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Thorndike Addressing Ordinance

(Enacted December 13, 1995; amended March 21, 2015)

Section 1. Purpose

The purpose of this ordinance is to enhance the easy and rapid location of properties for the delivery of public safety and emergency services, postal delivery, and business delivery.

Section 2. Authority

This ordinance is adopted pursuant to and consistent with the Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A M.R.S.A. §3001.

Section 3. Administration

A. Initial Development of System:

1. Addressing Committee: During the initial assignment of road names and development of the addressing system, the Board of Selectmen shall appoint an Addressing Committee to make recommendations regarding:
 - a. The official naming of all existing roads;
 - b. Clarification of the legal status of all existing roads and public easements;
 - c. The system to be utilized for assigning addresses;
 - d. Specifications and cost-saving opportunities for numbers to be displayed by property owners; and
 - e. Specifications, design and cost-saving opportunities for public and private road name signs.
2. Public Hearing Required: The Addressing Committee shall hold at least one well-advertised public hearing prior to finalizing its recommendations.
3. Board of Selectmen Vote Required to Authorize: Following the public hearing, the Addressing Committee will make its recommendations to the Board of Selectmen, who shall have the authority to accept, reject or amend the Committee's recommendations. The addressing system shall become official upon adoption by majority vote of the Board of Selectmen at a legal meeting of the Board. The addressing system shall not become effective, however, until jointly planned and announced by the Board and the postal service as outlined in Subsection 4 below.
4. Postal Service Coordination: Once the Board of Selectmen has acted upon the addressing system, the Addressing Committee shall prepare the map and the Town Clerk shall prepare the lists outlined in Subsection C below and forward these to the Thorndike postmaster for postal processing. The Board shall obtain an estimated date of postal address changeover and plan with the postal service to provide proper notification to property owners, residents and emergency service providers with a common effective date as outlined in Section 8 of this ordinance.

B. Maintenance of System: Following the initial assignment of road names and development of the addressing system, the Addressing Committee shall cease to exist. Responsibility for maintaining the addressing system shall be shared between the Planning Board (approving future road names), the Town Clerk (maintaining the computerized data base), and the Board of Selectmen (assigning addresses: maintaining map: enforcement), who is authorized to delegate these duties to one or more addressing officers on an annual basis as it sees fit. The Board shall keep the Emergency Services Communications Bureau apprised of official addressing officer assignments.

1. Map: The Board of Selectmen or its designee shall maintain a town map for official use showing road names and numbers.
2. Computerized Data Base: The Town Clerk shall maintain a data base in the Town Office computer system, designed to provide address lists in one or more formats requested by emergency service providers and the postal service. The municipal officers may institute an appropriate fee schedule for any other parties wishing to purchase information maintained in this database.
3. Road Names: New road names, including subdivision roads as outlined in Section 7, shall be approved by a majority vote of the Planning Board.
4. Address Assignment: Addresses shall be assigned by the Board of Selectmen or its designee as part of the Building Permit process for new structures or the Entrance Permit process for new or improved Driveway Entrances. No additional fee shall be charged for the assignment of an address. If the structure is readily visible from the road, the addressing shall assign the number of the interval that falls closest to the front door of the structure; otherwise the addressing officer shall assign the number of the interval that falls closest to the driveway providing access to the structure.

C. Road Signs: Once the addressing system is approved, it shall be the duty of the Board of Selectmen to procure and install road signs for all roads.

Section 4. Naming System

All roads in Thorndike that serve three or more addresses shall be named regardless of whether the ownership is public or private. Accessways serving less than three addresses are classified as driveways but may be named at the discretion of the Planning Board, which shall base its decision on the likelihood of future development occurring on the road. A road name assigned by the Town shall neither constitute nor imply acceptance of the road as a public way. In assigning road names, the Addressing Committee and Planning Board shall endeavor to ensure that no two roads are given the same or similar-sounding (e.g. Beech and Peach, Pine Road and Pine Lane) names.

Section 5. Numbering System

The Addressing Committee shall assign numbers at an appropriate scale to accommodate foreseeable development along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, determined by the number origin. The following criteria shall govern the numbering system:

- A. Through-Roads: All east-west number origins shall begin from Route 220 or the closest point thereto. All south-north number origins shall begin from the section of Route 139 extending from the junction with Route 220 in Thorndike Village to the Knox Town Line, or the closest point thereto.

- B. Dead-end Roads: For dead-end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.
- C. Numbering Interval: Once existing structures are located and mapped, the Addressing Committee shall mark intervals along each road at every 50 feet in the Village District and every 100 feet in the Rural District, beginning at the point of numbering origin as defined above. Sequential numbers shall be assigned to each interval, alternating between odd numbers on the right side of the road and even numbers on the left side of the road. The *Thorndike Land Use Map* is hereby incorporated by reference in this ordinance. If the Committee finds that this numbering interval is inappropriate in one or more particular circumstances, it may make exceptions as necessary to accomplish the objective of accommodating all foreseeable development while keeping address numbers as low as possible.
- D. Number Assigned: The number assigned to each structure shall be that of the numbered interval falling closest to the front door (if the structure is readily visible from the road) or to the driveway of said structure.
- E. Multiple Structures/Uses: Every structure with more than one principal use or occupancy shall have a separate number for each use or occupancy (i.e. duplexes will have two separate numbers: apartments will have one road number with an apartment number, such as 235 Maple Street, Apt. 2). Accessory structures such as barns, sheds and garages shall not be assigned a separate number except in unusual circumstances such as when they are the sole structure on a lot, are served by a different driveway than the principal structure, or have a different business telephone number.

Section 6. Compliance

All owners of structures shall, within 30 days of the effective date of new address implementation, or within 60 days of the address assignment notification by the Board of Selectmen, whichever is later, display and maintain in a conspicuous place the assigned numbers in the following manner:

- A. Number Displayed at the Road Line: Each property owner shall display the assigned number on a post, fence, wall, mail box, or on some structure at the property line adjacent to the walk or access drive to the residence or structure. Numbers shall be visible from both directions. It is recommended that numbers be at least 4 inches tall and made of reflective material so as to be highly visible at night.
- B. Unit Numbers Marked: In multi-unit structures, the property owner shall also display unit numbers at each entrance that an emergency responder would need to find to locate the caller.
- C. Other Numbers Removed: Every person whose duty it is to display the assigned number shall remove any different number which might be mistaken for, or confused with, the number assigned in conformance with this ordinance.
- D. Interior Location: All residents and other occupants are encouraged to post the assigned number and road name adjacent to their telephone for emergency reference.

Section 7. New Construction and Subdivisions

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

- A. New Construction: Prior to the start of construction of any residence or other principal structure, it shall be the duty of the new owner to procure an assigned address from the Board of Selectmen or designee.

- B. New Subdivisions: Any prospective subdivider shall show a proposed road name and lot numbering system on the Preliminary Plan Application to the Planning Board. Approval of the proposed road name and lot numbering system shall be a condition of subdivision approval by the Planning Board. On the Final Plan, the applicant shall mark lines or dots on the plan, in the center of the roads, every 50 feet so as to aid in assignment of numbers to structures subsequently constructed. Subdivision approval shall not exempt a lot owner from receiving an official address from the Code Enforcement Officer prior to construction, as the ultimate address number assigned will relate to the specific location of the structure on the lot.

Section 8. Effective Dates

- A. Effective Date of Ordinance: This ordinance shall become effective upon the date of its passage.
- B. Official Date of New Road Names and Addresses: Initial road names and address assignments shall become official, but not effective, upon adoption by majority vote of the Board of Selectmen at a legally held meeting.
- C. Effective Date of Address Assignment: The new addresses shall become effective on a date jointly agreed-upon and announced by the postal service and the Board of Selectmen. Once the effective date is established, it shall be the duty of the Board of Selectmen to notify by mail each owner or person with a current physical address at least 30 days prior to the effective date.
- D. Effective Date of Required Compliance: It shall be the duty of the property owner to comply with Section 6 of this ordinance within 30 days of the effective date, or within 60 days of notification, whichever is later. On new structures, numbering shall be installed at the start of construction.

Section 9. Enforcement and Penalties

- A. Enforcement Authority: Compliance with Section 6 of this ordinance may be enforced by either the Code Enforcement Officer or the Constable.
- B. Penalties:
- I. Owner-occupied Structures: As the purpose of this ordinance is for the life safety and public service of residents and users of structures, no penalty for non-compliance shall be levied upon the owner of an owner-occupied structure. Any penalty shall presume to be self-imposed with the assumption of greater risk and inconvenience.
 2. Leased Structures: Penalties of \$10 per day per unit of non-compliance may be levied upon owners of structures leased to tenants when such owners refuse, after warning, to display and maintain proper numbering as outlined in Section 6 of this ordinance. Once 30 days have passed from the effective date of required compliance (as defined in Section 8.D above), if the Town finds that a violation exists, the Town shall issue a warning letter by certified mail to the property owner. Unless the violation is corrected, penalties shall begin to accrue on the 15th day following receipt of the warning letter.
 3. Violator Responsible for Cost of Prosecution: In the event that court action is necessary, the violator shall be responsible for all costs incurred by the Town in prosecuting the violation, including but not limited to court costs, time spent by Town personnel, and reasonable attorneys' fees.

Section 10. Severability

In the event that any provision of this ordinance is determined to be unenforceable, the remaining provisions shall remain in full force and effect.

Sec. 1

A person commits a civil violation if any animal owned by him or subject to his control, whether domestic or otherwise, goes at large on any highway, street, land, alley, common, square, or any other public place within the Town, or upon the property of another person without the consent of that person, after such owner had been previously warned by any Law enforcement officer, animal control officer, justice of the peace, or any other public official authorized for these purposes, that any animal owned by him or subject to his control had been at large, except that dogs when used for hunting may be permitted to go at large. The words "at large" shall mean off the premises of the owner, or keeper, and not under the control of any other person by means of a chain, rope, cord of sufficient strength to control the animal, or such personal presence and attention as will reasonably control the conduct of such animal. Upon complaint of any person, any animal found at large, as defined by this ordinance, may be seized and impounded by any Law enforcement officer, animal control officer, or other public official authorized for these purposes, and that animal's owner or keeper shall be liable for all related costs. Any animal, so found, not bearing the identification of its owner shall be classified as a stray, and may be humanely disposed of, or sold, after being held for 8 days. Such officer may keep such animal in any appropriate facility within or without the Town.

Sec. 2

A person commits a civil violation if he owns, or keeps, any dog 6 months or older if such dog has not been vaccinated with anti-rabies vaccine within 24 months

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preceding the date on which said dog is owned or kept. Proof of vaccination shall be filed with the Town Clerk within 10 days after the vaccination or within 10 days after said dog is brought into the Town. A filing fee of \$1.00 shall be paid to the Town Clerk if the dog is not licensed in the Town. Proof of vaccination shall be affixed to said dog in an acceptable manner. Failure to file proof of vaccination or failure to produce proof of vaccination upon demand of any Law enforcement officer, animal control officer, or other public official authorized for these purposes, shall be prima facie evidence that said dog has not been vaccinated.

Sec. 3

A person commits a civil violation if he owns, or keeps any dog which creates a nuisance by habitually barking, biting, howling, or in any manner disturbing the peace and quiet of any other person, after that owner, or keeper, had been previously warned by any law enforcement officer, animal control officer, justice of the peace, or any other public official authorized for these purposes, that his dog, or dogs, have been disturbing the peace and quiet of another person or persons.

Penalty: A forfeiture of not less than \$25, nor more than \$100 shall be adjudged for a violation of any section of this ordinance.

Board of Appeals Ordinance for the Town of Thorndike

(Enacted 3/17/90; amended 3/16/91 and 3/18/95)

I. GENERAL PROVISIONS:

- A. Business of the Board shall be conducted in accord with Maine Statutes, Town Ordinances and Robert's Rules of Order.
- B. It shall be the responsibility of the Board to become familiar with all the duly enacted ordinances of the town which it may be expected to act upon as well as with the applicable state statutes.
- C. It shall be the responsibility of the Board to become familiar with the community goals, desires and policies as expressed in a "comprehensive plan," when adopted, and grant the minimum relief which will insure that the goals and policies of the plan are preserved and substantial justice is done.

II. APPOINTMENTS:

- A. The Board shall consist of 5 members appointed by the municipal officers of the Town of Thorndike for the terms of 5 years. The initial appointments shall be as follows: 1 member to serve term to expire as of the date of the Annual Town Meeting in 1991, 1 member to serve term to expire as of the date of the Annual Town Meeting in 1992, 1 member to serve term to expire as of the date of the Annual Town Meeting in 1993, 1 member to serve term to expire as of the date of the Annual Town Meeting in 1994, and 1 member to serve term to expire as of the date of the Annual Town Meeting in 1995.
- B. Thereafter, all appointments to the Board shall be for terms of 5 years.
- C. Neither a municipal officer nor his or her spouse may be a member of the Board.
- D. Any member of the Board may be removed from the Board, for cause, by the municipal officers before expiration of his/her term, but only after notice and an opportunity for a hearing at which the member in question has an opportunity to refute specific charges against him/her. The term "for cause" shall include failure to attend 3 consecutive meetings or hearings without sufficient justification, or voting when the member has a "conflict of interest."
- E. When there is a permanent vacancy of a member, the Secretary shall immediately notify the Town Clerk. The municipal officers shall within 60 days appoint a person to serve for the unexpired term.

III. OFFICERS AND DUTIES:

- A. The officers of the Board shall consist of a Chairperson, Acting Chairperson and Secretary, who shall be elected annually by a majority of the Board.
- B. **CHAIRPERSON.** The Chairperson shall perform all duties required by law and these by-laws and preside at all meetings of the Board. The Chairperson shall rule on issues of evidence, order, and procedure, and shall take such other actions as are necessary for the efficient and orderly conduct of hearings, unless directed otherwise by a majority of the Board. The Chairperson shall appoint any committees found necessary to carry out the business of the Board.
- C. **ACTING CHAIRPERSON.** The Acting Chairperson shall serve in the absence of the Chairperson and shall have all the powers of the Chairperson during the Chairperson's absence, disability or disqualification.

- D. **SECRETARY.** The Secretary, subject to the direction of the Board and the Chairperson, shall keep minutes of all Board proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The Secretary shall also arrange proper and legal notice of hearings, attend to correspondence of the Board, and to other duties as are normally carried out by a secretary. The Secretary shall keep a record of all resolutions, transactions, correspondence, findings and determinations of the Board, and shall prepare a complete record of each hearing, including: date(s), time(s), place(s) of the hearing(s); subject of the hearing; identification of each participant; any agreements made between parties and the Board regarding procedures; the testimony presented; findings of fact and conclusions; the decision of the Board; and the date of issuance of the decision. All records are public and may be inspected at reasonable times.

IV. **CONFLICT OF INTEREST:**

Any question of whether a particular issue involves a "conflict of interest" sufficient to disqualify a member from voting thereon, shall be decided by a majority vote of the members, except the member whose potential conflict is under consideration.

The term "conflict of interest" shall be construed to mean direct or indirect pecuniary interest, which shall include pecuniary benefit to any member of the person's immediate family (grandfather, father, wife, son, grandson, e.g.) or to his employer or the employer of any member of the person's immediate family.

V. **POWERS AND LIMITATIONS:**

- A. The Board shall have the following powers to be exercised only upon receipt of a written appeal by an aggrieved party:
1. The Board may interpret the provisions of any applicable town ordinance which are called into question.
 2. The Board may approve the issuance of a special exception permit or conditional use permit in strict compliance with any applicable town ordinance.
 3. The Board may grant a variance only where strict application of any applicable town ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. The words "undue hardship" as used in this subsection 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 condition of the neighborhood;
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. The hardship is not a result of action taken by the applicant or prior owner.
 4. The Board shall have the power to hear and determine all appeals by any person directly or indirectly affected by any decision, action or failure to act with respect to any license, permit, variance or other required approval, or any application therefor, including, the grant, conditional grant, denial, suspension, or revocation of any such license, permit, variance or other approval (hereinafter a "Decision"):
 - a. Rendered by the Code Enforcement Officer or the Planning Board pursuant to the Shoreland Zoning Ordinance;

- .b. rendered by the Planning Board pursuant to the Subdivision Ordinance or the Maine subdivision statute;
- c. rendered by the Planning Board or the Code Enforcement Officer pursuant to the Floodplain Management Ordinance;
- d. rendered by the Licensed Plumbing Inspector, Code Enforcement Officer or Selectmen pursuant to the State Sanitary Codes;
- e. rendered by the Code Enforcement Officer, Road Commissioner or Planning Board pursuant to the Thorndike Land Use Ordinance;
- f. rendered by the Welfare Officer pursuant to the General Assistance Ordinance;
or
- g. rendered by the Road Commissioner or Planning Board pursuant to the Road Ordinance for the Town of Thorndike;

VI. MEETINGS:

- A. The regular meeting of the Board shall be held once every other month or more frequently as necessary.
- B. The annual organizational meeting of the Board shall be the first regular meeting of the year, in March or April.
- C. Special meetings of the Board may be called by the Chairperson. At least forty-eight (48) hours written notice of the time, place and business of the meeting shall be given each member of the Board, the Selectmen, the Planning Board and the Code Enforcement Officer.
- D. The Chairperson shall call a special meeting within ten (10) days of receipt of a written request from any three members of the Board, which request shall specify the matters to be considered at such special meeting.
- E. The order of business at regular meetings of the Board shall be as follows: (A) roll call; (B) reading and approval of the minutes of the preceding meeting; (C) action on held cases; (D) public hearing (when scheduled); (E) other business; (F) adjournment.
- F. All meetings of the Board shall be open to the public except executive sessions. No votes may be taken by the Board except in public meetings. The Board shall not hold executive sessions except for consultation between the Board and its legal counsel concerning litigation or other legal matters where premature general public knowledge would clearly place the town or Board at a substantial disadvantage.

VII. VOTING:

- A. A quorum shall consist of 3 members of the Board.
- B. No hearing or meeting of the Board shall be held, nor any action taken, in the absence of a quorum; however, those members present shall be entitled to request the Chairperson to call a special meeting for a subsequent date.
- C. Decisions on any matter before the Board shall require the affirmative vote of a majority of the entire membership of the Board unless otherwise specified herein.
- D. A tie vote or favorable vote by a lesser number than the required majority shall be considered a rejection of the application under consideration.

- E. If a member has a conflict of interest, said member shall not be counted by the Board in establishing the quorum for such matter.
- F. No member shall vote on the determination of any matter requiring public hearing unless he or she has attended the public hearing thereon; however, where such a member has familiarized himself with such matter by reading the record, he or she shall be qualified to vote.

VIII. APPEAL PROCEDURE:

- A. Any person aggrieved by an action which comes under the jurisdiction of the Board pursuant to Section V must file such application for appeal, in writing within thirty (30) days of the granting or denial of a permit. For a variance appeal the applicant shall submit:

- 1. A sketch drawn to scale showing lot lines, location of existing building and other physical features pertinent to the variance request.
- 2. A concise written statement stating what variance is requested.

The applicant shall file this appeal at the office of the Town Clerk, setting forth the ground for the appeal. Upon receiving the application for appeal, the Town Clerk shall notify the Chairperson of the Board.

- B. Upon being notified of an appeal, the Code Enforcement Officer, Selectmen or Planning Board shall transmit to the Board all the papers specifying the record of the decision appealed from. Each appeal shall be accompanied by a check made out in the amount of one-half of the application fee charged for the permit being appealed. Checks shall be made payable to the Town of Thorndike.

IX. HEARINGS:

- A. If deemed necessary by the Board or if requested by the applicant, the Board shall schedule a public hearing on all appeals applications within (30) thirty days of the filing of a completed appeal application.
- B. The Board shall cause notice of the date, time and place of such hearing, the location of the 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 the municipality, at least two times, the date of the first publication to be at least seven days prior to the hearing. At least 20 days prior to the date of the hearing, the Board shall also cause notice of the hearing to be mailed by registered or certified mail to the municipal officers, the Planning Board, the Code Enforcement Officer, and the owners of record of property within 200 feet of the effected property.
- C. The Board shall provide as a matter of policy for exclusion of irrelevant, immaterial or unduly repetitious evidence.
- D. The order of business at a public hearing shall be as follows:
 - 1. The Chairperson calls the hearing to order.
 - 2. The Chairperson determines whether there is a quorum.
 - 3. The Chairperson gives a statement of the case and reads all correspondence and reports received.
 - 4. The Board determines whether it has jurisdiction over the appeal.

5. The Board decides whether the applicant has the right to appear before the Board.
6. 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 owners of record of property within 200 feet of the effected property and those who might be adversely affected by the Board's decision. Parties may be required by the Board to consolidate or join their appearances in part or in whole if their interests or contentions are substantially similar and such consolidation would expedite the hearing. Municipal officers, the Planning Board, the Code Enforcement Officer shall automatically be made parties to the proceeding.

Other persons attending the hearing and federal, state, municipal, and other governmental agencies shall be permitted to make oral and written statements and to submit oral and written questions through the Chair.

7. The applicant is given the opportunity to present his or her case without interruption.
8. The Board and interested parties may ask questions of the appellant through the Chair.
9. The interested parties are given the opportunity to present their case. The Board may call its own witnesses, such as the Code Enforcement Officer.
10. The appellant 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 participants should be notified of the date, time and place of the continued hearing.
14. Written testimony may be accepted by the Board for seven days after the close of the hearing.

D. The Board may waive any of the above rules if good cause is shown.

X. DECISIONS:

- A. Decisions by the Board shall be made not later than thirty (30) days from the date of the final hearing.
- B. The final decision on any matter before the Board shall be made by written order signed by the Chairperson. The transcript of all testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record. All decisions shall become part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof.
- C. The Board, in reaching said decision, shall be guided by standards specified in the applicable state laws, local ordinances, policies specified in the Comprehensive Plan (if any) and by Findings of Fact by the Board in each case.

- D. In reviewing an application on any matter, the standards in any applicable local ordinance or statute shall take precedence over the standards of these rules whenever a conflict occurs. In all other instances, the more restrictive rule shall apply.
- E. The Board may reverse the decision, or failure to act, of the Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this ordinance or unsupported by substantial evidence in the record.
- F. Notice of any decision shall be sent by certified or registered mail or hand delivered to the applicant, his representative or agent, the Planning Board, the Code Enforcement Officer, and the municipal officers within seven (7) days of the decision.
- G. 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.
- H. Unless otherwise specified, any order or decision of the Board for a permitted use shall expire if a building or occupancy permit for the use is not obtained by the applicant within ninety (90) days from the date of the decision; however, the Board may extend this time an additional ninety (90) days.

XI. RECONSIDERATIONS:

- A. The Board may reconsider any decision. The Board must decide to reconsider any decision, notify all interested parties and make any change in its original decision within 30 days of its prior decision. A meeting to decide whether to reconsider shall be called by the Chairperson in accordance with Article VI of these by-laws. The Board may conduct additional hearings and receive additional testimony.
- B. Reconsideration should be for one of the following reasons:
 - 1. The record contains significant factual errors due to fraud or mistake, regarding facts upon which the decision was based; or
 - 2. The Board misinterpreted the ordinance, followed improper procedures, or acted beyond its jurisdiction.

XII. APPEAL TO SUPERIOR COURT:

The decision of the Board of Appeals may be taken, within thirty (30) days after the decision is rendered, by any party to Superior Court in accordance with the Maine Rules of Civil Procedure.

XIII. SEVERABILITY:

The invalidity of any section or provision of these Bylaws shall not be held to invalidate any other section or provision of these Bylaws.

TOWN OF THORNDIKE
CABLE TV FRANCHISING ORDINANCE

Be it ordained by the Town of Thorndike, acting by and through its Board of Selectmen, acting as its municipal officers, that the following Cable TV franchising ordinance be adopted.

Section 1. Short Title.

This ordinance shall be known and may be cited as the "Town of Thorndike Cable TV Franchising Ordinance."

Section 2. The Cable TV System Franchise.

A. Franchise required: No person, firm, company, corporation or association shall construct, install, maintain or operate within any public street in the Town, or within any other public property of the Town, or within any privately owned area within the corporate limits of the Town, any equipment or facilities for the distribution of television signals, or radio signals or other intelligences either analog or digital over a broadband telecommunications network to any subscriber unless a franchise authorizing the use of the streets or properties or areas has first been obtained pursuant to the provisions of this ordinance, and unless such franchise agreement is in full force and effect.

B. Review of qualifications: Specific permission to operate a Cable TV system under the provisions of this ordinance may be granted by the Board of Selectmen to any applicant (the "grantee") after satisfactory review of its legal, character, financial and technical qualifications and the adequacy and feasibility of the grantee's construction arrangements, all demonstrated by the grantee to be adequate to protect the general public health, safety and welfare, and has approved the grantee's qualifications as a part of a public proceeding affording due process.

C. Duration of franchise: Upon filing by the grantee of a proper acceptance, and such other bond and insurance as the Board of Selectmen may reasonably require, the franchise shall take effect as provided herein and shall continue in full force and effect for a maximum term of ten (10) years.

Section 3. Applications for a Franchise or Renewal.

Applications for a franchise or renewal shall be filed with the Town Clerk for referral to the Board of Selectmen for action. Any such application for a franchise or a franchise renewal shall contain the following information:

- I. Filing fee of \$25.
2. Name and address of the applicant.

3. Description of proposed operation including, but not limited to, hours of operations, operating staff, maintenance procedures, its proposed rules of operation for public access, and its method of handling and resolution of consumer complaints.

4. Subject to any applicable federal law, a statement of all communication and data services to be provided, including bundled packages.

5. A statement setting forth a description of any special services to be made available to the public, including municipal and education channels.

6. A statement detailing the corporation organization of the applicant, identifying the number of stockholders of the company, any intra-company relationships with parent or subsidiary companies and a statement setting forth in writing any and all understandings between the applicant and any other person, firm or organization.

7. A written statement detailing the type of network proposed by the applicant including, but not limited to, network configuration, network capacity, two-way capability and proposed dates of commencement of construction and operation of said network.

Section 4. Procedural Requirements.

Before the Town solicits Cable TV franchise proposals or entertains applications for renewals, the following procedures shall be required:

A. The Board of Selectmen shall provide public notice and hold a public hearing to determine special local needs or interests in Cable TV programming and services and shall provide for a period of public comment on the same;

B. Any and all franchise applications and renewal applications, and related documents, shall be public records and the Board of Selectmen shall provide reasonable notice to the public that such records are available and open to inspection at the Town offices during normal business hours;

C. Prior to granting any franchise or franchise renewal, the Board of Selectmen shall provide for a public hearing on the same; and

D. The Board of Selectmen shall assess such fees as are reasonably necessary to defray the costs of public notice, advertising and other expenses incurred by the Town in acting upon franchise applications.

Section 5. Financial Reports.

The holder of any Cable TV franchise shall file annually with the Town not later than three (3) months after the end of its fiscal year two copies of its report to stockholders and an income statement identifying expenses and income applicable to its operations and the franchise fee required by its franchise agreement.

Section 6. Performance Bond.

The cable operator shall maintain during the term of the franchise agreement a faithful performance bond running in favor of the Town with a corporate surety licensed to do business in the State of Maine conditioned upon the faithful performance of the cable company and providing for recovery jointly and severally from the principal and surety of the bond any damages suffered by the Town as a result of any cost incurred by the Town for the removal or abandonment of any property of the cable TV company plus a reasonable allowance for attorney's fees and costs in prosecuting the same. The amount of the bond shall not be less than twenty-five thousand dollars (\$25,000), and written evidence of the same shall be filed with the Town.

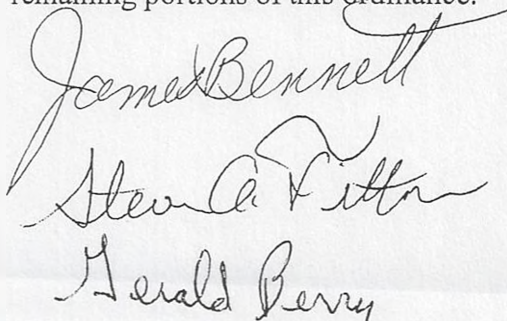
Section 7. Most Favored Nation Clause. If the company should install "better" or faster services or infrastructure in neighboring towns, then the company will provide the same to Thorndike.

Section 8. Compliance with Law.

The cable operator shall at all times comply with all applicable federal, State and local laws, ordinances and regulations.

Section 9. Separability.

If any section, clause or phrase of this ordinance is for any reason held invalid by any court of competent jurisdiction or by any federal or State regulatory agency, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.


James Bennett
Steven A. Pitter
Gerald Berry

Thorndike Cell Tower Ordinance
(Enacted 3/19/16)

1. Purpose

The purpose of this ordinance is to establish a municipal review procedure and siting standards for Personal Wireless Telecommunications Facilities, typically characterized as “cell towers”. The standards herein are designed and intended to balance the interests of the residents of Thorndike, wireless communications providers and wireless communication customers in the siting of wireless communications facilities within the town. These standards are also intended to:

- a. Establish clear guidelines, standards and time frames for the town to regulate wireless communications facilities;
- b. Permit the Town to fairly and responsibly protect public health, safety and welfare;
- c. Encourage the carriers of PWSF to co-locate, thus minimizing adverse visual impacts on the community;
- d. Minimize any potential adverse effect of PWSF on property values;
- e. Provide for the removal of towers and associated structures that are no longer being used for wireless communications purposes; and
- f. Support the goals and policies of the Comprehensive Plan, including orderly development, efficient use of infrastructure, and protection of natural and scenic resources.

2. Authority

This ordinance is enacted pursuant to the enabling provisions of Article VIII, Part 2, §1 of the Maine Constitution, the provisions of Title 30-A MRSA, §3001 (*Home Rule*), and the provisions of Title 30-A §4311 et seq. (*Comprehensive Planning and Land Use Regulation, or “Growth Management” Act*). This ordinance is founded upon and pursuant to the *Town of Thorndike Comprehensive Plan*, adopted on December 6, 1991. It is designed to comply with the Telecommunications Act of 1996 and rules of the Federal Communications Commission.

