings:
 - (a) All trees and saplings removed must be replaced with native noninvasive species;
 - (b) Replacement vegetation must at a minimum consist of saplings;
 - (c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
 - (d) No one species shall make up 50% or more of the number of trees and saplings planted;
 - (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
 - (f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
- (5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
 - (a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
 - (b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
 - (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
 - (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years

- (6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:
 - (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - (b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
 - (c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

T. 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.

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

16. Administration

A. Administering Bodies and Agents

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

B. Permits Required.

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

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

C. Permit Application

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

- (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

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

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

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

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
- (8) Will avoid problems associated with floodplain development and use; and
- (9) Is in conformance with the provisions of Section 15, Land Use Standards.

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

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

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

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

- (4) The total footprint, 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, or the codes enforcement officer if authorized in accordance with 30-A MRSA §4353-A, 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. Any permit issued pursuant to this subsection is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.)

- (e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

(3) Administrative Appeals

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

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

(4) Appeal Procedure

(a) Making an Appeal

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.

b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

(iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

(iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

(b) Decision by Board of Appeals

(i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.

(ii) The person filing the appeal shall have the burden of proof.

(iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

(iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

(5) **Appeal to Superior Court.** Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

(6) **Reconsideration.** In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

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

I. Enforcement

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

(2) Code Enforcement Officer

- (a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
- (b) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- (c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

(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 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 green-house products. Agriculture does not include forest management and timber harvesting activities.

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

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 of Forestry – State of Maine Department of Agriculture, Conservation, and Forestry, 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.

Coastal wetland - all tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

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

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

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

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

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

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

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

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

Expansion of a structure - an increase in the footprint 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 footprint of a structure 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.

Footprint - the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

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

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

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

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

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

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

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.

Hazard tree - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

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

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

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

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

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

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

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

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, lot coverage or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

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

Non-native invasive species of vegetation - species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

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

Outlet stream - any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

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 structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

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

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

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

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

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

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

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

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

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

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

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

Salt marsh - Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by

tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Salt meadow - Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas.

Sapling - a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

Seedling - a young tree species that is less than four and one half (4.5) feet in height above ground level.

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 coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

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

Significant River Segments - See Appendix A or 38 M.R.S.A. section 437.

Storm-damaged tree - a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

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 , highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

Structure – anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.

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

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

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

Tidal waters – all waters affected by tidal action during the highest annual tide.

Timber harvesting – the cutting and removal of timber for the primary purpose of selling or processing forest products. “Timber harvesting” does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. 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), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*

Tree - a woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

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 coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

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

Velocity zone - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

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

Water body - any great pond, river or stream.

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

Wetland - a freshwater or coastal wetland.

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

APPENDIX A

38 §437. Significant river segments identified

For purposes of this chapter, significant river segments include the following:

1. **Aroostook River.** The Aroostook River from St. Croix Stream in Masardis to the Masardis and T.10, R.6, W.E.L.S. townline, excluding segments in T.9, R.5, W.E.L.S.; including its tributary the Big Machias River from the Aroostook River in Ashland to the Ashland and Garfield Plantation townlines;
2. **Dennys River.** The Dennys River from the railroad bridge in Dennysville Station to the dam at Meddybemps Lake, excluding the western shore in Edmunds Township and No. 14 Plantation;
3. **East Machias River.** The East Machias River from 1/4 of a mile above the Route 1 bridge in East Machias to the East Machias and T.18, E.D., B.P.P. townline, and from the T.19, E.D., B.P.P. and Wesley townline to the outlet of Crawford Lake in Crawford, excluding Hadley Lake;
4. **Fish River.** The Fish River from the bridge in Fort Kent Mills to the outlet of Eagle Lake in Wallagrass, and from the Portage Lake and T.14, R.6, townline to the Portage Lake and T.13, R.7, W.E.L.S. townline, excluding Portage Lake;
5. **Machias River.** The Machias River from the Whitneyville and Machias townline to the Northfield T.19, M.D., B.P.P. townline;
6. **Mattawamkeag River.** The Mattawamkeag River from the outlet of Mattakeunk Stream in Winn to the Mattawamkeag and Kingman Township townline, and from the Reed Plantation and Bancroft townline to the East Branch, including its tributaries the West Branch from the Mattawamkeag River to the Haynesville T.3, R.3, W.E.L.S. townline and from its inlet into Upper Mattawamkeag Lake to the Route 2 bridge; the East Branch from the Mattawamkeag River to the Haynesville and Forkstown Township townline and from the T.4, R.3, W.E.L.S. and Oakfield townline to Red Bridge in Oakfield; the Fish Stream from the Route 95 bridge in Island Falls to the Crystal-Patten townline; and the Baskehegan Stream from its inlet into Crooked Brook Flowage in Danforth to the Danforth and Brookton Township townline;
7. **Narraguagus River.** The Narraguagus River from the ice dam above the railroad bridge in Cherryfield to the Beddington and Devereaux Township townline, excluding Beddington Lake;
8. **East Branch of Penobscot.** The East Branch of the Penobscot from the Route 157 bridge in Medway to the East Millinocket and Grindstone Township townline;
9. **Pleasant River.** The Pleasant River from the railroad bridge in Columbia Falls to the Columbia and T.18, M.D., B.P.P. townline, and from the T.24, M.D., B.P.P. and Beddington townline to the outlet of Pleasant River Lake;
10. **Rapid River.** The Rapid River from the Magalloway Plantation and Upton townline to the outlet of Pond in the River;
11. **West Branch Pleasant River.** The West Branch Pleasant River from the East Branch to the Brownville and Williamsburg Township townline; and
12. **West Branch of Union River.** The West Branch of the Union River from the Route 9 bridge in Amherst to the outlet of Great Pond in the Town of Great Pond.