3. Applicability

No personal wireless communications facility shall be located within the Town of Thorndike without a Wireless Communications Facility Permit issued by the Planning Board. Applicants seeking approval for siting of new personal wireless service facilities shall first evaluate the suitability of existing structures or approved sites. Only after finding that there are no suitable existing structures or approved sites for co-location, shall a provider propose a new ground mounted facility. Personal wireless service facilities that may be suitable for co-location include but are not limited to buildings, water towers, flag poles, telecommunication facilities, utility poles or existing personal wireless service facilities and related facilities.

The following are exempt from the provisions of this Ordinance:

- a. Amateur (Ham) radio stations licensed by the FCC.
- b. Parabolic antennas of 10 feet or less in diameter that are an accessory use of the property.
- c. Maintaining or repair of a personal wireless service facility and existing equipment, provided that there is no change in the height or other dimensions of the facility.
- d. Temporary personal wireless service facility in operation for a maximum period of 30 (thirty) days.
- e. Residential antennas that are an accessory to a residential dwelling unit, such as a television or radio antenna.

4. Definitions

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

“**Accessory Structure**” is a structure which is incidental and subordinate to the principal use or structure.

“**Accessory Use**” is a use which is incidental and subordinate to the principal use. Accessory uses, when aggregated, shall not subordinate the principal use of the lot.

“Alternative Tower Structure” is defined as clock towers, church steeple, light poles, water towers and similar alternative-design mounting structures that camouflage or conceal the presence of towers.

“Antenna” is the surface from which electromagnetic frequency signals are sent or received by the personal wireless service facility.

“Camouflaged” means personal wireless service facilities are disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure.

“Co-location” means the use of a single mount on the ground by more than one carrier and/or several mounts on an existing building or structure by more than one carrier.

“Equipment Shelter” is an enclosed structure, shed or box at or near the base of the mount within which are housed equipment for personal wireless service facilities, such as batteries and electrical equipment. Equipment shelters sometimes are referred to as base receiver stations.

“FAA” means the Federal Aviation Administration, or its lawful successor.

“Fall Zone” means the area on the ground from the base of a structure mounted Personal Wireless Communications Facility that forms a circle with a diameter equal to the height of the facility (inclusive of any antennae or other protuberances) plus any additional area that might be impacted in each direction the facility might fall (e.g. accounting for the impact of mounting braces in the fall trajectory).

“FCC” means the Federal Communications Commission, or its lawful successor.

“Guyed Tower” is a tower that is tied to the ground or other surface by diagonal cables for lateral support.

“Height” means, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

“Lattice Tower” means a type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

“Licensed Carrier” is a company authorized by the FCC to construct and operate a commercial mobile radio services system.

“Mast” is a pole that resembles a street light standard or telephone pole.

“Monopole” is a type of mount, normally thicker than a mast that is self supporting with a single shaft of concrete, steel or wood, which is designed for the placement of antennas or arrays along the shaft.

“Mount” is the structure or surface upon which antennas are mounted. Antennas may be mounted on the roof of a building (roof-mounted), on the side of a building (side-mounted), mounted on the ground (ground-mounted), or mounted on a structure other than a building (structure-mounted).

“Parabolic Antenna” means an antenna which is bowl-shaped, designed for the reception and/or transmission of electromagnetic radiation signals in a specific directional pattern.

“Personal Wireless Service Facility” or **“Wireless Service Facility”** or **“Facility”** or **“Cell Tower”** means any structure, antenna, tower or other device which provides personal wireless services.

“Personal Wireless Services” includes any personal wireless service defined in the Federal Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services, including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and unlicensed wireless services, and common carrier wireless exchange access services.

“Propagation Studies” are computer generated estimates prepared by a professional radio frequency engineer of the signal emanating, and prediction of coverage, from antennas or repeaters sited on a specific personal wireless service facility or structure.

“Site” means the lot, tract or parcel upon which the personal wireless service facility is located.

“Structure” means 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.

“Tower” means any structure, whether free standing or in association with a building or other permanent structure, primarily for the purposes of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers.

5. Administration and Enforcement

This Ordinance will be administered through the provisions of the Thorndike Site Plan Review Ordinance, specifically Articles V (Administration), VI (Application Procedure), VII (Standards for Approval) and VIII (Enforcement), which are hereby incorporated by reference. Specific application requirements and standards of review pertinent to Personal Wireless Communications Facilities within this Ordinance shall be added to the Application Requirements and Standards of Approval within the Site Plan Review Ordinance. In case of a conflict, the stricter provision shall apply.

6. Specific Application Requirements

In addition to the requirements listed in Section 6.4 D) of the Site Plan Review Ordinance, an application for a personal wireless service facility permit must also include the following, at the cost of the applicant:

- a. A site plan prepared and reviewed by a professional engineer registered to practice in Maine indicating the location, type, and height of the proposed facility and any accessory structure, loading/antenna capacity, on-site and abutting off-site land uses, means of access, and setbacks from property lines. The site plan must include certification by a professional engineer registered in Maine that the design and construction of the proposed facility meets accepted industry standards and satisfies all federal, state, and local building code requirements. The Board may also require an independent review of the site plan by a professional engineer or independent consultant at the applicant’s expense.
- b. A United States Geological Survey 7.5 minute topographical map showing the current location of all structures and personal wireless service facilities above 100 feet in height from ground level, except antennas located on roof tops, within a 5 mile radius of the proposed facility.
- c. Documentation of the applicant's search for appropriate sites for the location of a personal wireless communications facility and the rationale for selecting the site under consideration.
- d. Verification of contact with all other owners of facilities for commercial mobile radio or wireless transmission operating within a 5 mile radius, inquiring as to the feasibility of co-locating the proposed personal wireless service facility on a pre-existing tower or structure.
- e. Proof of the need for a new structure and that co-location on an existing structure is not available. In addition, the applicant shall present proof that there is a contracted first tenant. Propagation studies for the proposed location as well as for any existing or approved personal wireless service facility within a 5-mile radius of the proposed site.
- f. Photo simulations of the proposed facility taken from perspectives determined by the Planning Board. Each photo should be labeled with line of sight, elevation, and the date taken. Photos must demonstrate the color of the proposed facility and method of screening.
- g. Elevation drawings of the proposed facility, showing height above ground level.

- h. 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 access road design and the color of the structure.
- i. A decommissioning and removal plan, outlining the circumstances triggering plan implementation, clear assignment of responsible parties (to be transferred to any future owners), a specific methodology including site reclamation and estimate of costs in future dollars prepared by a Professional Engineer, and means of guaranteeing the finances to carry it out. The Town of Thorndike shall be given access to the means of guarantee and permission to carry out the plan should the owner default on its responsibilities.
- j. A balloon test, illustrating the proposed height and location of a personal wireless service facility, may be required at applicant expense. The Planning Board will ensure that adequate public notice is provided for such a test and determine what photos will be taken.

7. Standards for Approval

Location/Co-location

- a. The applicant shall have the burden of proving that there are no co-location opportunities that are suitable to locate its personal wireless service facility.
- b. The applicant and owner shall allow other future wireless service carriers, using functionally equivalent personal wireless technology, to co-locate antennas, equipment and facilities on the personal wireless service facility they are proposing, unless satisfactory evidence is presented and the Planning Board concurs that technical constraints prohibit co-location.
- c. The applicant and owner shall prepare a standing lease agreement to be made available to public agencies upon request for the placement and servicing of emergency communications equipment at any time during the life of the facility. Such lease agreement shall provide for tower space, power, ground level equipment housing and access rights at no more than marginal cost to the owner. Provisions will clarify responsibilities and liabilities of both parties at terms found acceptable to the Planning Board as advised by officials including but not limited to the Waldo County Emergency Management Director. Excessive or otherwise unreasonable requirements shall be grounds for denying the permit application. If the owner proposes changes to the lease agreement during the life of the facility, the amended agreement must be approved by the Planning Board prior to its execution.

Structural/Dimensional/Setback Requirements

- d. The site plan design and construction, following any revisions required by the Planning Board based upon findings of an independent consultant or other evidence gathered during the review period, meets accepted industry standards and satisfies all federal and state building requirements.
- e. The height of the proposed personal wireless service facility shall be the minimum to meet the need demonstrated by the applicant.
- f. All personal wireless service facilities, guys and accessory facilities shall be setback from any residences or property lines by a minimum of the fall zone plus 25 feet. This standard may be waived if a suitable fall easement is secured on neighboring property or if deemed unnecessary and inappropriate by the Planning Board based on the evidence presented.

Aesthetic Standards

- g. At the site, the design of the facility and accessory structures shall use materials, colors, textures, screening and landscaping that will blend the personal wireless service facility to the natural setting as much as possible. The required security fence shall also use materials that blend in to the natural setting as much as possible. The Planning Board will determine if the style of fencing and/or landscape buffer is compatible with the surrounding area.
- h. When a personal wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility from public ways.

Lighting/Signage/Safety/Security

- i. Personal wireless service facilities shall not be artificially lit, except as required by the Federal Aviation Administration or Federal Communications Commission. Strobe or intermittent lighting shall be avoided unless specifically required. Manually operated emergency lights for use when operating personnel are on site are allowed.
- j. No advertising signs or signage is permitted on personal wireless service facilities, except for signs that are needed to identify the property and the owner and to warn of potential hazards. A clearly visible sign with emergency contact information should be provided on site.
- k. No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials and the owner or operator of the personal wireless services facility shall comply with all local, state and federal laws, codes, rules regulations, orders and ordinances in the handling and disposal of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred and ten (110) percent of the volume of the hazardous materials stored or used on site. In the event of leakage, the owner is responsible for all costs related to cleanup of the site and affected surrounding areas.
- l. A security fence or wall of not less than eight (8) feet in height from the finished grade shall be provided around the tower. Access to the tower shall be through a locked gate.

Access Requirements

- m. Access to the personal wireless service facility shall be limited to a single road or driveway, which must be designed to harmonize with the topographic and natural features of the site by minimizing filling, grading, excavation, or similar activities which result in unstable soil conditions and soil erosion. The accessway must follow the natural contour of the land and should not involve excessive grading or tree removal. Curvilinear design shall be used to prevent direct line of site from the town road access point to the tower site. Existing vegetation should be maintained to the extent practical. All practical steps must be taken to prevent a visible scar up or across a ridgeline. The entrance must satisfy the requirements of the Thorndike Land Use Ordinance. However, emergency vehicle access is not a priority concern for facility protection compared with erosion and visual scarring of the landscape.

Maintenance and Monitoring

- n. The owner and/or operator of the personal wireless service facility shall maintain the structure in good condition. Such maintenance shall include, but is not limited to: painting, structural integrity of the mount and security barrier, any buffer areas, fencing and landscaping.
- o. On an annual basis, the personal wireless service facility owner shall provide the Town with evidence of compliance with federally mandated safety levels for radio frequency electromagnetic fields and radio frequency radiation exposure levels, to include copies of any reports filed with the FCC. If there is any

foreseeable change in operations, a description of such change or anticipated initiation of the decommissioning plan shall be included with this report or as soon as practicable.

- p. The personal wireless service facility owner shall arrange for a licensed structural engineer to conduct regular inspections of the personal wireless service facility's structural integrity and safety at least every five years. A report of the inspection results shall be submitted to the Town Clerk, who will document receipt and forward to the Code Enforcement Officer. The CEO will review the report and share its findings with the Planning Board. If any deficiencies are cited, the CEO will follow up with the owner to confirm that they are promptly addressed.

Decommissioning and Removal Provisions

- q. The Decommissioning and Removal Plan must satisfy the Planning Board that the facility shall be safely removed and the site restored after its useful life is completed and at no time will present an abandoned eyesore or potential hazard to abutting property owners or the public at large. Unless the Plan is approved with alternate arrangements, the following provisions shall apply.
- r. There shall be a rebuttable presumption that a personal wireless service facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The Town shall notify the owner of an abandoned facility in writing, certified mail, return receipt requested, ordering the removal of the facility within 180 days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the Town that the facility has not been abandoned.
- s. If the owner fails to show that the facility is not abandoned, the owner shall have one hundred fifty (150) days to remove the facility. If the facility is not removed within that time period, the Town shall remove the facility at the owner's expense and the Town may draw upon the financial guarantee to defray the costs of removal of the facility. Removal shall include, but not be limited to, antennas, mounts, equipment shelters and security barriers. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of any vegetation.

8. Miscellaneous Provisions

- a. This ordinance shall become effective upon passage.
- b. This ordinance may be amended at any properly noticed and legally called Town Meeting. The Town Clerk is authorized to renumber sections as needed following any amendment.
- c. Should any portion of this ordinance be declared invalid by a Court of Law, the remainder of the ordinance remains legally in effect.

Thorndike Cemetery Ordinance

(Enacted 3/19/16)

Section I. Purpose

The purpose of this Ordinance is to; (1) establish rules and standards for the use of Thorndike's public cemeteries and (2) authorize and clarify the roles of Town officials in managing its cemeteries.

Section II. Administration

1. The ultimate responsibility for the care of public cemeteries and lots therein shall be under the supervision of the Board of Selectmen, which is authorized to engage personnel and provide, by purchase or contract, necessary equipment and supplies to accomplish this purpose. The Board of Selectmen, following consultation with the Cemetery Committee on what services might be volunteered, will clarify the scope of maintenance work to be carried out by hired personnel and lay those expectations out clearly in a contract for services. The Board of Selectmen, relying on information provided by the sexton, town clerk and Cemetery Committee, are ultimately responsible to keep cemetery maps and ownership records as complete and accurate as possible.
2. The position of sexton is hereby created. A sexton will be appointed annually by the Board of Selectmen to manage burials and interpret lot boundaries for current and prospective lot owners. The sexton will instruct all grave diggers, both professional and authorized lay persons of the deceased, on access routes, location and standards for digging and repairing grave sites. The sexton will be the official with whom funeral parlors, vault companies and authorized persons of the deceased make all burial arrangements. The sexton will also be familiar with rules related to private burial grounds and advise townspeople upon request of their options and the procedure involved. Any compensation for the sexton will be voted upon annually at town meeting. The sexton may also be a member of the Cemetery Committee; they are not to be considered incompatible positions.
3. A Cemetery Committee shall be elected or appointed as determined by town meeting vote. The Committee will tour each of the public cemeteries no less than three times/year to identify maintenance and improvement needs, remove outdated decorations and troubleshoot emerging issues. The Committee will prioritize needs and solicit the input of the sexton before presenting its findings to the Board of Selectmen no less than annually. Recommendations for the ensuing year will be made to the Board no later than December 1st of each year and shared in the Town Annual Report. The Committee shall be familiar with State and Federal requirements, including those pertaining to Veterans, and advise the Selectmen on compliance. The Committee will arrange for flags to be placed on Veterans graves as required by law.
4. It shall be the duty of the Town Clerk to keep a record of all lots selected and assigned and all transfer of lots in all cemeteries. Plans of all the cemeteries shall be accessible to any person desiring information relating thereto, and the Town Clerk shall enter upon said plans all lots selected and the names of the holders thereof. The Town Clerk will make every effort to maintain current contact information for the owners of cemetery lots, requesting updated information at any time a burial or other activity is conducted. Finally the Town Clerk will keep all records of burials, recording information on burial locations as provided by the sexton. When only part of a lot is utilized for inurnment, the location will be noted by description or drawing.

Section III. Ownership and Title of Lots

1. The term "lot owner" or "ownership" shall be construed to mean the rights to use a lot or part of a lot, as purchased from the Town, for burial purposes under the rules and regulations as prescribed by the Town and the State of Maine.
2. Any individual wishing to purchase a cemetery lot shall apply to the Town and then select from those lots available, the lot he/she desires to purchase. Only after full payment for the lot, including perpetual care charges, will a deed be issued and recorded in Town records.
3. A receipt indicating full payment from the Town Treasurer will serve as the right of burial.
4. The Title to a cemetery lot entitles the owner the right to use such lot for burial purposes only, for themselves, their heirs or for any person they choose without compensation and in accordance with the Cemetery rules and regulations.

Section IV. Lot Embellishments and Decorations

1. Hedges, fencing, walls, curbing, railings or similar structures or enclosures shall not be erected around gravesites following adoption of this ordinance. Existing structures or enclosures may be maintained but not expanded.
2. No trees may be planted in Thorndike cemeteries by other than Town personnel.
3. All head stones and monuments shall have a concrete or equivalent foundation. All markers shall be flush with the surface of the ground and do not require a foundation.
4. A lot owner desiring to construct a mausoleum, statue/memorial other than a headstone or install lighting of any kind must submit the design to the Board of Selectmen for approval prior to construction/installation. Approval will be granted if deemed to be compatible with the nature of the cemetery and not detract from the value of nearby lots.
5. Permission to plant shrubs (not to exceed 48 inches in breath or height) on lots shall in all cases be obtained from the sexton, who will record the name and contact information of the person responsible for maintenance. The applicant will be provided with a written copy of these rules, making it clear that they are responsible for maintenance, with the Town reserving the right to prune or remove any tree, shrub or vine, or any part thereof, which may become unsightly or dangerous.
6. Flower urns will be allowed. If there is one urn, it shall be placed in front of the monument. If there are two urns, one will be placed on each side of the monument. The same rules apply to evergreen shrubs (one on either side or one in front.) Shrubs shall be maintained by the family. If not maintained properly, the Town is authorized to remove the shrub.
7. Plants, flowers, shrubs or any memorial container will be placed at the owner's risk. The Town assumes no responsibility for any of the above.
8. The Cemetery Committee shall see that flags are placed on Veterans graves in accordance with the requirements of State law. The family may also place flags.
9. All summer decorations shall be removed prior to October 15th. All winter decorations shall be removed prior to May 1st. The Cemetery Committee will remove these items when making their rounds.
10. No glass containers or crushed stone shall be used at any time.

Section V. Opening and Closing of Graves

1. No interment or disinterment shall take place on any lot in Thorndike cemeteries until such intentions are made known to and approved by the sexton.
2. Upon receipt of a request for interment or disinterment, the authorized family member or funeral home representative will meet with the sexton on the gravesite and receive instructions on where and how the grave may be dug, including instructions for dealing with excess material, packing, grading and reseeding. The sexton will approve scheduled burials such that no more than one will be taking place at the same time to allow for privacy.
3. Following an interment or disinterment, excavators shall be responsible for restoring and leveling the gravesite. No sites shall be mounded. Excavators shall remove all excess material from the site and repair damage to any other plots. Excess material shall be used to level between lots as appropriate. Disturbed areas shall be re-sodded and/or seeded as needed. No mounds shall be raised upon any grave above the general level of the lot.
4. The Town reserves the right at any time to remove unsightly mounds and to re-sod the grave at the general level of the lot. Any grave digger leaving a gravesite improperly restored will be billed for the costs of restoration. Repeated problems will be grounds for grave digging privileges to be revoked. This decision will be made by the Board of Selectmen upon recommendation of the sexton and Cemetery Committee and communicated in writing to the grave digger.
5. Owners or their heirs desiring graves opened shall secure the necessary disinterment permit from the Town Clerk as required by law and make arrangements with the sexton. All removals will be made under the supervision of a licensed funeral director. All costs will be assumed by the requestor.
6. All caskets shall be enclosed in a permanent outside container to prevent the earth from caving in. The following are considered permanent outside containers; concrete liner, concrete, copper or steel burial vaults and sectional concrete.

Section VI. Care of Cemetery and Cemetery Lots

1. All cemetery lots in the Thorndike cemeteries will be provided with perpetual care, which guarantees mowing, removal of debris, road upkeep and righting of fallen headstones. Cleaning of gravestones and maintenance of lot embellishments are the responsibility of the lot owner.
2. As soon as flowers, wreaths, emblems, etc., become unsightly and faded, they will be removed by the Town or its designee.
3. If any tree, shrub, hedge or plant situated on any lot by means of its roots, branches or otherwise becomes unsightly or obnoxious to adjacent lot owners, or detrimental or inconvenient to avenues or paths, the Town will contact the person of record and request that they repair or remove the nuisance within a reasonable period of time. If the Town needs to repair or removes the nuisance, it may bill the responsible party to recover the costs.
4. As required by State law, excavations may not be made within 25 feet of the boundary of a cemetery or known burial space without a special excavation permit issued by the Board of Selectmen or a court order.

Section VII. Potential Liability of Town

1. The Town is not liable in any action for:
 - a. a burial, entombment or inurnment in the wrong lot, grave, grave space, burial space, crypt, crypt space or niche;
 - b. a disinterment, disentombment or disurnment of the wrong deceased remains;
 - c. a repositioning of the remains of a deceased that encroach upon an adjacent lot, space, grave, grave space, or burial space;
 - d. setting or installing a marker, monument, or any type of memorial, or an outer burial container on the wrong lot, space, grave, grave space or burial space; or
 - e. installing any kind of foundation or other type of base for a marker, monument or any type of memorial on the wrong lot or burial space.
2. When a wrongful burial, entombment inurnment, disinterment, disentombment, or disinurnment occurs, the Town shall:
 - a. correct the wrongful burial, entombment, inurnment, disinterment, disentombment or disurnment as soon as practical after becoming aware of the error at its own cost; and
 - b. notify the affected lot owners or family members of the occurrence and corrective action taken with a sincere apology.

Section VIII. Finances

1. The Board of Selectmen, with advice of the Sexton, Town Clerk and Cemetery Committee, shall annually establish and publish a schedule of fees for lots, which shall include perpetual care. The Board may also establish a fee for burials and disinterments.
2. Revenue from the sale of lots plus fees collected shall be deposited into a designated cemetery maintenance account, whose balance will carry forward each year. Monies in this account may only be used for cemetery purposes.
3. As required by State law, at least 30% of the proceeds from the sale of lots will be deposited into a Perpetual Care account and invested by the Town Treasurer and Board of Selectmen. Each year interest earned on this account may be transferred to the cemetery maintenance account and expended. Principal may not be spent.
4. In addition to revenue from the sale of lots, the Town shall appropriate funds each year for purposes of cemetery maintenance and improvements, and may elect to establish a capital improvement fund dedicated to cemetery improvements.

Section IX. Miscellaneous Provisions

1. This ordinance shall become effective upon passage.
2. This ordinance may be amended at any properly noticed and legally called Town Meeting. The Town Clerk is authorized to renumber sections as needed following any amendment.
3. Should any portion of this ordinance be declared invalid by a Court of Law, the remainder of the ordinance remains legally in effect.

Civil Emergency Preparedness Ordinance of the Town of Thorndike

1. **Short Title:** This Ordinance shall be known and may be cited and referred to as the "Civil Emergency Preparedness Ordinance of the Town of Thorndike". Authorized under Title 37-B M.R.S.A., Section 782.
2. **Definition:** Emergency Management Director (EMD) shall mean the appointed town official responsible for disaster preparedness, coordination of municipal disaster response and liaison with the Waldo County Emergency Management Agency.
3. **Establishment:** The Thorndike Emergency Management Office (EMO) and the position of Emergency Management Director for the town of Thorndike is hereby created. The Selectmen may appoint additional EMO staff members, as needed.
4. **Appointment, Term and Removal:** The Selectmen shall appoint the EMD. This appointment shall be annual and made by June 1st of each year. The Selectmen may remove the EMD for cause.
5. **Oath of the Emergency Management Director:** Once the EMD has been appointed, the EMD shall take an oath of office before assuming any duties, pursuant to Title 30-A M.R.S.A., Section 2526.
6. **Duties of the Emergency Management Director:** The EMD shall:
 - A. Prepare and maintain the Thorndike Emergency Plan and Hazardous Material Plan.
 - B. Coordinate municipal disaster planning and preparedness.
 - C. Organize and operate the Thorndike Emergency Operations Center (EOC).
 - D. Coordinate activities with the Waldo Emergency Management Agency (WOEMA) for Emergency Broadcast System access.
 - E. Establish a 24-hour community warning and fanout system.
 - F. Prepare and maintain written disaster Mutual Aid Agreements with neighboring communities with the approval of the Selectmen.
 - G. Provide training in EOC operations to town officials, planners, and responders.
 - H. Coordinate with WOEMA for town involvement in WOEMA exercises.
 - I. Attend County Local Emergency Planning Committee (LEPC) meetings.
 - J. Provide Disaster Preparedness training to town residents.
 - K. Develop and distribute Disaster Preparedness information to town residents.
 - L. Complete and report Damage Assessments to WOEMA.
 - M. Complete and submit applications for FEMA/MEMA disaster relief funds.
7. **Membership of the Emergency Operations Center:** When directed by any one of the Selectmen or by the EMD, the EOC will be established and manned. At the discretion of the Selectmen or EMD, the following town officials may be included on the EOC staff:
 - A. Selectmen
 - B. Emergency Management Director
 - C. Town Clerk and Treasurer
 - D. Code Enforcement Officer
 - E. Town Constable
 - F. Fire Chief or Deputy
 - G. Fire Warden
 - H. Road Commissioner
 - I. Animal Control Officer
7. **Compensation:** The EMD shall be compensated for duties rendered by an annual stipend as appropriated at town meeting.
8. **Training:** The EMD may take necessary training as provided by WOEMA, MEMA, and FEMA.

Code Enforcement Officer Ordinance

(Enacted 3/17/90; amended 3/15/97 and 3/19/16)

1. **Definition:** The term "Code Enforcement Officer" (CEO) shall mean the local official responsible for the inspection and enforcement duties required by the ordinances of the town of Thorndike. Unless otherwise provided for in those ordinances, the CEO shall also be responsible for issuing permits required by those ordinances.
2. **Establishment:** The position of Code Enforcement Officer for the town of Thorndike is hereby created.
3. **Appointment:** The appointment of the CEO shall be the responsibility of the Selectmen. The appointment shall be annual and made by June 1st of each year. The Selectmen, at their discretion, may also appoint a Deputy Code Enforcement Officer to be available at any time the Code Enforcement Officer is not.
4. **Oath of the Code Enforcement Officer:** Once the CEO has been appointed, the CEO shall take an oath of office before assuming any duties, pursuant to Title 30-A M.R.S.A., Section 2526.
5. **Duties of the Code Enforcement Officer:** In addition to the inspection, enforcement and permitting duties proscribed by Town ordinance, the CEO shall:
 - A. Respond to citizen and agency inquiries regarding Town ordinances.
 - B. Serve as the Town's Addressing Officer as outlined in the *Thorndike Addressing Ordinance*, if so delegated by the Selectmen.
 - C. Act on behalf of the Selectmen pursuant to Title 30-A, Section 3428, correcting malfunctioning wastewater disposal systems,
 - D. Accept other duties pursuant to Title 30-A, Section 4452, or as appointed by the selectmen,
 - E. Assist State and Federal agencies where possible by informing applicants for local permits of the need to obtain state or federal permits where the CEO is aware of such state or federal requirements. The CEO shall also report violations of state and federal law to the appropriate agency where the CEO knows such a violation exists.
6. **Enforcement Procedures:** The CEO shall use the following enforcement procedures, unless the ordinance being enforced establishes a different set of procedures:
 - A. Detect the violation of the local ordinance.
 - B. Give oral notice of the violation to the violator, requesting compliance.
 - C. Post a "stop work" order where oral notice is not possible.
 - D. Send the first written notice to the violator urging voluntary compliance by acquiring a permit, removing the violation, paying a fine, or similar appropriate corrective action, unless a specific type of compliance is required by the ordinance being enforced, limiting the CEO's discretion.
 - E. Inspect the property.
 - F. Send a second written notice if there is no compliance.
 - G. Inspect the property.
 - H. Send a third written notice, if there is no compliance indicating that the case is being referred to the Selectmen for possible legal action.
 - I. With the authorization of the Selectmen, contact the District Attorney or a private attorney about prosecuting the case.

NOTE: The written notices described in sections 6D, 6F, and 6H should be sent both to the person conducting the illegal activity and to the property owner, where the two are not the same person.

7. **Compensation:** Time spent on informational, addressing and enforcement duties shall be

compensated by an annual stipend as appropriated at town meeting. For permitting duties, the CEO shall receive as payment a portion of the fees collected, as determined by the Selectmen.

Administrative costs and out-of-pocket expenses incurred by the CEO (postage, mileage, phone, legal expenses, training expenses, manuals or other costs) shall be paid and/or reimbursed from the balance of fee revenue collected. The Selectmen, at their discretion, may also pay the CEO for extensive time and/or out-of-pocket costs incurred in the prosecution of a violation from fines and/or court-ordered fees collected as a result of prosecuting that violation.

8. **Training:** The CEO will take the necessary training as mandated and offered by the State.
9. **Amendments:** At any time this ordinance is amended, the Town Clerk, upon advice from the Planning Board, is authorized to insert and/or delete amended language, insert and/or delete clearly inconsistent references caused by such amendments, renumber sections of the amended ordinance in a logical and appropriate fashion, and correct typographical errors, provided such changes do not result in any substantive alteration of the meaning of the ordinance and further the clear intent of such amendment.

**Emergency Management Ordinance of the Town of Thorndike
(Enacted March 20, 1999; Revised March 16, 2005)**

1. **Short Title:** This Ordinance shall be known and may be cited and referred to as the "Emergency Management Ordinance of the Town of Thorndike". Authorized under Title 37-B M.R.S.A., Section 782.
2. **Definition:** Emergency Management Director (EMD) shall mean the appointed town official responsible for performing the four phases of Emergency Management (preparedness, response, recovery and mitigation) and for liaison with the Waldo County Emergency Management Agency.
3. **Establishment:** The Thorndike Office of Emergency Management (OEM) and the position of Emergency Management Director for the town of Thorndike is hereby created. The Selectmen may appoint additional OEM staff members, as needed.
4. **Appointment, Term and Removal:** The Selectmen shall appoint the EMD. This appointment shall be annual and made by June 1st of each year. The Selectmen may remove the EMD for cause.
5. **Oath of the Emergency Management Director:** Once the EMD has been appointed, the EMD shall take an oath of office before assuming any duties, pursuant to Title 30-A M.R.S.A., Section 2526.
6. **Duties of the Emergency Management Director:** The EMD shall:
 - A. Prepare and update a Hazard Risk and Vulnerability Assessment.
 - B. Prepare and maintain the Thorndike Emergency Operations Plan.
 - C. Organize, activate and operate the Thorndike Emergency Operations Center (EOC).
 - D. Prepare and maintain a list of disaster resources.
 - E. Develop procedures for the operation of the Thorndike EOC.
 - F. Coordinate and maintain written disaster Mutual Aid Agreements with the approval of the Selectmen.
 - G. Provide Emergency Management training to town officials, planners, and responders.
 - H. Develop and implement a Disaster Exercise program.
 - I. Attend County Local Emergency Managers meetings.
 - J. Provide Disaster Preparedness information to town residents.
 - K. Complete and report Damage Assessments to WOEMA.
 - L. Complete and submit applications for FEMA disaster funds and grants.
7. **Membership of the Emergency Operations Center:** When directed by any one of the Selectmen or by the EMD, the EOC will be established and manned. At the discretion of the Selectmen or EMD, the following town officials may be included on the EOC staff:
 - A. Selectmen
 - B. Emergency Management Director
 - C. Town Clerk and Treasurer
 - D. Code Enforcement Officer
 - E. Town Constable
 - F. Fire Chief or Deputy
 - G. Fire Warden
 - H. Road Commissioner
 - I. Animal Control Officer

8. Establishment of the National Incident Management System: The Town of Thorndike hereby establishes the National Incident Management System (NIMS) as the municipal standard for incident management. This system provides a consistent approach for Federal, State, and municipal governments to work together more effectively and efficiently to prevent, prepare for, respond to and recover from domestic incidents, regardless of cause, size or complexity. NIMS will utilize standardized terminology, standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personnel qualification standards, uniform standards for planning, training, and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters. The NIMS Incident Command System (ICS) will be utilized by all Thorndike emergency and disaster responders for incident management.

9. Compensation: The EMD shall be compensated for duties rendered by an annual stipend as appropriated at town meeting.

10. Training: The EMD may take necessary training as provided by the Waldo County Emergency Management Agency (WOEMA), Maine Emergency Management Agency (MEMA), and FEMA.

FIRE DEPARTMENT SERVICE BILLING

Authority

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

Purpose

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

Services

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

- (a) Scene and safety control at traffic accidents;
- (b) Extrication from vehicles, equipment, or structures
- (c) Fluid or other hazard mitigation operations;
- (d) Structure, equipment, or vehicle fires, including any measures taken to prevent their occurrence;
- (e) Emergency Medical Service personnel and Life Flight assistance

Fees for Services

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

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

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

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

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

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

(b) Billing Procedures

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

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

(3) 90 day notice sent by certified mail.

(4) Collection Agency to be contacted.

(c) Considerations for Write Off

(1) When the claim was not paid for a valid reason, including an existing mutual aid agreement.

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

Severability

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

Conflicts with Other Ordinances

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

Administration

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

FEES TO BE ESTABLISHED ANNUALLY BY THE BOARD OF SELECTMEN

FLOODPLAIN MANAGEMENT ORDINANCE

(Enacted March 21, 2015 · Effective July 6, 2015)

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60.3 (b) Rev. 01/15

ARTICLE I - PURPOSE AND ESTABLISHMENT

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

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

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

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

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Thorndike having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Thorndike, Maine. This Ordinance repeals and replaces the Floodplain Management Ordinance last amended on March 15, 1997 effective on July 6, 2015.

The areas of special flood hazard, Zone A, for the Town of Thorndike, Waldo County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Waldo County, Maine" dated July 6, 2015 with accompanying "Flood Insurance Rate Map" dated July 6, 2015 with panels: 95E, 115E, 235E, 245E, 260E derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Waldo County, Maine" are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. In the absence of the Code Enforcement Officer, the Planning Board is authorized to act upon those permit applications normally reviewed by the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Thorndike, Maine.

ARTICLE III - APPLICATION FOR PERMIT

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

- A. The name, address and phone number of the applicant, owner and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

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

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

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$10.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an

applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 1. the base flood data contained in the "Flood Insurance Rate Map - Waldo County, Maine," as described in Article I;
 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.; Article VI.K.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,
 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1., the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program, prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
 1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
 2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.,2., and 3. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
 3. A Flood Hazard Development Permit for Minor Development for all development that is not new

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

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

ARTICLE VI - DEVELOPMENT STANDARDS

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

All Development - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. use construction materials that are resistant to flood damage;
 3. use construction methods and practices that will minimize flood damage; and,
 4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Residential** - New construction or substantial improvement of any residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D.
- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D., or together with attendant utility and sanitary facilities shall:
1. be floodproofed to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D., so that below that elevation the structure is

watertight with walls substantially impermeable to the passage of water;

2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
3. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K, and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

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

1. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D.;
2. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
3. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - a. over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - b. frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - c. all components of the anchoring system described in Article VI.H.3.a. & b. shall be capable of carrying a force of 4800 pounds.

I. Recreational Vehicles - Recreational Vehicles located within:

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

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

1. be 500 square feet or less and have a value less than \$3000;
2. have unfinished interiors and not be used for human habitation;
3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the

accessory structure;

4. be located outside the floodway;
 5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
 6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.
- K. **Floodways** - Encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in a floodway which, in Zone A riverine areas, is the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
1. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 2. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.
- L. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zone A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
1. Enclosed areas are not "basements" as defined in Article XIII;
 2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or, b.meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
 3. The enclosed area shall not be used for human habitation; and,
 4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

- M. **Bridges** - New construction or substantial improvement of any bridge in Zone A shall be designed such that:
1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D.; and
 2. a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
 - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
- N. **Containment Walls** - New construction or substantial improvement of any containment wall located within Zone A shall:
1. have the containment wall elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B.; or Article VIII.D.
 2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 3. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.
- O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zone A in and over water and seaward of the mean high tide if the following requirements are met:
1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
 2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

ARTICLE VII - CERTIFICATE OF COMPLIANCE

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

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

1. review the Elevation Certificate and the applicant's written notification; and,
2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

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

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

ARTICLE IX - APPEALS AND VARIANCES

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

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

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
 1. a showing of good and sufficient cause; and,
 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
 3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,

4. a determination that failure to grant the variance would result in "undue hardship," which in this subsection means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and, d. that the hardship is not the result of action taken by the applicant or a prior owner.

- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.

- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
 1. other criteria of Article IX and Article VI.K. are met; and,
 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
 1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,
 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

- F. Any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
 1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
 2. such construction below the base flood level increases risks to life and property; and,
 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

- G. Appeal Procedure for Administrative and Variance Appeals
 1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
 2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
 3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its

receipt of an appeal request.

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

ARTICLE X - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance. C.

In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;

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

ARTICLE XI - VALIDITY AND SEVERABILITY

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

ARTICLE XII - CONFLICT WITH OTHER ORDINANCES

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

ARTICLE XIII - DEFINITIONS

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

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

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

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

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

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

Building - see **Structure**.

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

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

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

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

Elevated Building - means a non-basement building

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

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

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

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

Flood or Flooding - means:

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

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

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

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

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

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

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

Floodway - see **Regulatory Floodway**.

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

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

Historic Structure - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical

significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

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

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

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

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

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

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

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

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

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

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

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

Recreational Vehicle - means a vehicle which is:

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

Regulatory Floodway -

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

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

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

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

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

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

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

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

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

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

ARTICLE XIV - ABROGATION

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

Thorndike Land Use Ordinance

(Enacted 3/21/87; amended 3/18/89, 3/17/90, 3/16/91, 3/19/94, 3/18/95, 3/21/15 and 3/19/16)

A. PURPOSE

The purpose of this ordinance is to implement the community goals as expressed in the 1991 Comprehensive Plan and specifically accomplish the following objectives:

1. Regulate the construction and placement of new structures and significant additions to existing structures to protect the health, safety and general welfare of town residents.
2. Provide for two land use districts that protect and maintain traditional development patterns in town by differentiating between the dense settlement pattern of Thorndike village and the dispersed development characteristic of the rural district.
3. Establish minimum dimensional standards for building lots to allow for privacy, fire safety, groundwater protection, density control and respect for neighboring property owners.
4. Ensure that proper subsurface wastewater disposal systems are installed in new and expanding structures.
5. Increase access to back land.
6. Promote traffic safety, effective road drainage, and emergency vehicle access to structures by requiring minimum entrance design and construction standards.
7. Avoid circumstances in which lots that do not meet minimum building requirements are sold as building lots.
8. Encourage the availability of affordable housing by keeping requirements to a minimum.
9. Provide a legal opportunity for two households to share a base lot in separate living quarters, without circumventing the Town's desired minimum lot size and density requirements.
10. Establish a simple and effective permitting system administered by the code enforcement officer to monitor low-impact development with minimal inconvenience to landowners.

B. EFFECTIVE DATE, REPEAL OF FORMER ORDINANCE

The effective date of this ordinance is March 19, 1994, the date of its enactment. The enactment of this ordinance repeals the *Minimum Lot Size Ordinance and Land Use Permit Ordinance for the Town of Thorndike*, as enacted in 1987 and amended in 1989, 1990 and 1991.

C. APPLICATION AND REVIEW PROCEDURE

The Board of Selectmen shall annually establish and publish a schedule of fees for each type of permit scaled to the level of review required.

The entrance provisions of this ordinance shall be administered by the road commissioner. The provisions subject to issuance of a land use permit shall be administered by the code enforcement officer (CEO). In the absence of the CEO, the planning board may approve and issue building permits.

A person wishing to undertake any of the activities regulated under Section E of this ordinance may secure the appropriate application available at the town office and contact the appropriate permitting official to request a site visit. Among other required information, the applicant will need to demonstrate written proof of adequate, right, title or interest to conduct the proposed activity on the property. In the case of applications presented by a lessee or agent of the property owner, the role, authority, permissions and means of coordination among all parties must be certified in writing to the satisfaction of the permitting official or body. A lead party shall be designated to represent the applicant.

Unless waived by the applicant or impractical due to weather conditions, the site visit shall occur within 15 business days of the request. At the site visit, the permitting officer shall verify field conditions and measurements that are required under the provisions of this ordinance and collect the required fee. If original plans of the applicant do not meet the requirements of this ordinance but the permitting officer sees ways the applicant could adjust design plans to conform to the standards within the ordinance, the permitting officer may so advise the applicant. The applicant may amend the application without reapplying or paying an additional fee. The permitting official

shall be responsible for filing the application and fee with the town clerk and returning a copy with proof of payment to the applicant.

Within 5 business days of the site visit, the permitting officer shall issue a written decision on the application, in the form of a permit granted or denied. If the officer finds that the conditions of this ordinance shall be met, he or she shall issue the permit. Any conditions, such as specifics of entrance or structure location, shall be clearly indicated on the permit. The original copy of the permit shall be given to the applicant in person or by mail after a copy is made and filed at the town office. If the conditions of this ordinance cannot, in the opinion of the permitting officer, be met, he or she shall deny the permit in writing with the reason(s) detailed. If the applicant disagrees with the ruling of the permitting officer, he or she may appeal the decision to the Thomdike Board of Appeals.

If the permitting officer finds during the course of review that the activity of the applicant does not, in fact, require a permit, the officer will advise the municipal officers to refund any fee paid to the applicant.

D. DEFINITIONS

Accessory Structure: One that is ancillary to the principal structure on the lot, including major accessory structures such as barns, sheds and garages. Minor accessory structures are typically less than 100 square feet in size and include signs, dog houses, bus stop shelters, bird baths, plant hangers, lamp posts, phone booths, lawn art and farm stands.

Back Lot: any lot that is either landlocked or has less than the required amount of road frontage required for a building lot in the land use district in which it is located

Base Lot: the minimum building lot size allowed in any land use district; the portion of a large lot that satisfies this requirement for building purposes, generally the area upon which one or more principal structures either are planned or have been placed on a lot

Commercial: any activity carried out for pecuniary gain. A structure offered or used for either transient or congregate residential purposes, for which a fee is charged, is considered a commercial structure (e.g. bed & breakfast, inn, nursing home, dormitory).

Dwelling: a building designed for or occupied by one or two families

Dwelling Unit: a building or entirely self-contained portion thereof containing complete housekeeping facilities for one family and having no enclosed space (other than vestibules, entrance or other hallways or porches) or cooking or sanitary facilities in common with any other "dwelling unit." A boarding house, convalescent home, dormitory, fraternity or sorority house, hotel, inn, lodging or rooming house, nursing or other similar house, or other similar structure shall not be deemed to constitute a dwelling unit.

Entrance: a vehicular accessway to a public or private road, of which there are two types:

- A. **Driveway Entrance:** a vehicular accessway that connects a public or private road to 1-2 lots, at least one of which is improved with a structure
- B. **Farm/logging Entrance/Road:** a vehicular accessway that connects a public or private road to an undeveloped lot

Landlocked Lot: a parcel of land with no legally recorded land-based access from a public way

Lot: same as Lot of Record

Lot of Record: a parcel of land, a legal description of which, or the dimensions of which, are recorded in a document, map or approved subdivision plan on file with the Waldo County Registry of Deeds

Multi-family Residence: a residential structure with three or more dwelling units, including but not limited to apartments and condominiums

Parcel: same as Lot of Record

Principal Structure: home, main commercial building or other central structure on the premises. Barns, garages, sheds and other accessory structures are not considered principal structures

Private Road: a privately-owned road serving more than two principal structures or lots over which neither the municipality nor the public has a right to travel by vehicle or on foot

Public Road: a way or public easement for highway purposes as defined in 23 MRSA §3021 held by any governmental body

Right-of-Way: all public or private roads, state and federal highways, public easements (formerly private ways), land legally providing private access rights to a parcel of land, and land reserved for the purpose of public access, including utility rights-of-way

Road Frontage: length of parcel boundary abutting the right-of-way of a public or private road, generally measured in linear feet

Road: any public or private way designed for vehicular access, other than driveway entrances, farm/logging entrances/roads, or trails. The term "road" includes the normal meaning conveyed by synonymous words including street, avenue, highway, lane and way

Setback: linear distance from the road centerline or property line within which no structural development may occur, with the exception of minor accessory structures in the front setback area. Driveways, wells, walkways, gardens, septic systems and fences are allowed within setback areas.

Structure: any material or a combination of materials which are constructed or erected, the use of which requires location on the ground, or attached to something located on the ground, exclusive of tents and fences.

Undeveloped Lot: a parcel of land without structures

E. APPLICABILITY, REGULATED ACTIVITIES

No person shall undertake any of the following land use activities within the Town of Thorndike without first obtaining the required permit as outlined below:

Activity	Permit	Permit Officer
Create a new lot	Lot Permit	CEO
Build new entrance; pave, widen, or alter the grade or drainage of existing entrance intersecting with public road	Entrance Permit	Road Commissioner
Install new plumbing, and/or new or replacement septic system; expand usage of existing septic system; add dwelling unit	Plumbing Permit	Plumbing Inspector
Build or locate commercial structure	Building Permit	CEO
Build or locate dwelling	Building Permit	CEO
Build addition over 100 square feet to existing structure, construct outbuilding of over 100 square feet, or build an addition that results in a cumulative structure of over 100 square feet	Building Permit	CEO

Any person who starts construction of any of the regulated activities without first obtaining the proper permit shall pay double the fee for the permit. If any activity undertaken violates the standards outlined within this ordinance, the person may be prosecuted and fined in accordance with Section N, and ordered to return the land to its condition prior to the illegal construction.

Setback Regulations:

Principal structures and major accessory structures such as garages and barns are not allowed within any setback area. Minor accessory structures are not allowed within side or rear setback areas. Driveways, wells, walkways, gardens, septic systems and fences are allowed within all setback areas without a permit.

Minor accessory structures are permitted within the front setback area but not within the road right-of-way (typically 25-33 feet from the road centerline). Mailboxes, delivery tubes and temporary signs such as real estate signs, political campaign signs or event notices may be placed within the right-of-way but may neither interfere with road maintenance nor cause a hazard to the traveling public. Any structure, fence, sign, mailbox or delivery tube that is found by the road commissioner, Board of Selectmen or CEO to present a hazard to road maintenance or the traveling public may be ordered moved or removed by the CEO.

Side and rear setbacks do not apply when property lines occur within a single structure (e.g. condominium units).

F. DEFINITION OF DISTRICTS

All land in Thorndike is either in the Village District or the Rural District. District boundaries are described below and displayed on the *Thorndike Land Use Map*, which is hereby incorporated into this ordinance. Beyond the requirements of this ordinance, there are additional restrictions required by the state and federal governments that apply to land within the shoreland zone or in the 100 year floodplain. These regulated areas are identified on the *Thorndike Land Use Map*. All ordinances and the map are available at the town office. In addition to this ordinance, anyone desiring to develop property in town should review the *Shoreland Zoning Ordinance and Floodplain Management Ordinance* and maps to see if the property involved is in one or both of those overlay zones. These are available at the town office.

1. Village District:

a) Characteristics

This is the historic village center of the town, built around the intersections of Routes 139 and 220. The settlement pattern here is of a higher density than most of the remainder of Thorndike. Many public services, including the town office, post office, fire department and regional recycling center, are located here. A church, lodge hall and railroad crossing also contribute to the District's village character. Several businesses augment the public services to form a core of commercial activity that attracts consumer traffic to the area. Additional commercial and industrial growth, while encouraged throughout town, is especially desirable in the Village District.

a) Boundaries

The Village District is most easily recognized by viewing the *Thorndike Land Use Map* that accompanies this Ordinance. The following description is based upon a combination of physical, political and parcel boundaries as recorded on Town tax maps.

The Village District extends counterclockwise as follows: On the west, from the junction of the north boundary of the Central Maine Power right-of-way and the Unity town line southward along the Unity town line to the southern boundary of Map 1, Lot 13; across Route 220 to the southern boundary of Map 1, Lot 14 to the Leonard Road intersection; crossing the Leonard Road and heading northward along the eastern boundary of Map 1, Lot 15 and Map 4, Lot 26 to Half-Moon Stream; up Half-Moon Stream to a point which is 1000' from the centerline of Route 220; continuing northward across Map 5, Lot 2 along the line formed by measuring a distance of 1000' feet from the centerline of Route 220 to the southern boundary of Map 5, Lot 3; eastward along the Map 5, Lot 3 lot line to the railroad tracks; northwesterly along the tracks to the southern boundary of Tax Map 11; continuing counterclockwise along the south, east and north boundaries of Tax Map 11 to the north boundary of the Central Maine Power right-of-way; following westerly along the right-of-way boundary, crossing Route 220 and continuing to the Unity Town Line.

2. Rural District:

The remainder of Thorndike is in the Rural District. The area is traditionally farmland and forestland, with scattered residential and small commercial uses. Low density, privacy and traffic safety are prevailing concerns for the Rural District.

G. LOT PERMIT

1. Application Requirements

The application for a lot permit must include the following: Diagram of the proposed lot, drawn roughly to scale, with dimensions of each proposed boundary line, road frontage and/or right-of-way marked; if accessed via right-of-way, copy of deed guaranteeing right-of-way; location of existing or proposed entrance; acreages of proposed lot and remaining portion of existing lot; tax map and lot number; names and lot numbers of abutters; identification of any subdivision the proposed lot lies within; copy of deed to existing lot; names of legal owners of existing lot, and of proposed lot, if to be conveyed to known party; and any deed restriction or other limitation to be placed on the use of the lot.

2. Conditions for Approval of Lot Permit

The CEO shall approve an application for a Lot Permit if each of the following conditions are met:

a) Either:

- i) The proposed lot meets the dimensional standards of the district(s) in which it is located. *Note: These standards are outlined in Section J of this Ordinance, and must be considered together with any relevant provisions of the Shoreland Zoning Ordinance or Floodplain Management Ordinance, if located in these overlay districts.* OR
- ii) The proposed lot does not meet the minimum dimensional requirements of the district(s) in which it is located, but the applicant certifies that the lot is dedicated to a non-building purpose. For such lot, the CEO shall require that the deed or other instrument creating the lot contains the following statement: "This lot, as of its creation on *(date)*, does not meet the minimum lot standards required for structural use as per Town of Thorndike ordinance, due to the following deficiency: *(state deficiency)*." The CEO shall send a copy of any Lot Permit issued with this requirement to the Waldo County Registry of Deeds.

b) The creation of the proposed lot will not cause another lot to become landlocked. AND

c) The proposed lot has at least one of the following forms of access:

- i) An existing entrance that was legally established at the time of its creation;
- ii) An approved entrance (formerly driveway) permit;
- iii) Deeded access through another property as required for back lots *(see Section J)*; or
- iv) A certification by the Road Commissioner that the proposed lot has at least one permissible entrance location. *Note: The location identified is not binding on a future entrance permit application.*

3. Copy of Deed Filed at Town Office

A copy of any deed filed pursuant to the issuance of a Lot Permit shall be filed with the Town Clerk within 15 days of the date of filing at the Registry of Deeds.

H. CONDITIONS FOR APPROVAL OF ENTRANCE PERMIT

Entrance permits are required before new entrances are constructed or before existing entrances are paved, widened or altered in grade or drainage. Only entrances providing access from a public road (including abandoned and discontinued roads) require a permit. Entrances providing access from a private road do not require a permit.

Note 1: Applicants for proposed entrances that will provide access to Routes 139 or 220 must also obtain a permit from the Maine Department of Transportation in Rockland prior to construction. Culverts and sight distance on these roads are governed by the State, rather than the Town. Town permits for entrances accessing Route 139 or Route 220 will be granted based upon satisfying Subsections H 1.b), d) and e) below.

Note 2: A person proposing to build an entrance that may eventually serve over two lots and therefore become classified as a road should consult the Road Ordinance for the Town of Thorndike for possible future relevancy.

Note 3: A person wishing to build an entrance involving a stream crossing must obtain a Natural Resources Protection Act permit from the Maine Department of Environmental Protection.

1. New Entrances

For new entrances, the road commissioner shall conduct a site visit of the property and issue an entrance permit if he or she finds that the following conditions are met:

- a) Adequate sight distance of 10 times speed limit in feet (45 mph zone requires 450 feet) of visibility in each direction. This shall be measured from where the driver's seat of a vehicle would be situated twenty feet from the edge of the shoulder, with the height of eye at 3½ feet, to the top of an object at 4½ feet above the pavement.

Due to unique circumstances of the land and existing conditions, the road commissioner may grant an entrance permit by special exception if the following conditions are all met:

- i) that the entrance is located and designed in the safest possible manner along available road frontage (may not be the applicant's preferred location);
 - ii) that the applicant agrees to remove any trees, brush, rocks or other physical obstacles to achieving the desired sight distance that are possible to remove (this may involve negotiations with neighboring landowners); and
 - iii) that the road commissioner finds that the entrance will not create a hazard to the traveling public.
- b) The applicant shall agree that the 20 feet of the entrance closest to the public road intersection shall be constructed with at least 12" of gravel base and 12 feet of traveled way to support emergency vehicles. The same 20 feet of the entrance shall also have a graded road crown of ¼" per foot such that drainage will neither erode the entrance nor wash directly onto the public road. If possible, the should be constructed so that at least the 2 feet closest to the intersection continues the slope created by the crown of the public road being entered to keep drainage from damaging the public road.
 - c) The applicant shall agree to purchase and install an adequate culvert as directed by the road commissioner, unless deemed to be unnecessary by the road commissioner.
 - d) Entrances and rights-of-way over 150 feet long must have an adequate place for emergency vehicles to turn around.
 - e) Entrances and rights-of-way that are over 300 feet long must have one of the following provisions for emergency vehicle access:
 - i) 12 foot traveled way and 12" of gravel base; OR

- ii) a signed statement from the Fire Chief or designee stating that the proposed entrance design, with specific reference to the proposed base material, appears adequate for emergency vehicle access (*Process: Apply for an emergency vehicle access evaluation at the town office. A fee payable to the Town of Thorndike shall be charged for an emergency vehicle access evaluation. The Selectmen shall transfer all such fees collected to the Thorndike Volunteer Fire Department Firemen's Account no less than annually. Upon receipt of an application, the Town Clerk shall notify the Fire Chief who shall see that a Fire Department representative contacts the applicant to make a site visit appointment. The Fire Chief or designee will inspect the site and proposed road design and may approve a waiver from the travel way and/or gravel base standards if he or she feels that the proposed road design is adequate for emergency vehicle use*). OR
- iii) A signed statement from the applicant acknowledging that emergency vehicle access over the proposed entrance may be impossible, involving above average risk to life and property on the site.

2. Altering Existing Entrances

- a) For existing driveway entrances that are to be paved, widened, or altered in grade or drainage, the road commissioner shall conduct a site visit of the property and issue an entrance permit if he or she finds that all criteria are met; however, it is provided that the road commissioner may grant an entrance permit by special exception pursuant to Section H.1.a.
- b) For existing farm/logging road entrances that are being upgraded to driveway entrances (serving 1 or more structures), all applicable criteria in Section H.1 must be addressed.
- c) For existing farm/logging road entrances that are being altered but remaining as farm/logging road entrances, criteria H.1.a and H.1.c must be addressed.

3. If any of the applicable conditions are not met, the road commissioner shall deny the entrance permit application. If the applicant feels that the road commissioner has erred in his or her interpretation of this ordinance, the applicant may file an administrative appeal with the Board of Appeals. If the applicant feels that the denial of an entrance permit creates an undue hardship, the applicant may request a variance from the Board of Appeals (see Section Q).

4. Inspection

The applicant will notify the Road Commissioner at least 24 hours prior to construction so that an inspection may be made both during and after construction to confirm adherence to permit requirements.

I. PUBLIC ROAD DAMAGE

Any drainage or sedimentation that originates from a parcel of private land that either (a) presents a public hazard, or (b) causes damage to the public road system, shall be considered a violation of this ordinance subject to the enforcement provisions in Section N of this ordinance.

Either the road commissioner or the Board of Selectmen may identify a violation under this section and must provide a written notice of violation and order to remediate the damaging condition, including the standard of repair required. Depending upon its severity, the landowner will be given 2-10 days to correct the situation or present a plan for corrective action with a timeline. Failure to do so constitutes a violation of this ordinance, and each day such violation continues shall be considered a separate violation. The road commissioner may accept or reject the corrective action plan, depending on the severity of the circumstances and show of good faith by the landowner. Following notification, if action is not taken by the landowner in the named timeframe, the road commissioner is authorized to take corrective action within the public right-of-way (e.g. rerouting drainage and/or regrading) and present a bill for the work to the landowner. Any bill that remains unpaid on the date the Town's property taxes are due will be considered delinquent. In the event the bill remains unpaid, the Town may petition a court for authorization to file a lien against the property for the unpaid amount, plus costs and legal fees.

J. CONDITIONS FOR APPROVAL OF BUILDING PERMIT

The CEO shall issue a building permit if he or she finds (a) that the applicant's proposal meets the dimensional requirements for the use and district as prescribed below, and (b) the applicant holds all related state and town permits, including entrance and plumbing/waste disposal permits. If the activity is regulated in other ordinances, including but not limited to Subdivision, Site Plan Review, Shoreland Zoning, Floodplain Management or Wind Facility Siting, additional applicable criteria must be met before a building permit is issued.

Minimum Dimensional Requirements for Building Lots:

Requirement	Village District	Rural District
Lot Size:		
Dwelling (1-2 units)	1.5 acres	2 acres
Commercial structure	.5 acre	2 acres
Multi-family residence (3+ units)	3 acres	3 acres
Setback from Centerline:		
Dwelling or commercial structure	50 feet	80 feet
Multi-family residence	75 feet	100 feet
Side and Rear Setback from Property Lines (see Setback Regulations in Section E):		
	15 feet	15 feet
Road Frontage* (see back lot options below):		
	100 feet	200 feet

The last lot(s) on a dead-end road, entrance or right-of-way is (are) exempted from the road frontage requirement.

Back lots:

A back lot qualifies as a building lot if (a) it is of the minimum building lot size for the district in which it is located and (b) the following requirement is met:

The lot has road frontage or deeded right-of-way from a public road of at least 50' in width. The CEO or planning board, as appropriate, may grant a waiver reducing this access width to as little as 20', if the applicant can prove that the access will never serve more than two lots, structures or units.

Rural District Setback: No structure may be built closer than 450' from the centerline of a public or private road.

Village District Setback: No structure may be built closer than 325' (residential) or 150' (commercial) from the centerline of a public or private road, or 15' from the rear lot line of a front lot between it and the access road, whichever is lesser.

K. PRINCIPAL STRUCTURES PER LOT

1. Residential Structures

a) Base Lot

Up to two dwelling units may be placed on a single base lot. These units may be attached or detached, but may not be separated for future sale in place unless each is located on an individual building lot that meets the requirements for a building lot at the time the sale occurs. Before a second unit is added to a base lot with an existing dwelling unit, the plumbing inspector must inspect and approve the septic design(s) and installation(s) that will serve the structures. A copy of the plumbing inspector's approval shall be submitted as part of the building permit application to the CEO or Planning Board, as appropriate.

b) Larger Lots

Up to 2 dwelling units may be located on the first base lot (i.e. 2 acres in the Rural District and 1 acre in the Village District). Additional residential structures on a lot must be placed so that they may each be sold on a separate legal building lot in that district in the future. Only one base lot is allowed per parcel, upon which the density may be 1 unit per acre in the Rural District and 1 unit per .5 acre in the Village District. Where 2 units are located on a minimum-sized base lot, they may not be separated for sale in place on non-conforming lots. If two residential units are in place on a base lot, any additional residential structures placed on the same parcel are limited to one unit per building lot equivalent. *For example, a six acre lot in the Rural District could have two units on the first 2 acres, and one unit on each of the other 2 acres, if the additional 2 acre sections each met applicable building lot requirements (though the lots need not be created by deed). Note: Over two new dwelling units created on a parcel within a five-year period will require subdivision approval.*

2. Commercial Structures

There is no limit to the number of commercial and/or accessory structures located on a lot.

L. NONCONFORMING LOTS AND STRUCTURES OF RECORD

A single lot of record which existed on March 21, 1987, the effective date of Thomdike's original Minimum Lot Size Ordinance, that does not meet the area or frontage requirements, may be used for a residential dwelling provided that such lot is in separate ownership, is not contiguous with any other lot of the same ownership, and that such lot satisfies all other requirements of this ordinance.

Contiguous lots or parcels that were in single ownership of record on March 21, 1987 may not be sold separately or built upon unless each lot or parcel meets the area and frontage requirements of this ordinance. A dwelling or commercial structure which existed on March 17, 1990 is exempted from the applicable setback requirement of this ordinance. With regard to the front setback, such non-conforming structures may be expanded along the same line provided the non-conformance is not increased. Expansions are not permitted within the side and rear setback areas.

M. CONFLICTS WITH OTHER STATUTES, ORDINANCES, REGULATIONS

This ordinance shall not in any way impair or remove the necessity of compliance with any other regulation, permit, ordinance or statute. In the event that there is a contradiction between the provisions of this ordinance and those of any other ordinance or statute, the more restrictive provision shall apply.

N. ENFORCEMENT

Any entrance or structure constructed, located or placed, or any lot created without a permit, or any work performed in violation of the provisions of this ordinance shall be considered in violation and shall be subject to a fine of not less than \$100 for each offense. Each day in which a violation is proved to exist shall constitute a separate offense under this section.

The CEO is authorized and directed to enforce the provisions of this ordinance in accordance with the *Code Enforcement Officer Ordinance*. In addition, the municipal officers are authorized and directed to institute any action or proceedings that may be required to enforce the provisions of this ordinance. If any legal action is brought by the Town of Thorndike against any person or persons for violating this ordinance, and the Town prevails, then the violators shall be liable and responsible for the Town's legal fees and court cost and any other cost involved in bringing the suit or action.

O. VALIDATION PERIOD

Any permit issued under this ordinance shall expire if the work is not initiated within 2 years of the date of issuance.

P. SEVERABILITY

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

Q. APPEALS

All decisions of the road commissioner and code enforcement officer, pursuant to this ordinance, may be appealed to the Board of Appeals within 30 days. The Board of Appeals shall have the authority to grant a variance from the terms of this ordinance, where necessary, to avoid undue hardship, provided there is no substantial departure from the intent of this ordinance.

R. AMENDMENTS

At any time this ordinance is amended, the Town Clerk, upon advice from the Planning Board, is authorized to insert and/or delete amended language, insert and/or delete clearly inconsistent references caused by such amendments, renumber sections of the amended ordinance in a logical and appropriate fashion, and correct typographical errors, provided such changes do not result in any substantive alteration in the meaning of the ordinance and further the clear intent of such amendment.

Maine Revised Statutes

§2802 PDF	§2801	Title 17: CRIMES	§2803
§2802 WORD/RTF		Chapter 91: NUISANCES	
STATUTE SEARCH		Subchapter 3: PARTICULAR NUISANCES	
CH. 91 CONTENTS			
TITLE 17 CONTENTS	§2802. Miscellaneous nuisances		
LIST OF TITLES			
DISCLAIMER			
MAINE LAW			
REVISOR'S OFFICE			
MAINE LEGISLATURE			

The erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture that, by noxious exhalations, offensive smells or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or of the public; causing or permitting abandoned wells or tin mining shafts to remain unfilled or uncovered to the injury or prejudice of others; causing or suffering any offal, filth or noisome substance to collect or to remain in any place to the prejudice of others; obstructing or impeding, without legal authority, the passage of any navigable river, harbor or collection of water; corrupting or rendering unwholesome or impure the water of a river, stream, pond or aquifer; imprudent operation of a watercraft as defined in Title 12, section 13068-A, subsection 8; unlawfully diverting the water of a river, stream, pond or aquifer from its natural course or state to the injury or prejudice of others; and the obstructing or encumbering by fences, buildings or otherwise of highways, private ways, streets, alleys, commons, common landing places or burying grounds are nuisances within the limitations and exceptions mentioned. Any places where one or more old, discarded, worn-out or junked motor vehicles as defined in Title 29-A, section 101, subsection 42, or parts thereof, are gathered together, kept, deposited or allowed to accumulate, in such manner or in such location or situation either within or without the limits of any highway, as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are public nuisances. [2005, c. 397, Pt. A, §11 (AMD).]

SECTION HISTORY

1965, c. 78, §1 (AMD). 1971, c. 274, (AMD). 1979, c. 472, §3 (AMD). 1995, c. 65, §A53 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1997, c. 540, §4 (AMD). 1997, c. 683, §A7 (AMD). RR 2003, c. 2, §24 (COR). 2005, c. 397, §A11

RECEIVED
EFFICIENCY MAINE TRUST
PROPERTY ASSESSED CLEAN ENERGY (PACE) ADMINISTRATION CONTRACT

2011 MAY 18 PM 2:46

THIS Property Assessed Clean Energy (PACE) Administration Contract (the "Contract") is entered into this 4th day of May 2011, by and between the **Town of Thorndike**, a municipal corporation duly organized and existing under the laws of the State of Maine whose mailing address is PO Box 10, Thorndike, ME 04986, (the "**Municipality**") and the **Efficiency Maine Trust**, a legal entity and instrumentality of and a body corporate and politic under the laws of the State of Maine (the "**Trust**"). The foregoing also are referred to herein collectively as the "**Parties**" or singly as "**Party**."

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, "An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "the Property Assessed Clean Energy Act" or "the PACE Act"; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy ("PACE") Ordinance to establish a PACE Program, so that owners of qualifying property can access financing for energy saving improvements to their properties located in the municipality; financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE Program; and

WHEREAS, the Municipality has adopted a PACE Ordinance; and

WHEREAS, the Parties wish to establish their respective responsibilities in the administration of the PACE Program.

WITNESSETH:

NOW, THEREFORE, for and in consideration of the covenants and conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **DEFINITIONS.** Capitalized terms used in this Contract shall have the meanings given them in 35-A M.R.S.A. §10153 unless otherwise specified herein. In addition, these terms are defined as follows:

1.1. **PACE agreement.** "Pace Agreement" means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE Mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

1.2. **PACE District.** "PACE District" means the area within which the Municipality establishes a PACE Program under this Contract, which is all of that area within the Municipality's boundaries.

1.3. PACE Loan. "PACE Loan" means a loan made to the owner(s) of a Qualifying Property for an Energy Saving Improvement.

2. TRUST'S RESPONSIBILITIES. The Trust shall, itself or through its authorized agents:

2.1. Administration. Administer the functions of a PACE Program which administration shall include, without limitation:

- A. the Trust will enter into PACE Agreements with owners of Qualifying Property in the Municipality's PACE District;
- B. the Trust, or its agent, will create and record a Notice of the PACE Agreement in the appropriate County Registry of Deeds to create a PACE Mortgage;
- C. the Trust, or its agent, will disburse the PACE Loan to the property owner;
- D. the Trust, or its agent, will send PACE Assessment statements with payment deadlines to the property owners;
- E. the Trust, or its agent, will be responsible for collection of the PACE Assessments;
- F. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the PACE Assessment;
- G. the Trust or its agent, promptly shall record the discharge of a PACE mortgage upon full payment of the PACE loan;
- H. the Trust, or its agent, will be responsible for management of federal grant funds; and
- I. the Trust, or its agent, will ensure the collection of data required to quantify carbon savings and to facilitate access to and eligibility for voluntary carbon markets, for federal grants for energy efficiency and for other incentive programs that support Energy Saving Improvements.

2.2. Terms and Conditions. Pursuant to 35-A M.R.S.A. §10154, the Trust may establish terms and conditions under which municipalities and property owners may participate in a PACE Program established thereunder, and the Parties agree that they, the PACE Program hereunder and this Contract are subject to those terms and conditions as amended from time-to-time.

3. MUNICIPALITY'S RESPONSIBILITIES.

3.1. Education and Outreach Programs. The Municipality agrees to adopt and implement an education and outreach program so that owners of property in the Municipality are made aware of home energy saving opportunities, including the opportunity to finance Energy Saving Improvements with a PACE Loan.

3.2 Conformity with Home Energy Savings Program. The Municipality agrees to conform its PACE Program to the requirements contained in the Home Energy Savings Program.

3.3. Acceptance and Disbursement of Funds. The Municipality agrees to accept PACE funds from the Trust and to disburse PACE funds back to the Trust as needed to satisfy the conditions of the federal grants and to allow the Trust to fund and administer a uniform system of municipal PACE Programs throughout the State.

3.4. Assistance and Cooperation. The Municipality agrees to cooperate with the Trust in the administration of the Municipality's PACE Program, including but not limited to, providing information about applicant properties including property tax payment and lien status, taxable value of residential properties in town, and providing reasonable and necessary aid to the Trust for required data collection, recordkeeping and reporting functions relative to the PACE Program in the PACE District, and providing reasonable and necessary support to the Trust's PACE loan, PACE Assessment, and billing and collection functions.

3.5. Conformity. If standards or rules and regulations are adopted by any State or federal agency subsequent to the Municipality's adoption of a PACE Ordinance or participation in a PACE Program and those standards or rules and regulations substantially conflict with the Municipality's manner of participation in the PACE Program, the Municipality, should it desire to continue its participation in the PACE Program, will be required to take necessary steps to conform its participation to those standards or rules and regulations.

4. TERM.

4.1. This Contract is for a period of three (3) years and shall automatically be renewed for additional periods of three (3) years unless either Party provides the other with ninety (90) days' advance written notice of intent not to renew this Contract.

5. TERMINATION.

5.1. Either Party may terminate this Contract for convenience by providing the other with ninety (90) days' advance written notice of termination. On and after the date of termination, the Municipality no longer will have a PACE Program administered by the Trust except for those PACE Loans already secured by PACE Mortgages as of the date of termination.

6. LIABILITY.

6.1. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under

or related to a PACE Program established under this Contract, including, without limitation, claims for or related to uncollected PACE Assessments.

6.2. Other than the fulfillment of its obligations specified in a PACE Agreement, the Municipality has no liability to a property owner for or related to Energy Saving Improvements financed under a PACE Program.

7. MISCELLANEOUS PROVISIONS

7.1 Notices. All notices, demands or other communications made pursuant to this Contract shall be in writing and shall be sent by (i) registered or certified United States mail, postage prepaid, (ii) by overnight courier, or (iii) by facsimile. Such notice shall be deemed effective upon delivery addressed as follows:

To the Municipality:

Chair, Board of Selectmen
Town of Thorndike
PO Box 10
Thorndike, ME 04986

To the Trust:

Efficiency Maine Trust
101 Second Street
Hallowell, ME 04347
Attention: PACE Program Manager

7.2 Entire Agreement. Modifications. This Contract constitutes the entire agreement of the Parties, and neither Party shall be bound by any statement or representation not contained herein. Except as provided herein, this Contract cannot be changed, amended or modified, except by another agreement in writing signed by all Parties hereto or by their respective successors in interest.

7.3 Headings. The section headings contained herein are for convenience of reference only and are not intended to define, limit, or describe the scope or interest of any provisions of this Contract.

7.4 Severability. If any section, term, covenant, or condition of this Contract or the application thereto to any person or circumstances shall, to any extent be illegal, invalid or unenforceable because of judicial construction, the remaining sections, terms, covenants, and conditions of this Contract, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each section, term, covenant, or condition of this Contract shall be valid and be enforced to the fullest extent permitted by Law.

7.5 Governing Law, Remedies. This Contract shall be governed by and construed in accordance with the laws of the State of Maine. Except as otherwise agreed by the Parties in writing, all disputes, claims, counterclaims and other matters in question between the Municipality and the Trust arising out of or relating to this Contract shall be decided by a Maine court of competent jurisdiction.

7.6 Assignment: Successors and Assigns. This Contract may not be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably conditioned, delayed or withheld. This Contract shall benefit and be binding upon the Parties hereto and their respective permitted successors and assigns.

7.7 Non-Waiver. Except as expressly provided in this Contract, the failure or waiver, or successive failures or waivers on the part of either Party hereto, in the enforcement of any paragraph or provision of this Agreement shall not render the same invalid nor impair the right of either Party hereto, its successors or Contract permitted assigns, to enforce the same in the event of any subsequent breach thereof.

IN WITNESS WHEREOF, the Parties hereto have caused this Property Assessed Clean Energy (PACE) Administration Contract, to be executed by their duly authorized representatives as of the date first set forth above.

MUNICIPALITY

By: James Bennett
Signature

James Bennett
Print Name

Its: Chair, Board of Selectmen (Title)

EFFICIENCY MAINE TRUST

By: Michael Stoddard
Signature

Michael Stoddard
Print Name

Its: Exec. Dir. (Title)

**TOWN OF THORNDIKE
PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE**

PREAMBLE

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, "An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "the Property Assessed Clean Energy Act" or "the PACE Act"; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy ("PACE") Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the municipality, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Town of Thorndike wishes to establish a PACE program; and

NOW THEREFORE, the Town of Thorndike hereby enacts the following Ordinance:

ARTICLE I - PURPOSE AND ENABLING LEGISLATION

By and through this Ordinance, the Town of Thorndike declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy ("PACE") program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town. The Town declares its purpose and the provisions of this Ordinance to be in conformity with federal and State laws.

ARTICLE II - ENABLING LEGISLATION

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

ARTICLE III - TITLE

This Ordinance shall be known and may be cited as the "Town of Thorndike Property Assessed Clean Energy (PACE) Ordinance" (the "Ordinance").

ARTICLE IV - DEFINITIONS

Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings; as used in this Ordinance, the following words and phrases shall have the meanings indicated:

1. **Energy saving improvement.** “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:
 - A. Will result in increased energy efficiency and substantially reduced energy use and:
 - i. Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or
 - ii. Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or
 - B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.
2. **PACE agreement.** “Pace agreement” means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.
3. **PACE assessment.** “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.
4. **PACE district.** “Pace district” means the area within which the Town of Thorndike establishes a PACE program hereunder, which is all that area within the Town’s boundaries.
5. **PACE loan.** “PACE loan” means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.
6. **PACE mortgage.** “PACE mortgage” means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.
7. **PACE program.** “PACE program” means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.
8. **Qualifying property.** “Qualifying property” means real property located in the PACE district of the Town.
9. **Renewable energy installation.** “Renewable energy installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.
10. **Trust.** “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

ARTICLE V - PACE PROGRAM

1. **Establishment; funding.** The Town of Thorndike hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust's administration of the municipality's PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality's PACE program.
2. **Amendment to PACE program.** In addition, the Town of Thorndike may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Town shall be responsible for administration of loans made from those other funding sources.

ARTICLE VI – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

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

ARTICLE VII – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

1. Program Administration

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

- i. the Trust will enter into PACE agreements with owners of qualifying property in the Town of Thorndike's PACE district;
- ii. the Trust, or its agent, will create and record a Notice of the PACE agreement in the Somerset County Registry of Deeds to create a PACE mortgage;
- iii. the Trust, or its agent, will disburse the PACE loan to the property owner;
- iv. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
- v. the Trust, or its agent, will be responsible for collection of the PACE assessments;
- vi. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
- vii. the Trust or its agent on behalf of the municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

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

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

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

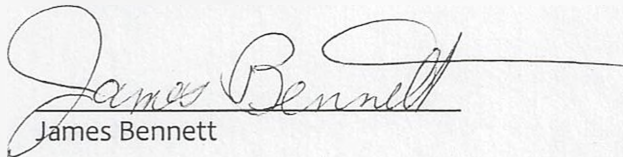
2. Liability of Municipal Officials; Liability of Municipality

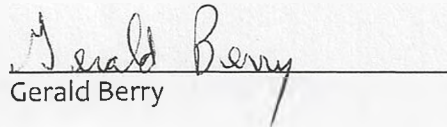
A. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

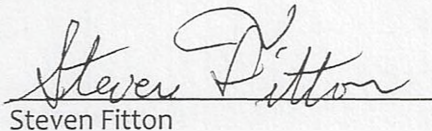
B. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VII, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

Given under our hands this 16th day of February, 2011 at Thorndike, Maine

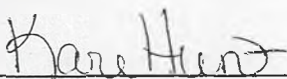
Selectmen of Thorndike


James Bennett


Gerald Berry


Steven Fitton

Attest: A true copy of an ordinance entitled "Town of Thorndike Property Assessed Clean Energy (PACE) Ordinance", as certified to me by the municipal officers of Thorndike, Maine on the 16th day of February, 2011.

Signature: 
Kari Hunt, Town Clerk

Establishment of Thorndike Planning Board Ordinance

(Enacted 3/18/72; amended 3/15/86, 3/17/90 and 3/20/93)

1. Establishment

Pursuant to Art. VIII, Pt. 2, Sec. 1 of the Maine Constitution and 30-A MRSA Sec. 3001, the Town of Thorndike hereby re-establishes the Town of Thorndike Planning Board.

2. Appointment

2.A. Appointments to the board shall be made by the municipal officers.

2.B. The board shall consist of 7 members.

2.C. The term of each member shall be five years. One member shall be appointed to serve for the duration of each of the following terms, and for successive five-year intervals: 1993-1998, 1995-2000, 1996-2001. Two members shall be appointed to serve for the duration of each of the following terms, and for successive five-year intervals: 1994-1999, 1997-2002. Members may be reappointed to successive terms.

Those 7 members serving on the planning board at the time this amendment becomes effective shall be considered to have been properly appointed until their respective terms of office expire.

All actions taken by the board prior to the effective date of this amendment are hereby declared to be the bona fide acts of the planning board of the Town of Thorndike.

2.D. When there is a permanent vacancy, the municipal officers shall within 60 days of its occurrence appoint a person to serve for the unexpired term. A vacancy shall occur upon the resignation or death of any member, or when a member ceases to be a voting resident of the town, or when a members fails to attend four (4) consecutive regular meetings, or fails to attend at least 75% of all meetings during the preceding twelve (12) month period. When a vacancy occurs, the chairperson of the board shall immediately so advise the municipal officers in writing. The board may recommend to the municipal officers that the attendance provision be waived for cause, in which case no vacancy will then exist until the municipal officers disapprove the recommendation. The municipal officers may remove members of the planning board by unanimous vote, for cause, after notice and hearing.

2.E. Not more than 1 municipal officer may serve as a member.

2.F. All members shall be residents of the Town of Thorndike.

3. Organization and Rules

3.A. The board shall elect a chairperson and vice chairperson from among its members and create and fill such other offices as it may determine. The board may either elect a secretary from among its members or hire a non-board member to serve as secretary. The term of all offices shall be 1 year with eligibility for reelection.

3.B. Any question of whether a particular issue involves a "conflict of interest" sufficient to disqualify a member from voting thereon, shall be decided by a majority vote of the members, except the member whose potential conflict is under consideration.

The term "conflict of interest" shall be construed to mean direct or indirect pecuniary interest, which shall include pecuniary benefit to any member of the person's immediate family (grandfather, father, wife, son, grandson, e.g.) or to his or her employer or the employer of any member of the person's immediate family.

3.C. No meeting of the board shall be held without a quorum consisting of 4 members authorized to vote.

3.D. The board shall adopt rules for transaction of business and the secretary shall keep a record of its resolutions, transactions, correspondence, findings and determinations. All records shall be deemed public and may be inspected at reasonable times.

4. Duties, Powers

4.A. The board shall perform such duties and exercise such powers as are provided by Thorndike ordinance and the laws of the State of Maine.

4.B. The board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.

5. Effective Date

5.A. The effective date of these amendments shall be March 20, 1993.

5.B. The town clerk of the Town of Thorndike is hereby authorized to renumber the sections of this Ordinance consecutively to properly incorporate the amended language.

Radioactive Waste Ordinance

(Enacted March 16, 1991)

Section 1. PURPOSE

The regulations set forth in this Ordinance are adopted to:

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

Section 2. LEGISLATIVE AUTHORITY

A. Authority

This ordinance is adopted pursuant to Home Rule Powers as provided for in Article VII-A of the Maine Constitution and Title 30, M.R.S.A., Section 1917; 38 M.R.S.A., 1310-A.

B. Administration

The Selectmen of the Town of Thorndike shall administer this Ordinance.

Section 3. REQUIREMENTS

- A. Waste defined as radioactive waste materials by 38 M.R.S.A. Section 1451 Subsec. No. 6 & 11, within the boundaries of the town limits are prohibited.
- B. Any request for an exception to the prohibition shall be submitted in writing to the selectmen and brought to the whole town of Thorndike, acting as a body politic, to be voted on by all registered voters. Any person intending to construct or operate any temporary or permanent radioactive waste repository shall at least one year prior to commencing any construction or operation notify the town officials in writing of his/her intent and of the nature and location of the facility, together with any other information the Selectmen may require.

Section 4. APPEALS

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

Section 5. AMENDMENTS

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

Section 6. SITE CHARACTERIZATION

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

Road Ordinance for the Town of Thorndike

(Enacted 3/17/87; amended 3/16/91, 3/18/95, 3/21/15 and 3/19/16)

I. TITLE

Under the authority of MRSA Title 30-A, §4401 and 3001, and of MRSA Title 23, §3025, this *Road Ordinance for the Town of Thorndike* is hereby adopted.

II. PURPOSE

The construction of roads can have a major effect upon safety, municipal services and the environment in Thorndike. The design and construction of such roads may also affect erosion and water quality; the severity of periodic flooding; fire protection; safety conditions and traffic congestion; the visual character of the Town; the future use of surrounding land; and maintenance costs and requirements. It is the purpose of this ordinance to promote the health, safety and general welfare of Thorndike residents by setting standards for the design, layout and construction of all new roads.

III. APPLICABILITY

The provisions of this ordinance apply to the construction of any new road in Thorndike, public or private, except as exempted below. Roads to remain privately owned are subject to the requirements of Article V of this ordinance. Roads to be offered to the Town for acceptance must comply with the requirements of Article VI as well as of Article V. Existing private roads that are to be paved, widened or altered in grade or drainage and intersect with a Town road must adhere to the requirement of Section V.2. *Note: Entrances as defined in Article IV are subject to provisions contained in the Thorndike Land Use Ordinance.*

In addition, any application for either a utility pole location permit, or a road/street opening permit, under State or local law, must demonstrate, among other requirements, that any underground utilities, pipes, lines, above-ground utility poles, or the like are to be so located as to minimize, to the greatest extent reasonably practical, their interference with the Town's on-going maintenance of the road surface above them, as well as any adjacent shoulder, drainage ditch or swale within the Town's right of way, including, without limitation, the location of any above-ground utility poles outside of any portions of the Town's right of way in which the location of above-ground utility poles within the right of way would unreasonably increase the Town's road maintenance costs.

No provision of this ordinance shall apply to any State, county or municipal body or authority, which may lay out, widen or improve any public way, except for the Construction Standards, which will serve as a minimum requirement for all road construction in Thorndike. All Town roads currently designated as such and maintained by the Town are not subject to this ordinance.

IV. ROAD DEFINITIONS AND CLASSIFICATIONS

- A. Entrance:** a vehicular accessway to a public or private road, of which there are two types: *Note: See Thorndike Land Use Ordinance for entrance construction requirements.*
1. *Driveway Entrance: a vehicular accessway that connects a public or private road to 1-2 lots, at least one of which is improved with a structure*
 2. *Farm/logging Entrance/Road: a vehicular accessway that connects a public or private road to an undeveloped lot*
- B. Private Road:** a privately-owned road serving more than two lots over which neither the municipality nor the public has a right to travel by vehicle or on foot.
- C. Public Easement:** an easement held by a municipality for purposes of public access to land or water not otherwise connected to a public way, which confers the right of unobstructed public access by motor vehicle or foot but does not obligate the municipality to repair or maintain the easement.

- D. Public Road:** a way or public easement for highway purposes as defined in 23 MRSA §3021 held by any governmental body.
- E. Road:** any public or private way designed for vehicular access, other than driveway entrances, farm/logging entrances, or trails. The term "road" includes the normal meaning conveyed by synonymous words including street, avenue, highway, lane and way.
- F. Town Road (or Way):** a public road owned and maintained by the Town of Thorndike. There are three classifications for Town roads:
 - 1) Through Roads: These are roads that serve as feeders to major traffic ways and as collectors of traffic from minor roads, providing circulation and access to commercial areas and in residential developments. Through roads must accommodate both a regular flow of passenger vehicles and commercial traffic including trucks hauling wood, milk and animal feed.
 - 2) Minor Roads: While these roads connect other ways, they are primarily used by passenger vehicles for access to residential dwellings and commercial properties.
 - 3) Dead End Roads: These are roads of at least 800 feet in length that end in a cul-de-sac, connecting two or more residential and/or commercial buildings, and used primarily by passenger vehicles.
- G. Undeveloped Lot:** a parcel of land without structures

V. ROAD PERMIT

A. Activities Requiring Road Permit

Prior to initiating either: (a) construction of any road, or (b) paving, widening, or altering the grade or drainage of an existing private road that intersects a Town road, a person must obtain a Road Permit from the Road Commissioner.

Note 1: Applicants for proposed roads that will provide access to Routes 139 and 220 must also obtain an Entrance Permit from the Maine Department of Transportation in Rockland prior to construction. Culverts and sight distance on these roads are governed by the State, rather than the Town.

Note 2: Roads that will be offered to the Town for acceptance must also comply with the provisions of Article VI below.

Note 3: A person wishing to build a road involving a stream crossing must obtain a Natural Resources Protection Act permit from the Maine Department of Environmental Protection.

B. Application and Review Procedure

Road permits shall be administered by the Road Commissioner. Except as specified in this section, the application and review procedure outlined in Section C of the *Thorndike Land Use Ordinance* shall be followed in administering road permit applications.

C. Fee

The application fee for a Road Permit shall be established by the Board of Selectmen. *Note: Roads to be offered to the Town will also be assessed inspection fees as outlined in Article VI*

D. Application Requirements

The following information shall be submitted to the Road Commissioner as part of the application for a Road Permit:

- 1) Name of applicant(s).
- 2) Names of the owners of record of the land.
- 3) Any legal encumbrances on the land upon which the proposed road is located.
- 4) Statement of who will own the road following construction, by what legal instrument, and who will be responsible for road maintenance.
- 5) The estimated volume and type of traffic to use the road.
- 6) The anticipated starting and completion dates of each phase of road construction.
- 7) A description of erosion and sedimentation control measures to be employed during and following construction.
- 8) A description of stormwater management and drainageway provisions, together with supporting assumptions and calculations.
- 9) An illustrated plan showing: the scale; the direction of magnetic north; the starting and ending point of the proposed road with relation to established roads and any planned or anticipated future extensions; the boundary lines of all properties abutting the proposed road, including any new lots to be created; all natural waterways; the location and profile of all existing and proposed drainage structures; the design and profile of the 20 feet of the proposed road closest to any Town road intersection; if proposed to be over 300 feet in length, the design of the emergency vehicle turnaround; and the location of all existing and proposed overhead and underground utilities.
- 10) Description of proposed road base and surface material.

E. Conditions for Road Permit Approval

1) New Roads

For new roads, the Road Commissioner shall conduct a site visit of the property and issue a road permit if he or she finds that the following conditions are met:

- a) Adequate sight distance of 10 times speed limit in feet (e.g., 45 mph zone requires 450 feet) of visibility in each direction. This shall be measured from where the driver's seat of a vehicle would be situated twenty feet from the edge of the shoulder, with the height of eye at 3 V2 feet, to the top of an object at 4Y2 feet above the pavement.
- b) The applicant shall agree that the 20 feet of the proposed road closest to the public road shall be constructed with at least 12" of gravel base and 12 feet of traveled way to support emergency vehicles. The same 20 feet of the proposed road shall also have a graded road crown of $\frac{1}{4}$ " per foot such that drainage will neither erode the proposed road nor wash directly onto the public road. If possible, the proposed road should be constructed so that at least the 2 feet closest to the intersection continues the slope created by the crown of the public road being entered to keep drainage from damaging the public road.
- c) The applicant shall agree to purchase and install adequate culverts as directed by the Road Commissioner.
- d) Roads and rights-of-way over 300 feet long must have an adequate place for emergency vehicles to turn around.
- e) The angle of intersection with the public road must be as close to 90° as possible, but never less than 60°.

- f) Erosion and sedimentation must be effectively prevented during and following construction. The acceptability of proposed and employed methods will be judged utilizing the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991.
- g) For roads servicing any permanent, year-round structure, it is recommended that roads and rights-of-way that are over 300 feet long have a 12 foot traveled way and 12" of gravel base to facilitate emergency vehicle access. *(Note: This standard will generally be required as a condition of subdivision approval, although the Planning Board, at its discretion, may accept a waiver from the Fire Chief as outlined in (z) below as evidence of adequate emergency vehicle access.)*

If this standard is not met, the applicant must either:

- (i) Obtain a waiver: Apply for an emergency vehicle access evaluation at the town office. A fee payable to the Town of Thorndike, shall be charged for an emergency vehicle access evaluation. The Selectmen shall transfer all such fees collected to the Thorndike Volunteer Fire Department Firemen's Account no less than annually. Upon receipt of an application, the Town Clerk shall notify the Fire Chief, who shall see that a Fire Department representative contacts the applicant to make a site visit appointment. The Fire Chief or designee will inspect the site and proposed road design and may approve a waiver from the travel way and/or gravel base standards if he or she feels that the proposed road design is adequate for emergency vehicle use. OR
 - (ii) Acknowledge added risk: Sign a statement acknowledging that emergency vehicle access may be impossible, involving above average risk to life and property.
- 2) **Paving, Widening or Altering the Grade or Drainage of Existing Roads**
For existing roads connecting with Town roads that are to be paved, widened, or altered in grade or drainage, the Road Commissioner shall conduct a site visit of the property and issue a Road Permit if he or she finds that the provisions of Subsection V.E. 1)b above are met.
- 3) **Roads Accessing Route 139 or Route 220**
For roads accessing Route 139 or Route 220, the Maine Department of Transportation regulates the sight distance and culvert requirements. The Town Road Permit will be granted based upon satisfying Subsections V.E.1)b, d, e, f, and g.

F. Road Permit Denial: Right to Appeal

If any of the applicable conditions are not met, the Road Commissioner shall deny the Road Permit application. If the applicant feels that the Road Commissioner has erred in his or her interpretation of this ordinance, the applicant may file an administrative appeal with the Board of Appeals within 30 days of the denial. If the applicant feels that the denial of a Road Permit creates an undue hardship, the applicant may request a variance from the Board of Appeals, in accordance with the *Board of Appeals Ordinance for the Town of Thorndike*.

G. Inspection

The applicant will notify the Road Commissioner at least 23 hours prior to construction so that an inspection may be made both during and after construction to confirm adherence to permit requirements.

VI. PETITIONS FOR TOWN ACCEPTANCE OF ROADS

A. Petition Procedure

1) Petition Procedure Outline

Submittal of Road Permit Application (if applicable) & Town Road Acceptance Petition to RC and PB

1

Site Visit by Road Commissioner

1

Planning Board Review of Application

1

Road Permit Granted (if applicable)

1

Road Constructed, Inspected (2-year waiting period for existing roads)

Engineer Certification (if applicable)

1

Certificate of Compliance by Road Commissioner & Planning Board

1

Town Road Acceptance Petition to Board of Selectmen

1

Town Meeting Vote on Petition

2) Review by Road Commissioner and Planning Board

The petitioner begins by submitting both a Road Permit Application and Town Road Acceptance Petition to the Road Commissioner and Planning Board. The Town Road Acceptance Petition must describe, in a form acceptable to the Town Attorney, the property that the owner intends to dedicate to the Town for highway purposes, and state that the owner waives any claim for damages. If within a subdivision, the dedication must be recorded on the filed plan with the Registry of Deeds. The letter must indicate whether the dedication is for a full title or a public easement.

In order to be considered at the next meeting of the Planning Board, both the Road Permit Application and Town Road Acceptance Petition must be filed at least 15 days prior to the meeting. The Road Commissioner will conduct the site visit *as* per a private Road Permit application, but shall not issue a Road Permit until the Planning Board *has* had an opportunity to review the Road Permit Application and Town Road Acceptance Petition. The petitioner and the Road Commissioner shall attend the Planning Board meeting at which the application and petition shall be considered.

The Road Commissioner shall make a recommendation as to whether the proposed road plans appear to satisfy the requirements of this ordinance for a road to be accepted by the Town. The Planning Board shall review the application for completeness. When the application is considered complete, the Road Commissioner and Planning Board shall jointly issue a Road Permit for the construction of a new road or alteration of an existing way to meet the designated standards. If either party refuses to sign the Road Permit, the permit shall be considered denied; the applicant may appeal the decision to the Thorndike Board of Appeals.

3) Town Road Acceptance Petition Delivered to Board of Selectmen

After obtaining the Certificate of Compliance, the petitioner shall file a Town Road Acceptance Petition with the Board of Selectmen. The procedure is otherwise as directed in Title 23 MRSA §3025. The requirements for the Petition, which must originally be filed with the Road Commissioner and Planning Board, are outlined in Subsection B below.

After receiving a public dedication for a road that has been issued a Certificate of Compliance, the Selectmen shall prepare an appropriate warrant article for a town meeting asking whether the Town wishes to accept the dedication. The article will specify whether the dedication is for a public easement or for a town way.

The Selectmen may also initiate purchase and acceptance of a road they wish to lay out as a town way, requiring the authorization of funds in addition to acceptance at a town meeting.

B. Town Road Acceptance Petition Application Requirements

The following information shall be submitted to the Road Commissioner and Planning Board as part of a Town Road Acceptance Petition:

- 1) All information required for a Road Permit application as outlined in Section V.D of this ordinance, plus:
- 2) Classification of the proposed Town road (through road, minor road, dead-end road, *see Section IF.D*);
- 3) Description and location of all road safety and identification signs to be provided; and
- 4) Description of how the road will be maintained until Town acceptance and following if the Town does not accept the dedication.

All road plans, profiles and cross-sections shall be prepared by a Professional Engineer, registered in the State of Maine.

C. Conditions for Certificate of Compliance

- 1) **All Road Permit requirements of Section V.E plus the following:**
- 2) **Construction Standards (minimum requirements)**

The following standards are minimum requirements. The applicant may request that the amount of road base gravel be reduced if the land under the road is stable. The Road Commissioner may authorize a reduction in gravel depth standard if he or she feels that it is unnecessary to adequately support the proposed road.

	Minor & Dead End Roads	Through Roads
a) Width of Right-of-Way	50'	66'
b) Width of Traveled Way	18'	20'
c) Width of Each Shoulder	2'	3'
d) Sub-base Gravel (unscreened bank run)	12"	12"
e) Road base Gravel (maximum 6" stones)	18"	18"
f) Surface Gravel (maximum 2" stones)	6"	6"
g) Bituminous Paving (or equivalent)	2"	2½"
h) Road Crown	¼-½"/foot	¼-½"/foot

i) Cuts: Eighteen inches of gravel plus a six inch surface shall be used in all cut sections of earth and ledge except that where existing material is a clean, well-draining sand or gravel, the base may be lessened to twelve inches. The bottom of ditch shall be a minimum of 38" below the centerline grade of the road.

j) Drainage:

- (i) Adequate provision shall be made for disposal of all surface water and underground water through ditches, culverts, underdrain and/or storm water drainage systems. Complete underground storm sewer systems shall be installed when required by the Planning Board and Road Commissioner. Culverts shall be not less than 15" in diameter. Catch basins shall be no less than 30" in diameter. All culverts shall be galvanized corrugated metal pipe or made of materials approved by the inspector. All culverts shall be designed to accommodate, at a minimum, the anticipated 25-year flood level.
- (ii) Where bridge structures or reinforced concrete box culverts are required to cross major streams, detailed design plans provided by a certified Professional Engineer, registered in the State of Maine, shall be submitted with the application. All bridges and reinforced concrete box culverts shall be designed to accommodate, at a minimum, the anticipated 50-year flood level.
- (iii) A corrugated metal perforated underdrain pipe, or one made of other materials approved by the inspector, of at least 6 inches in diameter, shall be installed to properly drain all springs or areas where the ground water level is too high and could constitute a hazard to the stability of the roadway base.

k) Signage: All safety *and* identification signs shall be supplied by the petitioner.

3) Inspection During Construction

It is the responsibility of the petitioner to provide the Road Commissioner and Planning Board with a construction schedule. The Road Commissioner shall serve *as* the inspector and may call upon one or more members of the Board of Selectmen, Planning Board or other knowledgeable persons to serve on an inspection team. Each layer of road base, including the sub-base, base and surface gravel, as well as the surface pavement, must be inspected before the road can be considered acceptable according to the terms in this ordinance. There will be a fee assessed per inspection, as established by the Board of Selectmen.

4) Engineer Certification

Once a road to be offered to the Town is completed, the petitioner shall submit a written certification signed by a Professional Engineer registered in the State of Maine stating that the road as built meets or exceeds the design and construction requirements of this ordinance.

5) Waiting Period for Roads Already Constructed

There will be a two-year waiting period following a request to designate a road that was not inspected at the time of construction as a Town road. If the road appears to meet all the criteria of this ordinance following an inspection, the waiting period will then begin. The road will be inspected at various intervals during and at the conclusion of the waiting period. There will be a fee per inspection, as established by the Board of Selectmen.

6) Two Year Guarantee Following Acceptance

The petitioner agrees to guarantee for two years following acceptance that the road was built in accordance with the construction standards of this ordinance and, after receiving written notice from the Planning Board, agrees to reimburse the Town for repairs resulting from any design or construction defects beyond the normal wear and tear from ordinary use. If any legal action is brought against the petitioner in the name of the Town in order to collect the costs for repairing the road, and the Town prevails, then the applicant shall be liable and responsible for the Town's legal fees and court costs and any other costs involved in bringing such suit or action.

7) Issuance of Certificate of Compliance

The Road Commissioner and Planning Board must rule within 60 days of either (a) the receipt of an engineer's certification for a new road, or (b) the end of the two-year waiting period for an existing road, on whether or not the road meets the physical requirements of this ordinance. The Road Commissioner shall make his or her determination of compliance and sign the Certificate of Compliance if the requirements of this ordinance have been met. The Planning Board shall also vote on whether the road appears to meet the requirements of this ordinance. If a majority vote in favor, the Chairman or Secretary shall also sign the Certificate of Compliance on behalf of the Board. If either party rejects the petition, the road may not be presented for acceptance at Town Meeting. The petitioner may appeal the decision to the Board of Appeals.

VII. SEVERABILITY

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

VIII. CONFLICTS WITH OTHER REQUIREMENTS

This ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other regulation, permit, ordinance or statute. Where this ordinance imposes a greater restriction upon the use of land or structures, the provisions of this ordinance shall control.

IX. APPEALS

All decisions of the Road Commissioner, Fire Department and Planning Board, pursuant to this ordinance, may be appealed by any aggrieved party to the Board of Appeals within 30 days in accordance with the provisions of the *Board of Appeals Ordinance for the Town of Thorndike*. The Board of Appeals shall have the authority to grant a variance from the terms of this ordinance, where necessary to avoid undue hardship, provided there is no substantial departure from the intent of this ordinance.

X. AMENDMENTS

At any time this ordinance is amended, the Town Clerk, upon advice from the Planning Board, is authorized to insert and/or delete amended language, insert and/or delete clearly inconsistent references caused by such amendments, renumber sections of the amended ordinance in a logical and appropriate fashion, and correct typographical errors, provided such changes to not result in any substantive alteration in the meaning of the ordinance and further the clear intent of such amendment.

Thorndike Shoreland Zoning Ordinance
(Enacted on 3/18/17)

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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 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 waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

This Ordinance is designed to implement the goals in the Town’s 1991 Comprehensive Plan, specifically to “foster and encourage entrepreneurship and small business development”, and “protect natural resources with a minimum of new local regulation.” As such, within the parameters of the *State of Maine Guidelines for Municipal Zoning Ordinances*, this Ordinance allows for light commercial and residential development within the shoreland zone surrounding the Town’s river and wetlands, except where required to be in Resource Protection due to flood hazard or forested wetland areas of 2 acres or greater. Also in accordance with the Comprehensive Plan, this Ordinance affords protection for fisheries habitat in the streams required to be zoned by State law as depicted in Section 3 below.

2. Authority.

This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-448 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 great ponds; within 250 feet, horizontal distance, of the normal high-water line of rivers; within 250 feet, horizontal distance, of the upland edge of a freshwater wetland; and within 75 feet, horizontal distance, of the normal high-water line of a stream.

NOTE: Terms are defined in Section 17, including but not limited to: freshwater wetland, great pond, river and stream.

4. Effective Date of Ordinance and Ordinance Amendments.

This Ordinance, as adopted by the municipal legislative body on March 18, 2017, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved. 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.

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.

The provisions of this Ordinance within the Shoreland Zone are in addition to requirements of the *Thorndike Land Use Ordinance* and all other applicable townwide 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 which is made a part of this Ordinance:

- (1) Resource Protection District
- (2) Limited Commercial District
- (3) Stream Protection District

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 Town Clerk and shall be located in the town office.

D. Changes to the Official Shoreland Zoning Map.

If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

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. Nonconformance.

NOTE: Refer to Section 17 for definitions of nonconforming condition, nonconforming lot, nonconforming structure and nonconforming use.

A. Purpose.

It is the intent of this Ordinance to promote land use conformities, except that nonconforming 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 nonconforming condition shall not be permitted to become more nonconforming.

B. General.

- (1) **Transfer of Ownership.** Nonconforming structures, lots, and uses may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming 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 nonconforming uses and structures including repairs or renovations that do not involve expansion of the nonconforming use or structure, and such other changes in a nonconforming use or structure as federal, state, or local building and safety codes may require.

C. Nonconforming Structures.

(1) Expansions.

All new structures must meet the shoreline setback requirements contained in Section 15(B). A nonconforming 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 nonconformity of the structure and is in accordance with the subsections of Section 12(C)(1).

- (a) 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) 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.

- (c) Notwithstanding Section 12(C)(1)(b), if a 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 standards of this Ordinance are met and the expansion is not prohibited by Section 12(C)(1) above:
 - (i) The maximum total footprint of the principal structure may not be expanded to an area greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.
 - (ii) 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.
- (d) All other 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 standards of this Ordinance are met and the expansion is not prohibited by Section 12(C)(1) and subsections (a), (b) or (c) 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 of all structures may not be expanded to an area greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.
 - (ii) 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 height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
 - (iii) For structures located less than 100 feet from the normal high-water line of a great pond or a river flowing to a great pond, the maximum combined total footprint of all structures may not be expanded to an area greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.
 - (iv) For structures located less than 100 feet from the normal high-water line of a great pond or a river flowing to a great pond, the maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater.
 - (v) For structures located less than 100 feet from the normal high-water line of a great pond or a river flowing to a great pond, 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 requirements of Sections 12(C)(1)(d)(i) and (ii).
- (e) In addition to the limitations in Section 12(C)(1) and subsections (a), (b) and (c) above, structures that are nonconforming due to their location within the Resource Protection District and are located at less than 250 feet from the normal high-water line of a water

body or the upland edge of a wetland may be expanded or altered as follows, as long as other applicable standards of this Ordinance are met:

- (a) The maximum combined total footprint of all structures may not be expanded to an area 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.
- (b) The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater.
- (c) Any portion of the structures located less than 100 feet from the normal high-water line of a great pond or a river flowing to a great pond, must meet the footprint and height requirements of Sections 12(C)(1)(d)(iii) and (iv).
- (d) Any portion of the 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 requirements of Sections 12(C)(1)(d)(i) and (ii).
- (f) Any approved plan for expansion of a nonconforming structure under Section 12(C)(1) must be recorded by the applicant in the registry of deeds of the county in which the property is located within 90 days of approval. The recorded plan must include the existing and proposed footprint of structures on the property, the existing and proposed height of structures on the property, the shoreland zone boundary and evidence of approval by the municipal permitting authority.

(2) Foundations.

Whenever a new, expanded or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the shoreline 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) below.

(3) Relocation.

A nonconforming 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 nonconforming.

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

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native

vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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.

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.

The Planning Board may also require replanting in accordance with Section 15(Q).

(4) Reconstruction or Replacement.

Any nonconforming 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 Section 12(C)(3) above. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.

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 nonconforming footprint of the reconstructed or replaced structure at its new location. If the total amount of 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 nonconforming 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 Nonconforming Structure.

The use of a nonconforming 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. Nonconforming Uses.

(1) Expansions.

Expansions of nonconforming uses are prohibited, except that nonconforming 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 nonconforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a nonconforming 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 nonconforming use may be changed to another nonconforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(5) above.

E. Nonconforming Lots.

(1) Nonconforming Lots: A nonconforming 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 nonconforming 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 nonconforming, owned by the same person or persons on December 6, 1991, and recorded in the registry of deeds if the lot 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 District need not be included within the Resource Protection District.

- (1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of December 31, 2008. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.

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

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

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

B. Limited Commercial District.

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

LC - Limited Commercial

SP - Stream Protection

NOTE: Terms are defined in Section 17, including but not limited to: functionally water-dependent uses.

TABLE 1. LAND USES IN THE SHORELAND ZONE

<u>LAND USES</u>	<u>DISTRICT</u>		
	SP	RP	LC
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. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO ¹	yes
4. Fire prevention activities	yes	yes	yes
5. Wildlife management practices	yes	yes	yes
6. Soil and water conservation practices	yes	yes	yes
7. Mineral exploration	no	yes ²	yes ²
8. Mineral extraction including sand and gravel extraction	no	PB ³	PB
9. Surveying and resource analysis	yes	yes	yes
10. Emergency operations	yes	yes	yes
11. Agriculture	yes	PB	yes
12. Aquaculture	PB	PB	yes
13. Principal structures and uses			
A. One and two family residential, including driveways	PB ⁴	PB ⁸	CEO
B. Multi-unit residential	no	no	PB
C. Commercial	No ⁹	No ⁹	PB
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
14. Structures accessory to allowed uses	PB ⁴	PB	CEO
15. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI
16. Home occupations	PB	PB	CEO
17. Private sewage disposal systems for allowed uses	LPI	LPI	LPI
18. Essential services			
A. Roadside distribution lines (34.5kV and lower)	CEO ⁵	CEO ⁵	yes ¹⁰
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁵	PB ⁵	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁵	PB ⁵	PB
D. Other essential services	PB ⁵	PB ⁵	PB
19. Service drops, as defined, to allowed uses	yes	yes	yes
20. Public and private recreational areas involving minimal structural development	PB	PB	PB
21. Special use lots of less than minimum lot requirements ¹¹	PB	PB	PB
22. Individual private campsites	CEO	CEO	CEO
23. Campgrounds	no	No ⁶	PB
24. Road construction	PB	No ⁷	PB
25. Parking facilities	no	No ⁶	PB
26. Marinas	PB	no	PB
27. Filling and earth moving of <10 cubic yards	CEO	CEO	yes
28. Filling and earth moving of >10 cubic yards	PB	PB	CEO
29. Signs	yes	yes	yes
30. Uses similar to allowed uses	CEO	CEO	CEO
31. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO
32. Uses similar to uses requiring a PB permit	PB	PB	PB

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

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

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

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

⁵ See further restrictions in Section 15(K).

⁶ Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

⁷ Except as provided in Section 15(L).

⁸ Single family residential structures may be allowed by special exception only according to the provisions of Section 16(F), Special Exceptions. Two-family residential structures are prohibited.

⁹ Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

¹⁰ Permit not required but must file a written "notice of intent to construct" with CEO.

¹¹ Requires permanent deed restriction to prohibit future development on lot.

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

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

15. Land Use Standards.

All land use activities within the shoreland zone shall conform with the following provisions, if applicable. New lots must also meet Lot Permit requirements of the *Thorndike Land Use Ordinance*.

A. Minimum Lot Standards

(1) Area and Shore Frontage Requirements by Use:

(a) Residential Per Dwelling Unit:	Minimum Lot Area <u>(Square Feet)</u>	Minimum Shore Frontage <u>(Linear Feet)</u>
(i) Village District	43,560	200
(ii) Rural District	87,124	200
(b) Governmental, Institutional, Commercial or Industrial per Principal Structure		
(i) Village District	60,000	300
(ii) Rural District	87,124	300
(c) Public or Private Recreational Facilities		
(i) Village District	43,560	200
(ii) Rural District	87,124	200

(2) Special use lots such as substations, small parks or other uses in the public interest may be allowed if all other standards in this and other applicable ordinances are met. Such lots and uses shall be approved by the Planning Board and shall require a permanent deed restriction to prevent future development inconsistent with permit standards.

(3) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

(4) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

(5) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

(6) If more than one residential dwelling unit, 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, except that buildings may be clustered in an appropriate manner to allow for more efficient operations and natural resource protection. Clustered design plans must meet minimum averaged lot requirements within the Shoreland Zone portion of any lot and be approved by the Planning Board.

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 and rivers that flow to great ponds, 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.

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

Permitting under the Natural Resources Protection Act for activities adjacent to significant wildlife habitat areas may require greater setbacks. Contact your local Department of Environmental Protection office to see if additional permitting is required.

In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- (b) On a nonconforming 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 non-vegetated surfaces and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

NOTE: Refer to Section 17 for definition of tributary stream.

- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Commercial and Stream Protection Districts, shall not exceed thirty-five (35) feet in height.
 - (a) This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
 - (b) The height of a structure shall exclude a nonhabitable feature mounted on a structure roof for observation purposes, such as a cupola, a dome or a widow's walk, provided the following conditions are met:

- (i) the feature is being added to, or is part of, a conforming structure,
 - (ii) the structure is not located in a Resource Protection or Stream Protection District,
 - (iii) the feature does not extend beyond the exterior walls of the structure,
 - (iv) the feature has a floor area of fifty-three (53) square feet or less, and
 - (v) the feature does not increase the height the structure, as defined, more than seven (7) feet.
- (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. Accessory structures may be placed in accordance with the standards of the Floodplain Management Ordinance effective July 5, 2016 and amendments thereto.
- (4) Non-vegetated surfaces shall not exceed twenty (20) percent of the portion of the lot located within the shoreland zone. 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 non-vegetated surfaces for lots that were recorded on March 24, 1990, and that have been in continuous existence since that date.

Section 15(B)(4) shall not apply to public boat launching facilities, regardless of the district in which the facility is located.

- (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, is no more than 24 inches;
 - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain 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(N)(2)(a), may traverse the buffer.

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

- (6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.
- (7) Notwithstanding the requirements in Section 15(B)(1) above, the permitting authority may approve a deck over a river if it is part of a downtown revitalization project that is defined in a project plan approved by the legislative body of the municipality, which may include the revitalization of structures formally used as mills that do not meet the setback requirements, provided that the following requirements are met:
- (a) The total deck area attached to the structure does not exceed seven hundred (700) square feet;
 - (b) The deck is cantilevered over a segment of the 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; and
 - (d) The construction of the deck complies with all other applicable standards, except the setback requirements in Section 15(B)(1).

NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

- (8) The Planning Board may approve shoreline stabilization of an eroding shoreline, provided that the following requirements are met:
- (a) Construction equipment must access the shoreline by barge when feasible, as determined by the Planning Board.
 - (b) When necessary, the removal of vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than twelve (12) feet in width. When the shoreline stabilization is complete, the construction equipment access way must be restored.
 - (b) Any restoration or revegetation shall occur in accordance with Section 15(Q).

NOTE: A permit pursuant to the Natural Resources Protection Act is required from the Department of Environmental Protection for shoreline stabilization activities.

C. 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 or a river flowing to a great pond, 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.

D. Individual Private Campsites.

Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- (1) On a vacant lot, 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) On a lot that contains a principal use or structure, the lot shall contain the minimum lot dimensional requirements for that principal use or structure separately from the thirty thousand (30,000) square feet of lot area within the shoreland zone required per individual private campsite.

- (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 or river flowing to a great pond, 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.

E. Commercial and Industrial Uses.

The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds, and rivers and streams which flow to great ponds:

- (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

F. Parking Areas.

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

G. Roads and Driveways.

In addition to the Entrance Permit requirements of the *Thorndike Land Use Ordinance* and those of the *Thorndike Road Ordinance*, 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 or a river that flows to a great pond, 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(G)(1) except for that portion of the road or driveway necessary for direct access to the structure.

- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.
- (3) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(R).
- (5) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

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

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

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
- (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

- (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

H. Signs.

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

- (1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
- (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
- (3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing lights.

I. 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.

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

streams) and less than 5 acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.

J. Septic Waste Disposal.

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

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

K. 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.

L. 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 (L)(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 or a river flowing to a great pond, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
- (3) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

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

- (b) The final graded slope shall be two and one-half to one (2.5:1) slope or flatter.
- (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (4) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

M. 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 or a river flowing to a great pond, 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. Nonconformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

NOTE: Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District office.

- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance, of other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the Planning Board.

N. 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 shoreline buffer extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees in accordance with Section 15(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 15(N)(1) above, within a shoreline buffer extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond or a river flowing to a great pond, or within a shoreline buffer extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, 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 shoreline buffer is not created.
 - (b) Selective cutting of trees within the shoreline buffer is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(N)(2)(b) a "well-distributed stand of trees" adjacent to a great pond, or a river or stream flowing to a great pond, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

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

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

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

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

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

The following shall govern in applying this point system:

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

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

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

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath as described in Section 15(N) 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 the vegetation in the shoreline buffer, removal of storm-damaged, hazard or dead trees and any required replanting shall occur in accordance with Section 15(Q).
- (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(N)(2).

- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond or a river flowing to a great pond, 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.
- (4) 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 the lot within the shoreland zone, including the shoreline buffer area. This provision shall not apply to the General Development Districts.
- (5) Legally existing nonconforming cleared openings may be maintained, in accordance with Section 15(P). If these areas, fields or other cleared openings have reverted back to primarily woody vegetation, as a result of not maintaining them in accordance with Section 15(P), then the provisions of Section 15(N) shall apply.

O. Hazard Trees, Dead Trees and Storm-Damaged Trees.

- (1) Hazard trees may be removed without a permit after consultation with the Code Enforcement Officer, provided 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, the opening shall be replaced with native tree species, unless there is new tree growth already present near to where the hazard tree was removed. New tree growth is considered to be at least two (2) inches in diameter, measured at four and one half (4.5) feet above ground level. If new growth is not present, then replacement trees shall consist of native species, be at least four (4) feet in height and be no less than two (2) inches DBH. Stumps shall not be removed.
 - (b) Outside the shoreline buffer, if the removal of hazard trees results in more than forty (40) percent of the volume of trees, four (4) inches or more in diameter as measured at four and one half (4.5) feet above ground level, being removed in any ten (10) year period; or results in cleared openings of more than twenty-five (25) percent of the lot area within the shoreland zone or more than ten thousand (10,000) square feet, whichever is greater; then replacement with native tree species is required, unless there is new tree growth already present near to where the hazard tree was removed. New tree growth is considered to be at least two (2) inches DBH. If new growth is not present, then replacement trees shall consist of native species and be no less than two (2) inches DBH.
 - (c) The code enforcement officer may require the applicant to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

- (d) The code enforcement officer may require more than a one-for-one replacement for removed hazard trees that exceeded eight (8) inches in diameter at four and one half (4.5) feet above ground level.
- (2) Dead trees may be removed without a permit, provided the following requirements are met:
- (a) The trees are dead from natural causes. Dead trees are those that contain no foliage during the growing season.
 - (b) The removal of dead trees does not result in the creation of new lawn areas or other permanently cleared areas.
 - (c) Stumps shall not be removed.
- (3) Storm-damaged trees may be removed without a permit after consultation with the Code Enforcement Officer, provided the following requirements are met:
- (a) Within the shoreline buffer, if the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, the following shall be required:
 - (i) The area shall be required to naturally revegetate. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings shall be required at a density of one seedling/sapling per every eighty (80) square feet of open canopy.
 - (ii) The removal of storm-damaged trees does not result in the creation of new lawn areas or other permanently cleared areas.
 - (iii) Stumps shall not be removed.
 - (iv) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree.
 - (b) Outside the shoreline buffer, if the removal of storm-damaged trees results in more than forty (40) percent of the volume of trees, four (4) inches or more in diameter as measured at four and one half (4.5) feet above ground level, being removed in any ten (10) year period; or results in cleared openings of more than twenty-five (25) percent of the lot area within the shoreland zone or more than ten thousand (10,000) square feet, whichever is greater; then the area shall be required to naturally revegetate. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings shall be required on a one-for-one basis.

P. Exemptions to Section 15(O).

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

- (1) The clearing or 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 standards of Section 15(P), such as but not limited to cleared openings in the canopy or fields. If any of these areas revert back to primarily woody vegetation, due to a lack of removal of vegetation every two (2) years, the requirements of Section 15(N) shall apply.
- (2) The clearing or 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 clearing or removal of vegetation from the location of public swimming areas associated with allowed public recreational facilities.
- (4) The clearing or removal of vegetation associated with allowed agricultural uses, provided that all requirements of Section 15(M) are complied with, and that best management practices are utilized.
- (5) The clearing or removal of vegetation associated with brownfields or voluntary response action program projects pursuant to 38 M.R.S.A section 343-E, provided that the following provisions are met:
 - (a) The clearing or removal of vegetation is within the shoreland zone of rivers that do not flow to great ponds that are designated as General Development Districts; and
 - (b) The clearing or removal of vegetation is necessary for remediation activities to clean up contamination.
- (6) The clearing or removal of non-native invasive vegetation, provided that the following requirements are met:
 - (a) If clearing or removal of vegetation occurs via wheeled or tracked motorized equipment, then the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that the wheeled or tracked motorized equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
 - (b) The clearing or removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
 - (c) If the clearing or removal of non-native invasive vegetation results in a standard of Section 15(N) being exceeded, then the area shall be revegetated in accordance with Section 15(Q) to achieve compliance with the applicable standard(s) of Section 15(N).

NOTE: An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program.
http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm

- (7) The clearing or 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.

Q. Revegetation Requirements.

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

- (1) The applicant 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 must occur at a density comparable to the pre-existing vegetation. If this is not feasible due to shoreline stabilization, then 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 consist of saplings at a minimum;
 - (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 shoreline stabilization, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or saplings 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/saplings is required for a minimum of five (5) years.
- (5) Revegetation activities must meet the following requirements for all woody vegetation and for 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 in Section 15(P) for a 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, the area must be supplemented with leaf mulch and/or bark mulch at a minimum of four (4) inches deep 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 Ordinance for a minimum of five (5) years.

R. 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 riprap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.
- (6) When an excavation contractor will perform these activities, compliance with the following shall be required:
 - (a) A person certified in erosion control practices by the Maine Department of Environmental Protection shall be responsible for management of erosion and sedimentation control practices at the site. This person shall be present at the site each day these activities occur for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until installation of erosion and sedimentation control measures that will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion.
 - (b) Include on the required plan or permit application, the name and certification number of the person who will oversee activities causing or resulting in soil disturbance.

S. 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.

T. 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.

U. 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.

NOTE: Municipal officials should contact the Maine Historic Preservation Commission for the listing and location of Historic Places in their community.

16. Administration.

A. Administering Bodies and Agents.

The Code Enforcement Officer (CEO), Planning Board (PB) and Board of Appeals, as established in Town ordinance, shall administer those portions of this Ordinance so assigned. The Licensed Plumbing Inspector (LPI) and Town Clerk shall perform duties as assigned within this Ordinance in accordance with State statute and rules. The Road Commissioner may be engaged to confer with the CEO on Driveway and Road provisions, particularly as requirements overlap with those in other Town ordinances.

B. Fees Authorized.

The Board of Selectmen may adopt reasonable application fees to offset costs involved. Such fees will be published in the town office.

C. 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.

D. 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, together with any required fees, to the appropriate official as indicated in Section 14 or to the town office.
- (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, Town Clerk or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- (5) 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.
- (6) When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion control practices at the site must be certified by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

E. 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 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;
- (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.

F. Special Exceptions.

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

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

development is otherwise in compliance with any applicable municipal floodplain ordinance. If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year floodplain.

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

G. 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.

H. 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.

I. 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 non-vegetated surfaces, 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 nonconformity 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(l)(2)(c)(ii) above, in accordance with 30-A M.R.S.A section 4353-A, the Code Enforcement Officer may approve a permit to the owner of a residential dwelling unit for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses that dwelling. The permit is deemed to include the variance, which shall be solely for installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Code Enforcement Officer may impose conditions on the permit, including limiting the permit 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 ramps and associated railing, and wall or roof systems necessary for the safety or effectiveness of the structure. Such permitting is subject to Sections 16(l)(2)(f) and 16(l)(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 is inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

(4) Appeal Procedure.

(a) Making an Appeal:

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

J. 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 ensure 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.

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

17. Definitions.

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

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

Agriculture - the production, keeping or maintenance for sale or lease, of plants 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.

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

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

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

Disability - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or

psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Driveway - a vehicular access-way less than five hundred (500) feet in length serving two 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.

Excavation contractor - an individual or firm that either is engaged in a business that causes the disturbance of one or more cubic yards of soil, or is in a business in which the disturbance of one or more cubic yards of soil results from an activity that the individual or firm is retained to perform. Disturbance includes: grading, filling, and removal. A person or firm engaged in agriculture or timber harvesting activities is not considered an excavation contractor as long as best management practices for erosion and sedimentation control are used. Municipal, state and federal employees engaged in projects associated with that employment are not considered excavation contractors.

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 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, 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 waters. Recreational boat storage buildings are not considered to be a functional 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,

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 non-vegetated surfaces, 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.

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

Nonconforming 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.

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

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

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

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:

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

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.

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.

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 of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

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

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

Storm-damaged tree – a tree that has been uprooted, blown down, is lying on the ground, or remains standing, and is damaged beyond the point of recovery as a 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 - whether temporary or permanent: anything located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind; anything built, constructed or erected on or in the ground. The term structure includes decks, patios, and satellite dishes. Structure does not include fences; poles; wiring, guy wires, guy anchors and other aerial equipment normally associated with service drops; 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; and 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.

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of vegetation in the shoreland zone associated with any other land use activity, and 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 vegetation shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

Tree – a woody perennial plant that has a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, that has a more or less definite crown and that reaches 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.

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

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

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.

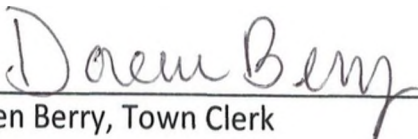
Water body - any great pond, river or stream.

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.

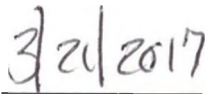
Wetland - a freshwater wetland.

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

Attest: A true copy of the ordinance entitled “Thorndike 2017 Shoreland Zoning Ordinance” as enacted by the voters on March 18, 2017.



Doreen Berry, Town Clerk



Date

Thorndike Site Plan Review Ordinance

(Enacted on March 16, 1996; amended on 3/15/97 and 3/19/16)

Article I. Purpose

The purpose of this ordinance is to institute and define a municipal review and permit system for more intensive land-based activities which have the potential to disturb the health, safety and welfare of Thorndike residents if not managed in conformance with reasonable performance standards. This ordinance details the procedures to be followed and standards to be met by persons proposing applicable land-based activities. In the mutual interests of the townspeople and the developer, it is the Town's intent to conduct a fair, thorough and expedient review process for proposed activities subject to the provisions of this ordinance.

Article II. Authority and Incorporation of Referenced Maps

This ordinance is enacted pursuant to the enabling provisions of Article VIII, Part 2, §1 of the Maine Constitution, the provisions of Title 30-A MRSA, §3001 (*Home Rule*), and the provisions of Title 30-A §4311 et seq. (*Comprehensive Planning and Land Use Regulation, or "Growth Management" Act*). This ordinance is founded upon and pursuant to the *Town of Thorndike Comprehensive Plan*, adopted on December 6, 1991. The *Thorndike Village Boundary Map*, *Shoreland Zoning Map* and *Flood Insurance Rate Maps* are hereby incorporated by reference in this ordinance.

Article III. Applicability

3.1 General Provisions: Site plan approval by the Planning Board, evidenced in the form of a Site Plan Permit, shall be required for any new construction or new activity (including those in existing facilities) meeting any of the following criteria:

- A) any non-residential use, including a home occupation, that cumulatively involves (excluding any residence on the property) over 10,000 square feet of enclosed floor area and/or impervious surface (e.g asphalt or concrete), other than a road or a entrance issued a permit under the *Road Ordinance for the Town of Thorndike* or *Thorndike Land Use Ordinance*.
- B) any construction or excavation that will affect more than 20,000 square feet of land area, except for a road or entrance issued a permit under the *Road Ordinance for the Town of Thorndike* or *Thorndike Land Use Ordinance*.
- C) any activity that will generate an average of over 200 vehicle trips per day open for business.
- D) any activity that will generate more than a background level (*see definition*) of noise, odor, glare or other disturbance at any property boundary without adequate design and/or buffering.

3.2 Exceptions: This ordinance *does not apply* to activities or construction conducted in the course of:

- A) agricultural production (*see definition*);
- B) timber harvesting (*see definition*);
- C) temporary events, such as fairs, parades and yard sales; or
- D) developing a subdivision as approved by the Planning Board.

3.3 Expansions to Existing Facilities: Owners of facilities or conductors of activities that existed at the time of enactment of this ordinance shall be required to obtain a Site Plan Permit prior to expanding the existing facility or operation to the point at which it will collectively meet any of the thresholds listed above. The threshold will be measured including the pre-existing operation.

Article IV. Definitions

Abutting Property: The parcel(s) sharing a boundary line with, or across the road from, the subject property.

Agricultural Production: The activity of growing crops and/or raising livestock. This definition includes horticulture and nursery activity but does not include processing facilities, slaughterhouses or the composting of material imported from off-site.

Background Level: The all-encompassing level of attribute associated with a given environment, being, in the case of noise, a composite of sounds from many distant, individually indistinguishable sources, prior to the new noise being introduced, and excluding noise from individual identifiable vehicles, power tools in temporary use, or other sporadic emanators of noise at the site being evaluated. Similar analyses would be applied to other applicable attributes, such as odor, glare, dust, vibration, etc.

Commercial Activity: Any business endeavor operated for pecuniary gain, or involving the selling of goods or services, including non-profit operations.

Development: Any change by individuals or entities to improved or unimproved real estate, including but not limited to: the construction of buildings and other structures; construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation or drilling operations. Activities related to agricultural production or timber harvesting are exempted from the definition of development.

Impervious Surface: A material covering the earth, which is non-porous, e.g. concrete, or asphalt.

Major Development: A development involving over 20,000 square feet of enclosed floor area and/or impervious surface or expected to generate an average of over 400 vehicle trips per day open for business.

Minor Development: A development involving 20,000 square feet or less of enclosed floor area and/or impervious surface or expected to generate an average of no more than 400 vehicle trips per day open for business.

Site Plan Permit: Written authorization from the Planning Board that the activity applied for pursuant to this ordinance has been approved.

Site Plan Permit Application: The information provided by the applicant as required by this ordinance for the Planning Board to use in its review. A Preliminary (Site Plan Permit) Application is always submitted and may, if in full compliance with the standards of this ordinance, be approved without further work on the part of the applicant. If the plan needs more than minor adjustments in order to be approved, a Final (Site Plan Permit) Application is required.

Site Plan Review: The process described within this ordinance in which the Planning Board and other relevant Town review authorities make findings of fact and determine whether a proposed activity as described within a Site Plan Permit Application meets the standards set out in this ordinance. Based upon this review, the Planning Board may either approve or deny a Site Plan Permit.

Sketch Plan: An informal drawing (approximately to scale) and set of basic information designed to give the Planning Board an idea of existing site conditions and what is to be proposed in a Site Plan Permit Application. The specific requirements for information to be included are outlined in Section 6.B of this ordinance.

Structure: Any material or a combination of materials which are constructed or erected, the use of which requires location on the ground, or attached to something located on the ground, exclusive of tents and fences.

Timber Harvesting: The cutting and removing of trees from their growing site, and the attendant operation of mobile and portable chipping mills and of cutting and skidding machinery, including the creation and use of skid trails and winter haul roads. Timber harvesting does *not* include the clearing of land for other land uses.

Trip: A single or one direction vehicle movement with either the origin or destination inside the development area.

Article V. Administration

5.1 Delegation of Responsibility and Authority: The Planning Board shall be primarily responsible for administering this ordinance and has the authority to approve, approve with conditions or deny a permit application. The Town Clerk is responsible for receiving application materials and fees, forwarding applications to Planning Board members, and notifying abutters. Other Town officials who may be involved in assisting the Planning Board during the site review procedure are the Code Enforcement Officer, Road Commissioner, Fire Chief and Plumbing Inspector. The Board of Appeals may hear appeals related to a permit decision or procedural step arising from application of this ordinance.

5.2 Application Fees:

- A) Basic Fee: All applications for Preliminary Site Plan approval shall be accompanied by the prescribed application fee established by the Board of Selectmen payable to the Town of Thorndike.
- B) Related Permit Application Fees: In addition, applications shall be attached, together with the prescribed fee, for any other individual aspect of the development requiring a Town permit under the *Thorndike Land Use Ordinance, Shoreland Zoning Ordinance, Floodplain Management Ordinance, Road Ordinance for the Town of Thorndike*, or any other applicable ordinance, except that the Site Plan Permit Application fee includes the building permit fee for up to one new principal structure. If more than one new structure will be built, an additional fee for each principal and accessory structure shall be remitted. *[Example: An application for a new store on an undeveloped lot in a flood hazard zone would likely require the site plan permit fee, an entrance permit fee, and a flood hazard development permit fee.]*
- C) Waivers: The Planning Board may waive a portion of the fees assessed if the total amount is deemed to be disproportionate to the Town's cost of review. Such a finding shall not be made until the review process is completed; fees shall be paid in full to initiate the review process.

5.3 Coordination with Other Town Permit Requirements: Successful completion of the site review process will include the approval of other necessary Town land use permits.

- A) Subsurface Wastewater Disposal System Permit Required Prior to Submittal: The applicant shall pursue the design of any planned subsurface wastewater disposal system and obtain the Plumbing Inspector's approval of the design prior to submitting a Preliminary Application.
- B) Other Relevant Applications Attached: Upon request for a Site Plan Permit Application, the Town will attach applications for all potentially relevant permits to the basic Site Plan Permit Application form. Attached permit applications will be numbered as both Site Plan Permit Applications and individual permit applications. All relevant applications shall be completed and submitted together with the Site Plan Permit Application.
- C) Site Plan Permit Contingent on Other Permit Requirements: Standards required for the following other applicable Town permits related to the proposed development shall be met as conditions of any Site Plan Permit issued: Subsurface Wastewater Disposal Permit, Entrance Permit, Road Permit, Flood Hazard Development Permit, Shoreland Zoning approval, and Building Permit.
- D) Coordinated Review by Planning Board: The Site Plan Permit application will be considered by the Planning Board, with portions that are normally reviewed by the Code Enforcement Officer, Road Commissioner and/or Fire Chief delegated to those officials by the Planning Board. The reviewing authorities will report their findings directly back to the Planning Board; approval for final construction (of a road, entrance, building, etc.) will not be granted until the Site Plan Permit is approved.
- E) Rights Reserved if Site Plan Permit is Denied: If the Site Plan Permit is denied, permits for other uses on the site may be requested by the applicant as outlined in Town ordinances. The request must be made in writing and dated by the Town Clerk.

- 1) Applications Identical to Site Plan Permit Application: To the extent that Town permit officials have already approved portions of the proposed development during the Site Plan Review procedure (e.g. an entrance design), a permit will be issued upon request of the applicant if the design does not change.
- 2) Applications Changed from Site Plan Permit Application: If the application is at all altered from the design submitted for the Site Plan Permit, a new application must be filed but the fee will be waived, as long as the new application is made within 12 months of the Site Plan Permit denial.
- 3) Applications filed more than 12 months from Site Plan Permit Denial: After 12 months, any application will be treated like a new application.

5.4 Classification of Development: The proposed development shall be categorized as either a major or minor development. Major developments shall be considered those with impervious surface and/or enclosed floor space of over 20,000 square feet or that will generate an average of over 400 vehicle trips per day open for business. In general, minor developments may be processed in a shorter time period than major developments, although the Town reserves the right to review any development as a major development in the event of an unanticipated or controversial aspect of a proposed development of any size or traffic volume. Site Plan Review will be kept to the minimum level necessary to assure compliance with the standards in this ordinance.

Article VI. Application Procedure

6.1 Application Process Outline:

- A) For Minor Developments (those with 20,000 square feet or less of enclosed floor area and/or impervious surface, and expected to generate an average of 400 or fewer vehicle trips per day open for business), applicants shall:
 - 1) Submit a Sketch Plan and attend a Sketch Plan Review meeting (see Article VI, Step 1), where application submission requirements are reviewed and a site visit is scheduled if necessary;
 - 2) Submit a Site Plan Permit Application, usually in two stages (see Preliminary Application--Article VI, Step 3, and Final Application--Article VI, Step 4).
- B) For Major Developments (those with over 20,000 square feet of enclosed floor area and/or impervious surface or expected to generate an average of over 400 vehicle trips per day open for business), applicants shall:
 - 1) Submit a Sketch Plan and attend an initial Sketch Plan Review meeting (see Article VI, Step 1), where Site Inventory and Analysis submission requirements are reviewed and a site visit is scheduled if necessary;
 - 2) Submit a Site Inventory and Analysis and attend a meeting (see Article VI, Step 2) to both review the Site Inventory and Analysis and discuss the application submission requirements; and
 - 3) Submit a Site Plan Permit Application, usually in two stages (see Preliminary Application--Article VI, Step 3, and Final Application--Step 4).

These procedures are detailed below.

6.2 Step 1. Sketch Plan Review (all developments):

- A) The applicant shall submit to the Town Clerk, at least 10 days prior to the Planning Board’s scheduled monthly meeting, 10 copies of a Sketch Plan showing the proposed layout of the development or the commercial activity in relation to existing conditions and a brief narrative containing the following information:
 - 1) Sketch Plan Narrative (10 copies):
 - a) names, addresses and phone numbers of property owner(s), applicant(s), and all consultants working on the project;
 - b) name and description of the proposed development and desired timeframe;

- c) description of site opportunities (e.g. road access, good soils, existing buildings) and constraints (e.g. wetlands, streams).
 - d) identification of any other relevant studies that are available or will be commissioned during project development.
- 2) Sketch Plan Graphic (10 copies): The sketch shall be drawn roughly to scale, preferably superimposed over an aerial photograph (copies may be made of the Town's aerial photos at the Town Office). Outlines of proposed buildings, roads and other aspects of the development shall be included in the sketch. Existing natural and built features, including streams, wetlands and existing buildings should be clearly identifiable on the sketch.
- B) Combined Sketch Plan and Site Inventory Analysis Allowed at Applicant's Option: An applicant who is proposing a Major Development and who does not wish to have any Site Inventory and Analysis requirements waived, may present a Sketch Plan with the Site Inventory and Analysis at the initial meeting. The Town Clerk shall mail one copy to each Planning Board member and the Code Enforcement Officer for their review prior to the meeting, post one copy for public inspection in the Town Office, and file the other copy.
- C) Attendance at Board Meeting: The applicant shall attend the Planning Board meeting to discuss the proposed development. Ordinance requirements will be reviewed with the applicant and a site visit will be scheduled if deemed necessary for the Board to understand the proposed development and its relationship to existing conditions. Within 7 days of the site visit, or of the regular Board meeting if no site visit is held, the Board shall inform the applicant in writing of the submission requirements for the next application phase (*Preliminary Application for Minor Developments; Site Inventory and Analysis for Major Developments*).
- D) Official Initiation of Review Process: The submittal or review of the Sketch Plan or Site Inventory and Analysis shall not be considered the initiation of the review process for the purposes of bringing the Site Plan Permit Application under the protection of Title 1, MRSA, §302.

6.3 Step 2. Site Inventory and Analysis (Major Developments Only):

- A) Content: The Site Inventory and Analysis shall contain the following information, unless waived by the Board:

Two copies of an accurate inventory plan of the site at a scale of not more than 100 feet to the inch including:

- 1) project name, north arrow, scale, date, and legend;
- 2) topography of the site at an appropriate contour interval (2 to 20 foot), depending upon the character of the site and the proposed use, with arrows identifying existing drainage patterns on the site (the survey references from which elevation was determined should be clearly marked both on the plan and at/near the site);
- 3) major natural features of the site, including wetlands, streams, ponds, flood hazard areas, springs, wooded vs. cleared land, etc.;
- 4) existing legal restrictions, easements, or zoning applicable to the property;
- 5) soils information of at least medium intensity, analyzed for relevant drainage characteristics;
- 6) identification of any current use of site for agricultural production;
- 7) existing and/or proposed access to site;
- 8) parcel boundaries and names of abutting landowners;
- 9) location of existing wells on any property within 200 feet of the area proposed for development; and
- 10) any existing structures, culverts, utility poles, signs or other prominent man-made features located on the parcel or on any property within 100 feet of the area to be developed.

- B) Waivers: The Planning Board may waive any of the above requirements that are not pertinent to the site or proposed development.
- C) Board Review of Site Inventory and Analysis: The applicant shall attend the meeting of the Planning Board at which the Site Inventory and Analysis will be considered, present an oral summary of the information and answer questions the Board may have. Following the review of the Site Inventory and Analysis, the Board and applicant will review the Preliminary Site Plan Submission Requirements and determine which of them, if any, may be waived due to inapplicability.

6.4 Step 3. Preliminary Application (All Developments):

- A) Timing: Within six months after the Sketch Plan has been reviewed by the Board, the developer shall submit a Preliminary Application at least 10 days prior to a scheduled meeting of the Board. If the developer fails to act within the six-month time frame, the Board may require the developer to resubmit the Sketch Plan for reasons including but not limited to possible changes in Board membership, changes in local or state regulations, and subsequent development in the town that could have an impact on the proposed plan. The Preliminary Site Plan shall approximate the layout shown on the Sketch Plan and may include recommendations made by the Board based upon its on-site inspection of the proposed project.
- B) Number of Copies Submitted: The applicant shall submit ten (10) copies of the narrative portion of the Preliminary Application. One copy of any aerial photo is sufficient. Ten (10) copies of each plan describing site conditions and the proposed development shall be submitted and shall be drawn at a scale of not more than 100 feet to an inch. One copy of each submittal shall remain on file in the Town Office and another will be posted for public inspection.
- C) Board and Abutter Notification: Upon receipt of a Preliminary Application and all applicable fees, the Town Clerk shall mail one copy to each Planning Board member and the Code Enforcement Officer. The Town Clerk, as advised by the Planning Board, shall notify by certified mail the owners of all property abutting the proposed development. The notice will contain:
- 1) a brief description of the proposal before the Board;
 - 2) the statement that the application is available for public inspection during Town Office hours;
 - 3) the date, time and place of the Planning Board meeting at which the proposal will be discussed; and
 - 4) advice that any request for a public hearing on the proposal should be made before or at this Planning Board meeting.

A copy of the notice will be kept in the applicant file with the names and addresses to whom it was sent, and a copy of the certified mail receipt. The applicant will be billed for the postage.

- D) Preliminary Application Submission Requirements: The Preliminary Application shall include:
- 1) Narrative (10 copies): Each copy of the narrative information shall be stapled or otherwise bound together, and shall follow the order of this section. Any additional information offered should be added to the end of the narrative.

The narrative shall at a minimum contain the following information:

General Information:

- a) Signed copy of the application cover sheet obtained from the Town Clerk.
- b) Names, addresses and telephone numbers of (a) the property owner; (b) the applicant; and (c) all consultants hired to date to assist with the project (e.g. surveyors, engineers, architects, planners, site evaluators, builders etc.), with area of responsibility indicated.
- c) Name and brief description of proposed development.
- d) Number of acres in the parcel and of the portion to be involved in the proposed development.
- e) Tax map and lot number of the parcel(s) involved.
- f) 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 owner.
- g) If the applicant is not the owner of the property, written certification signed by the owner that the applicant is the owner's duly authorized agent.
- h) The name, registration number and seal of the land surveyor, architect, engineer or similar professional who prepared the plan.
- i) A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
- j) A copy of any proposed covenants, deed restrictions, easements, rights-of-way, or other encumbrances to be placed upon the property or secured from abutting properties.

Specific Information:

- a) In the case of new construction, a copy of the Subsurface Wastewater Disposal System Design (Form HHE-200), prepared by a licensed site evaluator and approved by the Plumbing Inspector. In the case of existing systems, if the original system design is not available, certification from the Plumbing Inspector that the system is sufficiently sized for the proposed activity and is functioning properly.
 - b) Number and type of vehicle trips anticipated to be generated by the proposed use averaged for days open for business. The method of estimation for each type of trip (employee, customer, delivery, etc.) should be explained.
 - c) Description of parking needs, based on similar analysis.
 - d) A soil erosion and sedimentation control plan. The acceptability of the proposed and employed methods of erosion and sedimentation control will be judged utilizing the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991. The vegetative buffer required to absorb surface water runoff (*see Section 7.3.D*) should be incorporated in the plan.
 - e) A storm water management plan, prepared by a registered professional engineer in accordance with *Urban Hydrology for Small Watersheds, T.R. 55, 1986 edition*, published by the U.S. Soil Conservation Service. Another methodology may be used if the applicant can demonstrate it is equally or more applicable to the site. The plan should anticipate the volume of water generated by the 25-year, 24-hour storm event. The storm water management plan must be designed to work in concert with the erosion and sedimentation control plan, along with the vegetative buffer, to control the quality as well as direction of storm water runoff.
 - f) A description of the location, extent, slope and vegetation to be used to absorb surface water runoff, as required in Section 7.3.D (*this may be incorporated in the erosion and sedimentation control plan*).
 - g) If any new or improved road is proposed as part of the development, the applicant shall submit information as required in the *Road Ordinance for the Town of Thorndike*.
 - h) A description of any noise, odor, smoke, glare, electromagnetic fields or other nuisance that may be generated by the development, and proposed methods of complying with the standards outlined in Section 7.5.
 - i) Description of the source of water for the project, including firefighting water source.
 - j) Description of any land on the property (including acreage, location and use) currently used for agricultural production and plan for future use of the land in compliance with Section 7.2.D.
 - k) If potentially permeable substances that might pollute ground and/or surface water will be used at the proposed site, the means of complying with Section 7.3.C of this ordinance.
 - l) If 400 or more vehicle trips will be generated by the proposed development, documentation prepared by a qualified professional (usually a traffic engineer) of sufficient detail to enable the Board to ensure that the traffic flow standard cited within Section 7.4.C is met.
- 2) Aerial photograph (one copy): Aerial photograph of the land, to a scale of not more than 100 feet to an inch, either marked or with an acetate overlay showing the general configuration of the proposed development.
 - 3) Accurate Inventory Plan of the Site (10 copies): Plan showing the existing site conditions, at a scale of not more than 100 feet to an inch, including at a minimum the number of acres within the proposed development, the location of the property lines, contour intervals at an appropriate interval of 2-20 feet (set by the Board, depending upon the character of the site and the proposed development), wooded and clear land, watercourses, wetland areas, agricultural land, existing buildings, utility poles, location of culverts, soil test sites, and other essential existing physical features. For major developments, the Site Inventory and Analysis will already have included this information.

4) Proposed Development Plan (10 copies):

The plan should be drawn at the same scale as the Inventory Plan, and at a minimum include the following:

- a) Location of soil test pits and elevation references used in Subsurface Wastewater Disposal System Design;
- b) Location and dimensions of all proposed structures, roads, entrances, parking areas, signs, lighting, utilities and other physical features to be constructed, with applicable setbacks identified;
- c) Location and size of culverts, direction of drainage paths and other elements of the Stormwater Management Plan.
- d) Location of areas referenced within the Erosion and Sedimentation Control Plan.
- e) Location, extent and slope of vegetative buffer, with description of vegetation noted.
- f) Location of water supply.
- g) Location, description and visual rendering of proposed landscaping and buffering.
- h) Plans for pedestrian access and circulation, including accommodations for persons with disabilities.
- i) If any portion of the development contains land used for agricultural production, delineation of remaining portion of land available for agricultural use.
- j) If any portion of the development is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
- k) Any other graphic information necessary to demonstrate the satisfaction of the requirements of Section 7 of this ordinance.

5) Waivers The Board may waive any submission requirement that it feels is unnecessary for reaching its findings of fact in approving or disapproving the proposed development in accordance with the provisions of this ordinance.

- E) Notification of Complete Application: Within 30 days of receipt of a Preliminary Application form and fee(s), the Board shall notify the applicant in writing whether or not the application is complete and what, if any, additional submissions are required for a complete application.
- F) Public Hearing: If a public hearing is deemed necessary by the Board for reasons including but not limited to expressed public concern, a dramatic physical change of the environment or a population increase of considerable proportions that may result from the proposed development, the hearing will be scheduled within 30 days of determining that the Preliminary Application is complete. The Board shall have notice of the date, time and place of the hearing given to the applicant and published at least 2 times in a newspaper of general circulation, with the first notice published at least 7 days before the hearing. An additional fee shall be charged to the developer to cover the costs of advertising.
- G) Timing of Decision: The Board shall within 30 days of a public hearing, if held, or within 60 days of a complete Preliminary Application, or within another time limit as may be otherwise mutually agreed to by the Board and the developer, make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Application. If the Board finds that any of the standards of this ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure that all of the standards will be met by the development.
- H) Independent Review: The Board reserves the right to require an independent review by one or more professional(s) of its choice of any proposed plans, specifications, surveys, improvements, or environmental impact reports submitted by the developer as part of the application. If the Board feels such an analysis is necessary, the Board shall choose the professional(s), obtain an estimate for the work, and notify the developer that the amount of the estimate must be paid to the Town of Thorndike before any further consideration is given to the application. No work will be initiated until the developer pays the estimated amount to the Town. Following the completion of the work, the developer will be billed for any cost incurred over the estimate or will be refunded any remaining balance from the estimate. Refusal to pay for the professional assistance will result in automatic denial of the application.

- I) Nature of Preliminary Plan Approval: Approval of a Preliminary Application shall not constitute approval of the Final Application or intent to approve the Final Application, unless this is clearly stated by the Board. The Board may, upon Preliminary Application approval, issue a Site Plan Permit if the Preliminary Application satisfies conditions of this ordinance without needing to be redrawn or changed enough to warrant a Final Application. If the requirements of the Board are clear and agreeable to the applicant, the Board may attach permit conditions to a Site Plan Permit based upon a Preliminary Application rather than require submittal of a Final Application.
- J) Final Plan Submission Requirements Determined: In its written decision on the Preliminary Application, the Board shall indicate what information and the number of copies the applicant will have to submit in the Final Application. The Board shall seek to minimize redundancy of the Preliminary Application and avoid unnecessary costs to the applicant.

6.4 Step 4. Final Application (All developments, unless approved at Preliminary Application step):

- A) Final Plan Submittal: The developer shall, within six months after the approval of the Preliminary Application, file a Final Application with the Board. If the Final Application is not submitted within six months after Preliminary Application approval, the Board may refuse without prejudice to act on the Final Application and require resubmission of the Preliminary Application. The Final Application shall include the information required by the Board in the Preliminary Application approval (*see Section 6.3.J above*), plus copies of any required written approvals from state agencies such as the Maine Department of Environmental Protection. The Town Clerk will mail copies to members of the Planning Board and the Code Enforcement Officer, and post one copy for public inspection.
- B) Attendance at Board Meeting: The developer or his/her duly authorized representative shall attend the meeting of the Board to discuss the Final Plan.
- C) Determination of Complete Application: The Board, within 30 days of receiving a Final Application, shall decide whether the application is complete. It shall also decide whether any new circumstances or information received since approval of the Preliminary Application warrants requirement of further study prior to proceeding with the review.
- D) Timing of Decision: The Board, within 60 days of receiving a complete Final Application, shall make findings of fact and conclusions relative to the standards contained in this ordinance. If the Board finds that all standards of this ordinance have been met, the Board shall approve the Final Application. If the Board finds that any of the standards of this ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure that all of the standards will be met.

Article VII. Standards for Approval

7.1 Legal Standards:

- A) Laws: Proposed developments and activities shall be in conformance with the requirements in the *Thorndike Land Use Ordinance* and all other applicable federal, state and local laws.
- B) Comprehensive Plan: Proposed developments and activities will be consistent with the *Town of Thorndike Comprehensive Plan*.

7.2 Land Preservation Standards:

- A) Topsoil Protection: Topsoil shall be considered part of the development and shall not be removed from the site except for surplus topsoil from approved construction of roads, driveways, parking areas, and building excavations.
- B) Stormwater Management: The proposed development will provide for adequate stormwater management, and will not create a negative impact on other properties, receiving water bodies or the road system. Erosion, sedimentation and quality of runoff shall be considered, along with the sizing and direction of drainage design. The design shall also satisfy the requirements of Section 7.3.D below.

- C) Erosion Control: The development will be designed, constructed and maintained in accordance with accepted erosion and sedimentation control methods. The acceptability of the proposed methods will be judged utilizing the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991.
- D) Agricultural Land Protection: If the land proposed for development contains land that is currently being or has recently been used for agricultural production, the developer shall demonstrate that the proposed development design minimizes adverse impact and that all feasible options to continue agricultural use of undeveloped portions of the farmland shall be pursued. This standard shall not be construed to obstruct purposeful alternative uses of land, but shall seek to prevent land from being permanently removed from agricultural production unnecessarily.

7.3 Water Quality Standards:

- A) Water Supply: The proposed development has planned for an adequate source of water to serve the needs of the development, including fire protection.
- B) Wastewater Disposal: The proposed development will provide for adequate subsurface wastewater disposal in accordance with the *State of Maine Subsurface Wastewater Disposal Rules*.
- C) Groundwater Protection: The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water. The applicant shall have to demonstrate to the Planning Board's satisfaction that there is no unusual risk posed to the groundwater by the proposed development or activity. The Board may require, as a condition of permit approval, that spill prevention and control measures be installed, and that all activities involving potentially permeable pollutants, including delivery and transfer points, be conducted under cover and over an impervious surface surrounded by dikes.
- D) Surface Water Protection: In order to avoid negative impacts on surface water quality, the proposed development will be designed to retain an absorbent vegetative buffer of at least 75 feet downslope of any developed area (i.e. impervious surface). The buffer shall be located, designed and vegetated in such a manner as to effectively prevent any channelization of water or measurable amount of sediment from leaving the site, thus minimizing phosphorus runoff. If access must be provided through the buffer area, drainage shall be designed to guide stormwater from the accessway into the buffer area to prevent phosphorus runoff. The Board may require larger buffer areas or interruption of impervious surface of over one acre in extent with buffer areas if necessary to effectively prevent channelization and absorb runoff on site. Alternative measures (e.g. detention ponds) may be proposed and approved to accomplish this objective.

7.4 Road and Traffic Standards:

- A) Roads: Development roads shall conform to the provisions of the *Road Ordinance for the Town of Thorndike*.
- B) Access Management: In order to promote public safety and maintain road carrying capacity, the development shall be designed so as to minimize access points to any public road, utilizing side roads and combining entrances where feasible. Access shall be designed from the least busy road available (e.g. a corner lot shall have its entrance on the less busy road, unless hazardous).
- C) Traffic Flow and Intersection Design: The proposed development will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed. The intersection of any entrance shall function at a level which will allow safe access into and out of the project if less than 400 trips are generated daily. If 400 or more trips are generated, the access will be engineered so that there will be no more than a 20 second delay for traffic traveling through the intersection.

- D) Parking: The development will provide for adequate off-road parking for anticipated residents, customers, guests and deliveries. Parking areas will be designed to provide safe and convenient circulation within the lot and to prevent vehicles from backing out onto a road. Parking lots designed for over 10 cars shall be screened year-round to effectively block at least 50% of the parking area from view from any public way. Screening may be achieved by placing the parking area behind buildings and/or vegetation; fences are not an acceptable substitute for natural screening, although they may be incorporated into the landscaping plan. Plantings should grow to the point of providing the desired screening within 5 years.

7.5 Nuisance and Aesthetic Standards:

- A) Nuisance Containment: The development or activity shall be designed so as to incur no off-site adverse impacts, including but not limited to glare, dust, smoke, fumes, noise and odor, beyond those consistent with existing background levels. In order to achieve this standard, the Board may require landscaped buffer areas adequate to protect neighboring property owners and/or the traveling public from disturbance that would otherwise exceed background levels.
- B) Noise Levels: Noise perceptible at the property boundary, exclusive of background noise, shall not exceed 45 dB(A) from 6am (8am on Sundays) to 8:30pm and 40 dB(A) from 8:30pm to 6am (8am on Sundays), where dB(A) refers to the decibel (20 times the logarithm to the base 10 of the ratio of the measured sound pressure to 20 micropascals) level recorded when using the A-weighting measurement of a sound level meter conforming to A.N.S.I. Type I or II standards. Noises related to livestock, emergency equipment, temporary maintenance, construction, and church bells are excluded from these limitations.
- C) Hours of Operation: The Board may set reasonable limits to hours of operation as a condition of permit approval; any such restrictions will be held to the minimum necessary to provide neighboring residents with adequate relief from any unavoidable adverse impacts caused by the development or activity, including traffic. Normal hours of operation shall be deemed to be 6am to 8:30pm (Monday-Saturday) and 8am-8:30pm Sunday, although variations from this standard may be approved by the Board if affected parties are agreeable.
- D) Lighting and Advertising: Exterior lighting, signs and other advertising features shall not be placed so as to cause glare, block sunlight, or constitute a safety hazard for the public or neighboring properties. Emergency lighting shall be consistent with state and federal law. Lighting shall be limited to that required for safety and operational purposes, and shall be shielded from abutting properties, directed downward and incorporate full cut-off fixtures to reduce light pollution.
- E) Buffer: Developments and commercial activities located within 100 feet of existing residential uses shall be required to plant a vegetative buffer that will effectively shield 80% of the activity from residential view on a year-round basis within 5 years of establishment, unless the Board, based upon input from abutting property owners, finds this to be unnecessary to preserve compatibility. The Board may also require sufficient landscaping to protect the traveling public from distraction.
- F) Aesthetic Compatibility: The proposed development will not have an undue adverse impact on the scenic or natural beauty of the area, aesthetics, historic sites, rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

Article VIII. Enforcement

8.1 Violations and Fines: Construction of any portion of a development or commercial activity regulated under this ordinance without a Site Plan Permit will be considered in violation and shall be subject to a fine of not less than \$100 for each offense as provided in Title 30-A MRSA §4452. Each day in which a violation is proved to exist shall constitute a separate offense under this section.

8.2 Enforcement Authority and Legal Fees: The Code Enforcement Officer (CEO) is authorized and directed to enforce the provisions of this ordinance in accordance with the *Code Enforcement Officer Ordinance*. In addition, the municipal officers are authorized and directed to institute any action or proceedings that may be required to enforce the provisions of this ordinance. If any legal action is brought against any person or persons for violating this ordinance, and the Town prevails, then the violators shall be liable for the Town's legal fees, court cost and any other cost involved in bringing the suit or action.

Article IX. Effective Date

This ordinance shall become effective on March 16, 1996.

Article X. Severability

In the event that any provision of this ordinance is found to be unenforceable, the remaining provisions shall remain in full force and effect.

Article XI. Amendments

At any time this ordinance is amended, the Town Clerk, upon advice from the Planning Board, is authorized to insert and/or delete amended language, insert and/or delete clearly inconsistent references caused by such amendments, renumber sections of the amended ordinance in a logical and appropriate fashion, and correct typographical errors, provided such changes do not result in any substantive alteration in the meaning of the ordinance and further the clear intent of such amendment.

Thorndike Solar Farm Ordinance
(Enacted 3/19/16)

1. Purpose

The purpose of this ordinance is to establish a municipal review procedure and siting standards for Principal Solar Energy Systems (PSES), typically characterized as “solar farms”, those producing power primarily for off-site use. These standards are intended to:

- a. Establish clear guidelines, standards and time frames for the Town to regulate solar farms;
- b. Permit the Town to fairly and responsibly protect public health, safety and welfare;
- c. Minimize any potential adverse effect of solar farms on property values;
- d. Provide for the removal of panels and associated utility structures that are no longer being used for energy generation and transmission purposes; and
- e. Support the goals and policies of the Comprehensive Plan, including orderly development, efficient use of infrastructure, and protection of natural and scenic resources.

2. Authority

This ordinance is enacted pursuant to the enabling provisions of Article VIII, Part 2, §1 of the Maine Constitution, the provisions of Title 30-A MRSA, §3001 (*Home Rule*), and the provisions of Title 30-A §4311 et seq. (*Comprehensive Planning and Land Use Regulation, or “Growth Management” Act*). This ordinance is founded upon and pursuant to the *Town of Thorndike Comprehensive Plan*, adopted on December 6, 1991.

3. Applicability

No Principal Solar Energy System (PSES) shall be located within the Town of Thorndike without a Permit issued by the Planning Board. Any physical modification to any existing PSES that expands the PSES shall require approval under this Ordinance. Routine maintenance or replacements do not require a permit.

4. Definitions

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

Accessory Solar Energy Systems (ASES). An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power: (a) primarily; or (b) solely for on-site use. An accessory solar energy system consists of one (1) or more free-standing ground, or roof mounted, solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels. An ASES generally occupies 1,750 square feet of surface area or less (equivalent to a rated nameplate capacity of about 10 kW DC or less).

Principal Solar Energy Systems (PSES). An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Principal solar energy systems consist of one (1) or more free-standing ground, or roof mounted, solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers; substations; electrical infrastructure; transmission lines and other appurtenant structures. Medium scale PSES's occupies more than 1,750 but less than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 10 - 250 kW DC). Large Scale PSES's occupies more than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 250kW DC or greater).

Rated Nameplate Capacity. The maximum rated output of electric power production of the photovoltaic system in watts of Direct Current (DC).

Solar Energy. Radiant energy (direct, diffuse and/or reflective) received from the sun.

Solar Energy System. A solar photovoltaic cell, module, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat.

Solar Array. A grouping of multiple solar modules with the purpose of harvesting solar energy.

Solar Cell. The smallest basic solar electric device which generates electricity when exposed to light.

Solar Farm. See Principal Solar Energy System.

Solar Module. A grouping of solar cells with the purpose of harvesting solar energy.

Solar Related Equipment. Items including a solar photovoltaic cell, module, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used or intended to be used for collection of solar energy.

5. Administration and Enforcement

This Ordinance will be administered through the provisions of the Thorndike Site Plan Review Ordinance, specifically Articles V (Administration), VI (Application Procedure) and VIII (Enforcement), which are hereby incorporated by reference. Specific application requirements and standards of review pertinent to Principal Solar Energy Systems within this Ordinance shall be added to the Application Requirements and Standards of Approval within the Site Plan Review Ordinance. In case of a conflict, the stricter provision shall apply.

6. Specific Application Requirements

In addition to the requirements listed in Section 6.4 D) of the Site Plan Review Ordinance, an application for a Principal Solar Energy System Permit must also include the following, at the cost of the applicant:

- a. A description of the owner of the system, the operator if different, and detail of qualifications and track record to run the facility;
- b. If the operator will be leasing the land, a copy of the agreement (minus financial compensation) clearly outlining the relationship inclusive of the rights and responsibilities of the operator, landowner and any other responsible party with regard to the PSES and the life of the agreement;
- c. A description of the energy to be produced and to whom it will be sold;
- d. A copy of the agreement and schematic details of the connection arrangement with the transmission system (most likely Central Maine Power Company), clearly indicating which party is responsible for various requirements and how they will be operated and maintained;
- e. A description of the panels to be installed, including make and model, and associated major system components;
- f. A construction plan and timeline, identifying known contractors, site control and anticipated on-line date;
- g. An operations and maintenance plan, including site control and the projected operating life of the system;
- h. An emergency management plan for all anticipated hazards;
- i. Proof of financial capacity to construct and operate the proposed facility;
- j. A decommissioning plan, including:
 - 1) A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if no electricity is generated for a continuous period of twelve (12) months. The Applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation of electricity, that although the project has not generated electricity for a continuous period of 12 months, the project has not been abandoned and should not be decommissioned.
 - 2) A description of the work required to physically remove all Solar Panels, associated foundations, buildings, cabling, electrical components, and any other Associated Facilities to the extent they are not otherwise in or proposed to be placed into productive use. All earth disturbed during decommissioning must be graded and re-seeded, unless the landowner of the affected land requests otherwise in writing.
 - a. [Note: At the time of decommissioning, the Applicant may provide evidence of plans for continued beneficial use of any or all of the components of the Solar Energy Facility. Any changes to the approved decommissioning plan shall be subject to review and approval by the Planning Board.]

- 3) An estimate of the total cost of decommissioning less salvage value of the equipment and itemization of the estimated major expenses, including the projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs may include, but is not limited to, the cost of the following activities: panel removal, panel foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization and road infrastructure removal and permanent stabilization.
- 4) Demonstration in the form of a performance bond, surety bond, letter of credit, parental guarantee or other form of financial assurance as may be acceptable to the Planning Board that upon the end of the useful life of the Solar Energy Facility the Applicant will have the necessary financial assurance in place for 100% of the total cost of decommissioning, less salvage value. The Applicant may propose securing the necessary financial assurance in phases, as long as the total required financial assurance is in place a minimum of 5 years prior to the expected end of the useful life of the Solar Energy Facility. The financial assurance shall include a provision granting the Town the ability to access the funds and property and perform the decommissioning if the facility is abandoned or the Applicant or subsequent responsible party fails to meet their obligations after reasonable notice, to be defined in the agreement and approved by the Planning Board.

7. Standards for Approval

In addition to the requirements in Article VII of the Site Plan Review Ordinance, the following standards must also be met:

Ground-Mounted Systems:

1. **Lot Size** - The PSES shall meet the minimum lot size requirements of the applicable zoning district.
2. **Legal Responsibilities** - The Applicant must provide proof that it has authorization to construct, use and maintain the property and any access drive for the life of the project and including the decommissioning of the project. The roles and responsibilities of the system owner, operator, landowner and any other party involved in the project must be clear and meet the satisfaction of the Planning Board that the public interest is protected.
3. **Setback** - Structures within a PSES shall be setback a minimum of 50 feet from the side and rear property lines and meet the front setback requirements for structures within the zoning district.
4. **Prohibited Locations** – Components of a ground mounted PSES shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.
5. **Utility Notification** - No grid-intertied photovoltaic system shall be installed until evidence has been given to the Planning Board that the applicant has an agreement with the utility to accept the power. Off-grid systems are exempt from this requirement.
6. **Signage** - A sign shall be required to identify the owner and provide a 24-hour emergency contact phone number. Solar energy systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar energy system. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence surrounding the PSES informing individuals of potential voltage hazards.
7. **Utility Connections** - Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

8. Emergency Services – PSES owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request, the owner or operator shall coordinate with local emergency services in developing an emergency response plan. A "3200 Series KNOX-BOX" shall be provided and installed by the operator to be used to allow emergency service personnel continuous access. All means of shutting down the solar energy system shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
9. Maintenance Conditions - The PSES owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. The PSES must be properly maintained and be kept free from all hazards, including, but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. Site access shall be maintained to a level acceptable to the fire chief for emergency response. The owner or operator shall be responsible for the cost of maintaining the solar energy system and any access road(s).
10. Modifications - Any material modifications to a large-scale ground-mounted solar energy system made after issuance of the required town permit(s) shall require approval by the CEO and/or Planning Board.
11. Satisfaction with All Aspects of Capacity and Plans Submitted -- The Planning Board must find that the Applicant has the capacity to finance, safely operate and decommission the Solar Energy Facility.
12. Removal - When any portion of a ground mounted PSES is removed, any earth disturbance must be graded and re-seeded.

Roof Mounted Solar Energy Systems:

1. The owner shall provide evidence certified by an appropriately licensed professional that the roof is capable of supporting the collateral load of the PSES.
2. PSES mounted on roofs of any building shall be subject to the maximum height regulations specified for principal and accessory buildings within the applicable zoning district.

Town of Thorndike Subdivision Ordinance

(Enacted 3/21/87; amended 3/19/88, 3/16/91, 3/18/95, 3/16/96 and 3/19/16)

Article I PURPOSES

The purposes of this ordinance are to assure the comfort, convenience, safety, health and welfare of the people in the town of Thorndike, to protect the environment, and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the town of Thorndike, Maine, the Planning Board shall consider the following criteria, and before granting approval shall make findings of fact that the provisions of this ordinance have been met and that the proposed subdivision will meet the guidelines of Title 30-A, M.R.S.A. §4404. The subdivision:

- 1.1 Will not result in the pollution of the air and/or water.
- 1.2 Has sufficient potable water available for the reasonable foreseeable needs of the subdivision.
- 1.3 Will not cause soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
- 1.4 Will not cause unreasonable public road congestion or unsafe conditions with respect to use of the public roads existing or proposed.
- 1.5 Will allow for adequate sewage waste disposal.
- 1.6 Will allow for adequate fire protection.
- 1.7 Will not have an undue adverse impact on the scenic or natural beauty of the area.
- 1.8 Will not cause drainage problems on neighboring properties or roads.
- 1.9 Will require construction of dwellings with their lowest floors, including basements, at least one foot above the 100-year flood elevation.
- 1.10 Will be implemented by a subdivider who has adequate financial and technical capacity to meet the above stated standards.

Article II PREAPPLICATION

- 2.1 The applicant shall submit to the Planning Board, at least 10 days prior to its scheduled monthly meeting, a sketch plan showing the proposed layout of the subdivision and other features in relation to existing conditions. It is recommended that the sketch plan showing the outline of the proposed subdivision be superimposed on an aerial photograph of the land where it is located.
- 2.2 Within 30 days the Board will hold an on-site inspection of the property if deemed necessary and inform the applicant of anticipated problems and/or recommendations concerning the subdivision.
- 2.3 The submittal or review of the sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title I, M.R.S.A., §302.

Article III PRELIMINARY PLAN

- 3.1 Within six months after the sketch plan has been reviewed by the Board, the subdivider shall submit an application for approval of a Preliminary Plan at least 10 days prior to a scheduled meeting of the Board. Failure to act within the six month time frame may require the subdivider to resubmit the sketch plan to the Board for reasons including but not limited to possible changes in Board membership, changes in local or state regulations, and subsequent development in the town that could have an impact on the proposed plan. The Preliminary Plan shall approximate the layout shown on the Sketch Plan and may include recommendations made by the Board based upon the Purposes in Article I of this ordinance.
- 3.2 All applications for Preliminary Plan approval shall be accompanied by the application fee established by the Board of Selectmen payable to the Town of Thorndike.
- 3.3 The subdivider or his/her duly authorized representative shall attend the meeting of the Board to discuss the Preliminary Plan.
- 3.4 The Board, assisted by the Town Clerk, shall notify by certified mail the owners of all property abutting the proposed subdivision of the pending proposal before the Board and when the Board will be discussing the proposal. The applicant shall be billed for the postage costs.
- 3.5 Within 30 days of receipt of a Preliminary Plan application form and fee, the Board shall notify the applicant in writing whether or not the application is complete and what, if any, additional submissions are required for a complete application.
- 3.6 The Preliminary Plan shall be submitted in seven copies to the Board chairman and shall be drawn at a scale of not more than 200 feet to an inch. The plan shall include:
 - A. An aerial photograph of the land, to a scale of not more than 200 feet to an inch, either marked or with an acetate overlay showing the general configuration of the subdivision lots.
 - B. A diazo print (blueprint) of the lots showing the number of acres within the proposed subdivision, location of the property lines, contour intervals at maximum intervals of five feet, wooded and clear land, watercourses, wetland areas, existing buildings, utility poles, location of culverts, soil test sites, and other essential existing physical features.
 - C. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments.
 - D. A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
 - E. A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
 - F. A soil analysis for a subsurface sewage disposal system shall be prepared by a licensed site evaluator and the location of test sites marked on the plan. On each lot there must be an area of at least 1,000 square feet of suitable soil determined by a minimum of five test pits, one in each corner and one near the center.
 - G. The location of any open space to be preserved for public or private use and a proposal for its improvement and management.

- H. A soil erosion and sedimentation control plan. The acceptability of the proposed and employed methods of erosion and sedimentation control will be judged utilizing the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991.
 - I. A storm water management plan, prepared by a registered professional engineer in accordance with *Urban Hydrology for Small Watersheds, T.R. 55, 1986 edition*, published by the U.S. Soil Conservation Service. Another methodology may be used if the applicant can demonstrate it is equally or more applicable to the site. The plan should anticipate the volume of water generated by the 25-year, 24-hour storm event.
 - J. If any new or improved road is proposed as part of the subdivision plan, the applicant shall submit information as required in the *Road Ordinance for the Town of Thorndike. Note: In addition to subdivision approval from the Planning Board, a Road Permit will be required from the Road Commissioner.*
 - K. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
- 3.7 The Board may waive any submission requirement that it feels is unnecessary for reaching its findings of fact in approving or disapproving the proposed subdivision in accordance with the provisions of this ordinance and State statute.
- 3.8 If a public hearing is deemed necessary by the Board for reasons including but not limited to expressed public concern, a dramatic physical change of the environment or a population increase of considerable proportions that may result from the proposed subdivision, the hearing will be scheduled within 30 days of determining that the Preliminary Plan application is complete. The Board shall have notice of the date, time and place of the hearing given to the applicant and published at least 2 times in a newspaper of general circulation, with the first notice published at least 7 days before the hearing. An additional fee shall be charged to the subdivider to cover the costs of advertising.
- 3.9 The Board shall within 30 days of a public hearing, if held, or within 60 days of a complete Preliminary Plan application, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan. If the Board finds that any of the standards of the statute or this ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure that all of the standards will be met by the subdivision.
- 3.10 The Board reserves the right to require an independent review by a professional of its choice of any proposed plans, specifications, surveys, improvements, or environmental impact reports submitted by the subdivider as part of the application. If the Board feels such an analysis is necessary, the Board shall choose a professional, obtain an estimate for the work, and notify the subdivider that the amount of the estimate must be paid to the Town of Thorndike before any further consideration is given to the application. No work will be initiated until the subdivider pays the estimated amount to the Town. Following the completion of the work, the subdivider will be billed for any cost incurred over the estimate or will be refunded any remaining balance from the estimate. Refusal to pay for the professional assistance will result in automatic denial of the application.
- 3.11 Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan. Prior to the approval of the Final Plan, the Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

Article IV FINAL PLAN

- 4.1 The subdivider shall, within six months after the approval of the Preliminary Plan, file with the Board an application for approval of the Final Plan. If the application for the Final Plan is not submitted within six months after Preliminary Plan approval, the Board may refuse without prejudice to act on the Final Plan and require resubmission of the Preliminary Plan. The Final Plan shall include the same information and approximate the layout shown on the Preliminary Plan, plus any required written approvals from state agencies such as the Maine Department of Environmental Protection, and recommendations made by the Board.
- 4.2 The subdivider or his/her duly authorized representative shall attend the meeting of the Board to discuss the Final Plan.
- 4.3 The subdivider shall notify the Town's road commissioner, fire chief, and the official in charge of solid waste disposal of the proposed subdivision, the number of house lots or dwelling units planned, and request comments upon the adequacy of their department's existing facilities to service the subdivision. Their comments, if any, shall be submitted as part of the Final Plan, and will be considered in regard to minimizing any potentially adverse impact of the subdivision to the town based on the Purposes stated in Article I of this ordinance.
- 4.4 The Board, within 60 days of receiving a complete Final Plan application, shall make findings of fact and conclusions relative to the standards contained in Title 30-A, M.R.S.A. §4404 and in this ordinance. If the Board finds that all standards of the statute and this ordinance have been met, the Board shall approve the Final Plan. If the Board finds that any of the standards of the statute and this ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure that all of the standards will be met by the subdivision.

Article V ENFORCEMENT

- 5.1 Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require Final Plan approval as provided by these regulations.
- 5.2 Any person, firm, corporation, or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punished by a fine of not less than \$100, and not more than \$2,500 for each conveyance, offering or agreement. The Town of Thorndike may institute proceedings to enjoin the violation of this ordinance, and may collect attorney's fees and court costs if is the prevailing party.

Article VI GENERAL STANDARDS

- 6.1 Lots shall conform to the requirements in the *Thorndike Land Use Ordinance*. In a subdivision, dwellings may be clustered in a residential development up to a density not to exceed the average minimum lot size in the land use district in which it is located.
- 6.2 If the land proposed for subdivision contains land that is currently being or *has* recently been used for agricultural production, the subdivider shall demonstrate that the proposed subdivision design minimizes adverse impact and that all feasible options to continue agricultural use of undeveloped portions of the farmland shall be pursued. This standard shall not be construed to obstruct purposeful alternative uses of land, but shall seek to prevent land from being permanently removed from agricultural production unnecessarily.

- 6.3 Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus soil from roads, parking areas, and building excavations.
- 6.4 Except for normal thinning, landscaping, and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion.
- 6.5 The subdivision shall be designed so as to minimize access points to any public road, utilizing side roads and combining driveways where feasible. Subdivision lots shall be accessed from the least busy road available (e.g. a corner lot shall have its driveway on the less busy road, unless hazardous).
- 6.6 Subdivision roads shall conform to the provisions of the *Road Ordinance for the Town of Thorndike*. If any waiver from the emergency vehicle access standard is granted, an appropriate notation will be drafted by the Board and required to be placed on the deed to each lot as a condition of subdivision approval. Also, the Board may require that the developer, a Homeowners' Association, or other responsible party with the ability to collect revenue from lot owners be made legally responsible for the maintenance of the road as a condition of subdivision approval.
- 6.7 The subdivision will provide for adequate off-road parking for anticipated residents, customers, guests and deliveries. Any parking areas other than for single-family homes on individual lots will be designed to provide safe and convenient circulation within the lot and to prevent vehicles from backing out onto a road. Parking lots designed for over 10 cars shall be screened year-round to effectively block at least 50% of the parking area from view from any public way. Screening may be achieved by placing the parking area behind buildings and/or vegetation; fences are not an acceptable substitute for natural screening, although they may be incorporated into the landscaping plan. Plantings should grow to the point of providing the desired screening within 5 years.
- 6.8 For residential developments of over five units (other than single family homes located on individual lots), a buffer strip of at least 50 feet shall be maintained along the exterior property boundaries (see possible exception for mobile home parks in 7.7 below). 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 development. Within the first 25 feet of the buffer strip, as measured from the exterior boundary of the development, visual screening shall be provided. The screening must consist of natural or landscaped vegetation, and must effectively screen at least 80% of the development's structures from view of the adjacent properties and exterior roads on a year-round basis. New plantings will be given 5 years to accomplish the effective screening and shall be maintained by the development owner or maintenance association throughout the life of the project.
- 6.9 The conversion of an existing building to three or more dwelling units or the construction of a building containing three or more dwelling units are considered subdivisions and are subject to the requirements of this ordinance.
- 6.10 All multi-unit buildings shall conform to applicable rules of the State Fire Marshal.

Article VII MOBILE HOME PARK STANDARDS

- 7.1 Mobile home park subdivisions must be accessed from either Route 139 or Route 220. All mobile home lots must have driveways to the mobile home park road and may not directly access Route 139 or Route 220.
- 7.2 Individual lots within a mobile home park shall be at least:
 - A. If served by an individual septic system: 20,000 square feet with a minimum lot width of 100'
 - B. If served by a central septic system: 12,000 square feet with a minimum lot width of 75'
 - C. If within the shoreland zone, as required within the Shoreland Zoning Ordinance for the Town of Thorndike.
- 7.3 The overall density of a mobile home park served by a central subsurface wastewater disposal system shall be no greater than one unit per 20,000 square feet of total park area.
- 7.4 Mobile homes shall be set back from public roads the same distance as other residential dwellings.
- 7.5 No lot within a mobile home park may be sold or conveyed without the prior approval of the Planning Board. All such lots must meet the lot creation requirements of the *Thorndike Land Use Ordinance*.
- 7.6 At least 300 cubic feet of enclosed tenant storage facilities shall be conveniently provided on or near each mobile home lot for the storage of materials and equipment.
- 7.7 For mobile home parks with more than five units, a 50-foot wide buffer strip, meeting the standards of 6.8 above, shall be provided along all property boundaries that abut land used for residential purposes if the per-acre density of homes within the mobile home park is at least 2 times greater than:
 - A. The density of residential development on immediately adjacent parcels of land; or
 - B. If the immediately adjacent parcels of land are undeveloped, the maximum net residential density permitted according to the *Thorndike Land Use Ordinance*.

Article VIII PERFORMANCE GUARANTEES

If any proposed subdivision is of a size or nature requiring significant investment in road, drainage or other improvements, and if the Board feels that the Town and/or purchasers of subdivision lots need assurance that the improvements will be made, the Board may require a performance guarantee as a condition of subdivision approval. With the submittal of the application for the Final Plan, the subdivider shall provide one of the following performance guarantees, as approved by the Planning Board, for an amount adequate to cover construction costs of all required improvements:

- A. Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account.
- B. A performance bond payable to the Town issued by a surety company.
- C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is deemed inadequate.
- D. An agreement between the subdivider and the Board limiting the number of units built or lots sold until all required improvements have been made.

Article IX WAIVERS

Where the Board makes written findings of fact that there are special circumstances involving a proposed subdivision or a portion thereof, it may waive certain requirements or standards to permit a more practical and economical development, provided the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of this ordinance.

Article X SEVERABILITY

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

Article XI APPEALS

All decisions of the Planning Board, pursuant to this ordinance, may be appealed within 30 days to the Board of Appeals in accordance with the *Board of Appeals Ordinance for the Town of Thorndike*. This Board shall have the authority to grant a variance from the terms of this ordinance, where necessary, to avoid undue hardship, provided there is no substantial departure from the intent of this ordinance.

Article XII AMENDMENTS

At any time this ordinance is amended, the Town Clerk, upon advice from the Planning Board, is authorized to insert and/or delete amended language, insert and/or delete clearly inconsistent references caused by such amendments, renumber sections of the amended ordinance in a logical and appropriate fashion, and correct typographical errors, provided such changes do not result in any substantive alteration in the meaning of the ordinance and further the clear intent of such amendment.

Thorndike Wind Energy Facility Ordinance *(Proposed for Enactment on 3/20/10)*

Section I. Purpose and Intent

- 1.1 This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3001, to protect the health, safety, welfare, and quality of life of the Town of Thorndike and its residents. This Ordinance shall be known as the “Thorndike Wind Energy Facility Ordinance.”

Section II. Applicability; Site Permit and Operational License Required

- 2.1 This Ordinance applies to all Wind Energy Facilities (see definition) proposed to be constructed or operated after the effective date of the Ordinance.
- 2.2 It shall be unlawful and a violation of this Ordinance to begin construction and/or operation of a Wind Energy Facility without a Site Permit and Operational License.
- 2.3 The burden of compliance with all aspects of this Ordinance is on the Applicant and the Owner/operator of a Wind Energy Facility. Approval of a Site Permit and Operational License by the Planning Board does not abrogate or reduce the responsibility of the Applicant or the Owner/operator to comply with this Ordinance. Consistent violations, particularly of the sound limits, may lead to decommissioning and removal of the Wind Energy Facility.
- 2.4 This Ordinance includes Sections (I) through (XII), together with the Appendix and References Section. Decisions regarding compliance or approval of an Applicant’s Site Permit and Operational License must be made in light of the entire Ordinance.

Section III. Definitions

- 3.1 The following terms are defined as follows.
 - A) Ambient Sound includes all sound present in a given environment. It includes intermittent sounds, such as aircraft, barking dogs, wind gusts, mobile farm or construction machinery, and vehicles traveling along a nearby road. It also includes insect and other nearby sounds from birds, animals or people.
 - B) Applicant means the individual or business entity that seeks to secure a Permit or License under this Ordinance.
 - C) A-Weighted Sound Level (dBA) is one measure of the overall sound level. This measure is designed to reflect the response of the human ear, which does not respond equally to all frequencies. Lower frequency sounds are given less weight than those in the mid-range of human perception. The resulting measure is said to be A-weighted and the units are dBA.
 - D) Background Sound (L_{90}) is defined over a continuous ten minute period to be the average sound level during the quietest one continuous minute of the ten minutes. L_{90} may be measured relative to A-weighting or C-weighting, in which case it may be denoted L_{90A} or L_{90C} . It refers to sound that is normally present at least 90% of the time, and excludes any sound generated by a WEF. It also excludes intermittent sounds from flora, fauna, wind and human activity. Background sound levels vary during different times of the day and night. Because wind turbines operate continuously, the background sound levels of interest are those during quieter periods which are often the evening and night.
 - E) C-Weighted Sound Level (dBC) is similar to the A-weighted sound level (dBA), but it does not de-emphasize low frequencies to the extent that A-weighting does. For sounds with a significant low-frequency component, dBC is a more accurate measure of the energy of the sound waves than dBA.
 - F) Decibel (dB) refers to a dimensionless quantity which is proportional to the logarithm (base 10) of a ratio of two quantities that are proportional to the power, energy or intensity of sound. One of these quantities is a reference level relative to which all other levels are measured.

- G) Frequency is the number of complete oscillations or cycles per unit of time. See Hertz, below.
- H) Good Utility Practice means any of the practices, methods and acts with respect to the safe operation of a WEF engaged in or approved by a significant portion of the electric utility industry and, in particular, those portions of the industry with experience in the construction, operation and maintenance of wind turbines during the relevant time period; or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is made, could be expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the region.
- I) Height means the total distance measured from the grade of the property as it existed prior to the construction of the wind energy system, facility, tower, turbine, or related facility at the base to its highest point. In the case of a wind turbine, this includes the length of the blade at its highest possible point.
- J) Hertz (Hz) is a unit of cycles per second. A process that repeats itself a given number of times in one second is said to occur at that many Hertz.
- K) Measurement Point (MP) refers to a location where sound and/or vibration are measured.
- L) Mitigation Waiver means a legally enforceable, written agreement between the Applicant and a Non-participating Landowner in which the landowner waives certain setback, noise or other protections afforded in the Ordinance. A Parcel in which the landowner has entered into such an agreement becomes a Participating Parcel. A complete copy of any such agreement must be provided to the Planning Board and recorded in the Penobscot County Registry of Deeds.
- M) Noise means any unwanted sound produced by a WEF. Noise does not need to be loud to constitute an interference with the health and well-being of residents
- N) Non-Participating Parcel means a parcel of real estate that is neither a Project Parcel nor a Participating Parcel.
- O) Occupied Structure means any structure that is, or is likely to be, occupied by persons or livestock. This includes, but is not limited to dwellings, places of business, places of worship, schools, and barns.
- P) Owner/operator means the person or entity with legal ownership of a WEF or WES, including successors and assigns, that has the authority and responsibility to operate the WEF on a day-to-day basis. An Owner/operator must have the legal authority to represent and bind.
- Q) Participating Parcel means a parcel of real estate that is not a Project Parcel, but is subject to a Mitigation Waiver. A complete copy of the Mitigation Waiver must be provided to the Planning Board, and filed with the Waldo Country Registry of Deeds.
- R) Project Boundary means the boundaries of the WEF as shown on the site plan submitted to and approved by the Planning Board in accordance with this Ordinance.
- S) Project Parcel means any parcel(s) of real estate on which all or any part of a WEF will be constructed.
- T) Property Line means the recognized and mapped property boundary line.
- U) Public Way means any road capable of carrying motor vehicles, including, but not limited to, any state highway, municipal road, county road, unincorporated territory road or other road dedicated to the public.

- V) Qualified Independent Acoustical Consultant. Qualifications for persons conducting baseline and other measurements and reviews related to the Application for a WEF or for enforcement actions against an operating WEF include, at a minimum, demonstration of competence in the specialty of community noise testing and Board Certified Membership in the Institute of Noise Control Engineers (INCE). Certifications such as Professional Engineer (P.E.) do not test for competence in acoustical principles and measurement and are thus not, without further qualification, appropriate for work under this Ordinance. The Independent Qualified Acoustical Consultant can have no direct or indirect financial or other relationship to an Applicant.
- W) Scenic or Special Resource means a scenic resource of state or national significance, as defined in Title 35-A M.R.S.A. § 3451(9), any site registered in the National Registry of Historic Places, or a scenic or special resource of local significance identified as such in the Thorndike Comprehensive Plan, or listed on the Visual Resource Inventory of the Thorndike Comprehensive Plan.
- X) Sensitive Receptor means places or structures intended for human habitation, whether inhabited or not, public parks, state and federal wildlife areas, the manicured areas of recreational establishments designed for public use, including but not limited to golf courses, camp grounds and other nonagricultural businesses. These areas are more likely to be sensitive to the exposure of the noise, vibration, shadow or flicker generated by a WEF. These areas include, but are not limited to: schools, daycare centers, elder care facilities, hospitals, places of seated assemblage, nonagricultural businesses and residences.
- Y) Sound. A fluctuation of air pressure which is propagated as a wave through air.
- Z) Sound Level (L_{10}) refers to the sound level exceeded 10% of the time. During any continuous ten minute period, L_{10} is defined to be the average sound level during the loudest one continuous minute of the ten minutes. L_{10} may be measured relative to A-weighting or C-weighting, in which case it may be denoted L_{10A} or L_{10C} .
- AA) Sound Level (L_{90}) refers to Background Sound (see above).
- BB) Sound Level (L_{eq}) is the frequency-weighted equivalent sound level. It is defined to be the steady sound level that contains the same amount of acoustical energy as the corresponding time-varying sound. L_{eq} may be measured relative to A-weighting or C-weighting, in which case it may be denoted L_{eqA} or L_{eqC} .
- CC) Sound Level (pre/post). Each of the Sound Levels defined above, L_{90} , L_{10} and L_{eq} , whether A-weighted or C-weighted, may be followed by “(pre)” or “(post)”. Post-construction Sound Levels measured with all elements of the WEF turned on will be denoted with “(post)”. During the application process, before the WEF has been constructed, “(post)” will be used to denote the pre-construction estimate of the post-construction Sound Level. Pre-construction Sound Levels, or Sound Levels measured with all elements of the WEF turned off will be denoted with “(pre)”. See the Appendix, particularly Parts c(3)A, c5 and d.
- DD) Turbine Height- the distance measured from the surface of the tower foundation to the highest point of any turbine rotor blade measured at the highest arc of the blade.
- EE) Wind Energy System (WES) means equipment that converts and then transfers energy from the wind into usable forms of energy on a large, industrial scale using one or more turbines with combined nameplate capacity of over 100 kW for commercial or utility purposes with sale off premises or onto the utility grid.
- FF) Wind Energy Facility (WEF) means all of the land and equipment used by the Wind Energy System and its support facilities including the wind turbine(s), tower, access roads, control facilities, meteorological towers, maintenance and all power collection and transmission systems.

GG) Wind Energy Facility Operational License or WEF Operational License means a license to operate a Wind Energy System issued by the Planning Board in accordance with this Ordinance

HH) Wind Energy Facility Site Permit or WEF Site Permit means a Permit to construct a Wind Energy System issued by the Planning Board in accordance with this Ordinance.

II) Wind Turbine or Turbine (WT) means a mechanical device which captures the energy of the wind and converts it into usable forms of energy. The primary components of a wind turbine are the blade assembly, electrical generator and tower.

Section IV. Site Permit Application Procedures

- 4.1 Applications for a WEF Site Permit shall be submitted to the Planning Board. The application for a WEF Site Permit shall include all of the information, documents, plans, deposits and other items required to be submitted with an application under Section V, a preliminary cost agreement and the fees specified in Section VII, along with any costs outlined in the Appendix. At least ten (10) copies of all written materials, including maps or drawings, shall be provided. Written materials shall be contained in a bound report. Digital copies of this information may be required as well.
- 4.2 The Planning Board shall, with assistance from such staff, consultants, committees or commissions as it deems appropriate, determine whether the Application is complete and contains all of the materials, information, agreements, deposits and payments required to be submitted with an Application under Sections V, VI, VII, and the Appendix. If an Application is not complete, then the Applicant shall be so advised, and no further action shall be taken by the Planning Board until a complete Application is received.
- 4.3 After the Planning Board determines that an Application is complete, the Planning Board shall so notify the applicant in writing and schedule a public hearing to be held within 30 days. The Board shall have notice of the date, time and place of the hearing given to the applicant and published at least 2 times in a newspaper of general circulation, with the first notice published at least 7 days before the hearing. Costs of the hearing shall be charged to the escrow account.
- 4.4 Following the public hearing, the Planning Board will review the record and determine whether the Application meets all requirements of this Ordinance. In determining whether the Application meets the requirements of this Ordinance, the Planning Board may obtain assistance from such staff and consultants as it deems appropriate. The Planning Board shall process the Application as soon as reasonable and feasible, given the complexity of the Application, other business facing the Town, staff and other resources, questions that arise during the review process, and other matters affecting the time needed to complete the review process.
- 4.5 If an Application is complete and meets all requirements of this Ordinance, and the Applicant has paid all fees and costs pursuant to Sections V and VII and the Appendix, then the Planning Board shall approve a WEF Site Permit for the WEF. If an Application does not meet all requirements of this Ordinance or the Applicant has not paid all fees and costs, then the Planning Board may deny the Application or approve the Application with conditions that will assure compliance with this Ordinance. If an Application is approved with conditions, then a WEF Site Permit for the WEF shall be issued when all conditions of approval have been satisfied.
- 4.6 Any significant modification of the approved WEF, such as but not limited to, the number of WTs, tower height, tower locations, turbine design and specifications shall require the Applicant to obtain an amended Site Permit from the Planning Board, pursuant to this Ordinance. The application procedures and permit requirements and standards for amending a Site Permit are the same as for an initial application.

- 4.7 An Application for a WEF Site Permit shall include the following information and meet the following requirements.
- A) The Applicant's name, address and phone number, and the name, address and phone number of the Owner/operator, if different.
 - B) A narrative describing the proposed WEF, including an overview of the project, the project location, and the generating capacity and expected production of the WEF.
 - C) Evidence of the Applicant's technical and financial ability to implement the project as proposed.
 - D) An overview map that includes the extent of the entire Town, showing all roads, together with the location of all WT access roads, power transmission lines, and all other features of the WEF deemed to be relevant by the Planning Board.
 - E) The tax map and lot number of all Project Parcels, including any deed restrictions or easements
 - F) For any Project Parcel that is not owned by the Applicant, a copy of any agreement(s) between the owner of the Project Parcel and the Applicant and/or the Owner/operator.
 - G) The boundaries of all Project Parcels, surveyed by a Maine Professional Land Surveyor, with name, registration number and seal of the surveyor provided.
 - H) The boundaries of all Participating Parcels.
 - I) The boundaries of all Non-Participating Parcels located within 5,280 feet of any proposed WT, together with the distance to, and bearing to, all boundary lines relative to each proposed WT, as measured from the nearest point of the property line to the WT. This information shall be provided by a Maine Professional Land Surveyor.
 - J) The names, addresses and phone numbers of the owners of all Project Parcels, Participating Parcels, and Non-Participating Parcels located within 5,280 feet of any proposed WT, with each property owner's status indicated (Project Parcel, Participating Parcel or Non-Participating Parcel), including the book and page reference of the identified owner's interest as recorded in the Waldo County Registry of Deeds.
 - K) An aerial photo showing all Project Parcels, Participating Parcels, and Non-Participating Parcels located within 5,280 feet of any proposed WT and indicating any current agricultural uses.
 - L) Existing zoning of each Project Parcel and all required zoning setbacks on each Project Parcel.
 - M) Soils information of at least medium intensity, analyzed for relevant drainage characteristics.
 - N) The location of all components of the WEF, including but not limited to the WTs, access roads, control facilities, meteorological towers, turnout locations, substation(s), ancillary equipment, buildings, structures, and temporary staging areas, together with maintenance and all power collection and transmission systems.
 - O) The location and description of all structures located on Project Parcels, and all occupied structures located on Participating and Non-Participating Parcels located within 5,280 feet of any proposed WT.
 - P) The location of any existing culverts, utility poles, signs or other prominent man-made features on the parcel or on any property within 100 feet of the area to be developed.
 - Q) Dimensional representation and sizes of the structural components of the tower construction including the base, footings, tower, and blades.
 - R) The distance between each WT tower and each of the following shall be shown on the site plan: structures on all Project Parcels and Participating Parcels; structures on all Non-Participating Parcels located within 5,280 feet of any boundary of a Project Parcel; all utility lines, telephone lines, and public ways located within 5,280 feet of any proposed WT.

- 4.8 Schematic of electrical systems associated with the proposed WEF including all existing and proposed electrical connections and components.
- 4.9 Manufacturer's specifications and installation and operation instructions.
- 4.10 The topography of the site at an appropriate contour interval (2 to 20 foot), showing direction of proposed surface water drainage across and from Project Parcels and Participating Parcels, with an assessment of impacts on downstream properties and water resources, including, but not limited to, streams and wetlands. The survey references from which the elevation was determined should be clearly marked both on the plan and at/near the site.
- 4.11 The location of any of the following found within 5,280 feet of any proposed WT: open drainage courses, wetlands, and other important natural areas and site features, including, but not limited to, floodplains, deer wintering areas, low level avian migration routes significant wildlife habitats, scenic areas, habitat of rare and endangered plants and animals, unique natural areas, sand and gravel aquifers and historic and/or archaeological resources, together with a description of such features.
- 4.12 Provisions made for handling all solid wastes, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities.
- 4.13 The location, dimensions and materials to be used in the construction of proposed roads, driveways, parking areas and loading areas, together with an assessment of any changes to traffic flow.
Note: Any new or upgraded road or driveway must also comply with the requirements of the Thorndike Road Ordinance or Driveway Permit portions of the Thorndike Land Use Ordinance, as appropriate.
- 4.14 A topographical overlay for the Project Parcel(s), Participating Parcels and Non-Participating Parcels located within 5280 feet of any proposed WT.
- 4.15 The size and scale of maps and diagrams shall be as determined by the Planning Board, and shall include a north arrow, the date, the scale, and date and seal of a Maine Professional Land Surveyor or professional engineer.
- 4.16 Emergency shut down plan.
- 4.17 The site plan shall include such additional relevant information as the Planning Board may require.

Section V. Site Permit Requirements and Standards

5.1 Sound Modeling, Sound Standards and Sound-Related Enforcement Procedures

- A) *Independent Pre-licensing Sound Study.* An Application for a WEF Site Permit shall include a four season sound study as specified in the Appendix. This study shall be conducted by a Qualified Independent Acoustical Consultant approved by the Planning Board. The consultant will review this study and assist the Planning Board in determining whether the proposed WEF will comply with the sound limits set forth in this Ordinance. The Applicant shall provide financial surety that the cost of the study, and its review, will be borne by the Applicant, in accordance with Section (VII) of this Ordinance.
- B) *Sound Limits.* No Site Permit shall be issued if the pre-licensing information or sound study indicates that the proposed WEF will not comply with the following requirements, which are to apply everywhere within one mile (5280 feet) of any WT, except on Project Parcel(s) or on a Participating Parcel(s) which is subject to a Mitigation Waiver which specifies different sound limits than those below. If pre-construction estimates of the post-construction sound levels, exceed the limits below, then the WEF Application will be denied; if these limits are exceeded after the WEF has been built, then the WEF will be in violation of this Ordinance.

- 1) The sound limits below are stated in terms of $L_{90}A(\text{pre})$, $L_{\text{eq}}A(\text{post})$, $L_{\text{eq}}C(\text{post})$, $L_{90}C(\text{post})$ and $L_{\text{eq}}A(\text{post})$. Each of these quantities is defined in the Appendix, particularly in Parts c(3)A, c5 and d. Prior to construction of the WEF, the “pre” values are as measured and the “post” values are as calculated, following the guidelines of the Appendix. After the WEF has been constructed, the “pre” values are the WEF-Off values and the “post” values are the WEF-On values.
- 2) *Audible Sound Limit.* The appropriate value to use for the pre-construction sound level in the three tests below is $L_{90}A(\text{pre})$; the appropriate value to use for the post construction sound level is $L_{\text{eq}}A(\text{post})$.
 - a) No WT, WES or WEF shall be located so as to generate post-construction sound levels that exceed 40 dBA at night (8:30 p.m. to 6:00 a.m.) or 45 dBA during the day (6:00 a.m. to 8:30 p.m.).
 - b) A 5 dB penalty is applied for tones as defined in IEC 61400-11.
- 3) *Low Frequency Sound Limit.*
 - a) $L_{\text{eq}}C(\text{post})$ minus $L_{90}A(\text{pre})$ must be less than 20 dB outside of any occupied structure.
 - b) $L_{90}C(\text{post})$ may not exceed 50 dBC, without contribution from other ambient sounds, for properties located one mile or more away from state highways or other major roads, and it may not exceed 55 dBC for properties closer than one mile from a state highway or other major road.
- 4) *Mitigation Waiver.* Property owners may waive these sound restrictions with a written Mitigation Waiver agreement. A complete copy of any such agreement must be filed with the Planning Board and Recorded in the Waldo County Registry of Deeds.
- 5) *Post-construction Sound Measurements.* Starting within twelve months after the date when the WEF is operating, a post-construction sound study shall be performed, with all WTs operating, as described in Part d of the Appendix. Post-construction sound studies shall be conducted by a Qualified Independent Acoustical Consultant chosen by the Planning Board. The Permittee will provide financial surety that the costs of these studies shall be paid by the Permittee. The surety required by Section VII shall include these costs. A Consultant of the Permittee may observe the Town’s consultant. The WEF Permittee shall provide all technical information required by the Planning Board or Independent Qualified Acoustical Consultant before, during, and/or after any acoustical studies required by this document and for local area acoustical measurements. The post-construction sound measurements, as described in Part d of the Appendix, shall be repeated every three years throughout the life of the facility.

5.2 Set-Back Requirements

- A) A WEF shall comply with the following set-back requirements, which shall apply in addition to the siting requirements found elsewhere in this Ordinance. If more than one set-back requirement applies, the greater set-back distance shall be met.
 - 1) All parts of a WEF shall comply with all applicable set-back requirements in the Town’s zoning Ordinance.
 - 2) Each WT shall be set back at least 1,800 feet from the property line of any Non-Participating Parcel. Property owners may waive this setback with a written Mitigation Waiver agreement.
 - 3) Each WT shall be set back at least 1,500 feet from any public way.
 - 4) Each WT shall be set back at least 1,200 feet from any above-ground electric power line or telephone line except that a lesser setback shall be permitted if the utility agrees, in writing, and this agreement is approved by the Planning Board.

- 5) Each WT shall be set back not less than 5,280 feet from any residence, business, school, daycare facility, church, hospital, or other Occupied Structure on any Non-Participating Parcel. Property owners may waive this setback with a written Mitigation Waiver agreement.
 - 6) All WTs must be set back a minimum of 2,500 feet from any Scenic or Special Resource as defined in Section (III).
 - 7) All set-back distance measurements shall be based on horizontal distances.
- B) Minor changes in approved plans necessary to address field conditions may be approved by the Planning Board, provided that any such change does not affect compliance with the Ordinance. The Permittee shall submit revised plans to the Planning Board showing the proposed minor change, which, if approved, shall be considered an amendment to an existing WEF Site Permit and/or Operational License, as appropriate. In the event that a majority of the Planning Board believes that a requested change constitutes a material change to a Site Permit and/or Operational License, or if the changes will affect compliance with the Ordinance, full reapplication is required.
 - C) All construction activities must conform to the approved WEF site plan, including any conditions of approval and minor changes approved by the Planning Board to address field conditions.
 - D) Upon completion of the project, the Permittee must provide the Planning Board with a set of construction plans showing the structures and site improvements as actually constructed. These “as-built” plans must be submitted within thirty days of completion of the WEF, and before commencement of operation of the WEF.

5.3 Plan and Risk Assessment for Road and Property Use

- A) An Application for a WEF Site Permit shall include a road and property use and risk assessment plan containing the following information and meeting the following requirements.
 - 1) A description and map of all public ways, and other property, in the Town to be used or affected in connection with the construction of the WEF, including a description of how and when such ways and property will be used or affected.
 - 2) A description of the type and length of vehicles and type, weight and length of loads to be conveyed on all public ways in the Town.
 - 3) A complete assessment of the proposed use of public ways in the Town in connection with the construction of the WEF, including the adequacy of turning radii; the ability of the public ways to sustain loads without damage; the need to remove or modify (permanently or temporarily) signs, trees, utilities, or anything else; any reasonably foreseeable damage to public ways or other property, public or private; any reasonably foreseeable costs that the Town may incur in connection with the use of property in the Town, including but not limited to costs relating to traffic control, public safety, or damage to public ways, or to other public or private property.
 - 4) A traffic control and safety plan relating to the use of public ways in the Town in connection with the construction of the WEF.
 - 5) Any additional relevant information that the Planning Board may request relating to the use of public ways or other effects on public and private property that may occur in connection with the construction and operation of the WEF.
 - 6) Any new or upgraded road or driveway must receive additional approvals as required by the Road Ordinance or Driveway Permit portions of the Land Use Ordinance, as appropriate.

- B) The Planning Board will evaluate the risk assessment plan with assistance from such consultants that it deems appropriate, including without limitation a third-party engineer approved by the Planning Board, the cost to be solely borne by the Applicant. The Planning Board may document the condition of public ways and other property to be used in connection with the construction of the WEF in such manner as it deems appropriate. The Planning Board may require changes to the risk assessment plan that it deems to be appropriate to protect public safety, to protect public and private property, and to address anticipated costs to the Town associated with construction of the WEF.
- C) If the Applicant requires the temporary closure of any public way, the Planning Board may require the Applicant to enter into an agreement relating to the use of the public way.
- D) The Applicant shall be responsible for paying for any damage to any public way. If the risk assessment anticipates damage to any public way, the Planning Board may require the Applicant to provide a surety in an amount that the Planning Board determines appropriate to secure any obligations under the agreement, including but not limited to any obligation relating to alterations or modifications to public ways made in connection with the Applicant's activities.

5.4 Design Plan and Design Requirements. An Application for a WEF Site Permit shall include a design plan containing the information and meeting the following requirements.

- 1) The total height of any WT shall not exceed 500 feet above grade, as measured to the blade tips at their maximum distance above grade.
- 2) Wind Turbines shall be painted a non-reflective, non-obtrusive color.
- 3) The design of the buildings shall, to the extent reasonably feasible, use materials, colors, textures, screening and landscaping that will blend with and be compatible with the natural setting and the existing environment.
- 4) Wind Turbines shall not be artificially lighted, except to the extent required by law, and strobe or other intermittent lights are prohibited unless required by law.
- 5) No advertising or display shall be permitted, other than reasonable identification of the manufacturer or operator of the Wind Turbines or WEF.
- 6) Electrical controls and control wiring and power-lines must be wireless or below ground, except where WES collector wiring is brought together for connection to the utility grid.
- 7) The clearance between the ground and the Wind Turbine blades shall be not less than 75 feet.

5.5 Additional Protection Requirements. The Application shall include a statement from the Federal Aviation Administration that the proposed WEF will not pose a hazard to aircraft. The Applicant must also provide memoranda from the Maine Department of Inland Fisheries and Wildlife (MDIFW) Environmental Coordinator and from the Maine Natural Areas Program (MNAP) outlining any concerns that these bodies may have with the proposed WEF. In the absence of any such concerns, the Applicant must provide copies of correspondence with these bodies showing that no such concerns exist. The Applicant must demonstrate that the proposed WEF will not have an undue adverse effect on rare, threatened, or endangered wildlife, significant wildlife habitat, rare, threatened or endangered plants and rare and exemplary natural plant communities and ecosystems.

5.6 Blasting Plan and Requirements. Owner/operator shall not undertake any blasting in connection with the construction of the WEF unless the Applicant has notified the Town and submitted a blasting plan consistent with applicable laws and regulations. The plan must be reviewed and approved by the Planning Board before any blasting may take place. No blasting shall be undertaken without 48 hours notice to all residents within a half mile radius, measured horizontally, from the blasting area. All blasting operations will cover the blasting area with sufficient stemming, matting or natural protective cover to prevent debris from falling on nearby properties.

- 5.7 Signal Interference Requirements. The WEF shall not cause any disruption or loss of radio, telephone, television or similar signals.
- 5.8 Shadow Flicker and Blade Glint Assessment and Requirements
- A) Shadow flicker occurs when the blades of a Wind Turbine pass between the sun and/or moon and an observer, casting a readily observable, moving shadow on the observer and his or her immediate environment. The Application shall include a detailed shadow flicker and blade glint assessment model and an estimate of the expected amount of flicker and glint.
- B) This study must meet the following requirements.
- 1) The study shall be prepared by a registered professional regularly engaged in this type of work who is approved by the Planning Board. The Applicant shall be responsible for paying the registered professional's fees and all costs associated with conducting the study. The Applicant shall provide financial surety to the Town for the cost of the study in accordance with Section VII of this Ordinance.
 - 2) The study will examine the areas within a one mile radius of any WT in the proposed WEF.
 - 3) The model will be calculated using the following minimum inputs:
 - a) Turbine locations (proposed and existing)
 - b) Shadow flicker Sensitive Receptor locations
 - c) Existing topography (elevation contours and vegetation)
 - d) Rotor diameter, blade width and hub height
 - e) Joint wind speed and direction distribution (wind rose table)
 - f) Hours of sunshine (long term monthly references)
 - 4) The model may be prepared by use of current aerial photography and topographical maps. A site visit by the preparer is required to identify Sensitive Receptors and to verify the existing conditions.
 - 5) The study shall estimate the locations and durations of shadow flicker caused by the proposed WEF within the study area. The study shall clearly indicate the duration of shadow flicker at locations throughout the study area, showing the total number of hours per year anticipated.
 - 6) The study must include estimates for the duration of shadow flicker at all existing occupied structures, structures permitted for construction, schools, churches, public buildings, and roadways. The estimated duration of shadow flicker at any residential parcel shall include flicker that occurs within 100 feet of the residence.
 - 7) The study must include a statement of the assumptions made, methodology applied, and data used by the study. This information must be sufficient to allow an independent third party to verify the results of the study.
 - 8) The study shall include a paint sample that demonstrates the color, texture and gloss of the proposed surface coating and a certification that the proposed surface coating will not create a reflective surface conducive to blade glint.

- C) The Application will not be approved if the study estimates that the duration and location of flicker will satisfy any of the following conditions.
 - 1) There are more than 10 hours of flicker per year on any Non-participating Parcel.
 - 2) There are more than 10 hours of flicker per year on any roadway.
 - 3) Flicker is possible at intersections of any roadways.

If after construction, the WEF violates any of these three conditions, then the WEF will be in violation of this Ordinance.

5.9 Sign Plan and Sign Requirements. An Application for a WEF Site Permit shall include a sign plan meeting the requirements in this section.

- A) The plan shall provide reasonable signage at the WEF, identifying the Project Parcels as being part of the WEF and providing appropriate safety notices and warnings.
- B) No advertising material or signage other than warning, equipment information or indicia of ownership shall be allowed on the Wind Turbines. This prohibition shall include the attachment of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices, but not including weather devices.
- C) The address and phone number of the Owner/operator and Licensee shall be posted on all access points from public roads.

5.10 Stray Voltage Assessment and Requirements.

- A) An Application for a WEF Site Permit shall include reports of stray voltage analyses in accordance with this section. The Applicant shall conduct and include a report of a preconstruction stray voltage test on all commercial livestock facilities located within a one-mile radius of the Project Parcels. The tests shall be performed by an investigator, approved by the Planning Board, using a testing protocol which is approved by the Planning Board. A report of the tests shall be provided with the WEF Site Permit Application and shall be provided to the owners of all property included in the study area. Applicant shall seek written permission from property owners prior to conducting testing on such owners' property. Applicant shall not be required to perform testing on property where the owners have refused to grant permission to conduct the testing.
- B) Following construction of the WEF and within one year after commencing operation, the Applicant shall conduct a post-construction stray voltage test on all commercial livestock facilities located within a one-mile radius of the Project Parcels. The tests shall be performed by an investigator approved by the Planning Board and shall be performed using a testing protocol which is approved by the Planning Board. A report of the tests shall be provided to the Planning Board and to the owners of all property included in the study area. Applicant shall seek written permission from property owners prior to conducting testing on private property. Applicant shall not be required to perform testing on property where the owners have refused to grant permission to conduct the testing.
- C) The Applicant or subsequent holder of the Operational License shall provide neutral isolation devices to property owners where testing reveals neutral-to-earth voltages in excess of 0.5 volts caused by the WEF.

5.11 Security Plan and Requirements. The Application shall include a security plan that contains the information and meets the requirements in this section or offers alternative strategies that achieve the objectives of effectively discouraging vandals and climbers.

- A) The outside of Wind Turbines shall not be climbable.
- B) All access doors to the towers and electrical equipment shall be locked.

- C) Warning signs shall be placed on each tower, all electrical equipment, and each entrance to the WEF.

5.12 Fire Prevention and Emergency Response Plan and Requirements.

- A) An Application for a WEF Site Permit shall include a fire prevention and emergency response plan containing the information and meeting the requirements in this section. The plan shall describe the potential fire and emergency scenarios that may require a response from fire, emergency medical services, police or other emergency responders.
- B) The plan shall designate the specific agencies that would respond to potential fire or other emergencies, shall describe all emergency response training and equipment needed to respond to a fire or other emergency, shall include an assessment of the training and equipment available to the designated agencies, and shall provide for any special training or emergency response equipment that the designated agencies need to use in responding to a potential fire or other emergency. The study shall be conducted at Applicant's cost and the Applicant shall pay for the cost of any training or equipment required by local fire and emergency responders.
- C) Access to the WEF and construction area(s) shall be constructed and maintained following a detailed erosion control plan in a manner designed to control erosion and to provide maneuverability for service and emergency response vehicles.

5.13 Emergency Shutdown Plan and Requirements. An Application for a WEF Site Permit shall include an emergency shutdown plan. The plan shall describe the circumstances under which an emergency shutdown may be required to protect public safety, and shall describe the procedures that the Town and the Owner/operator and Licensee will follow in the event an emergency shutdown is required.

5.14 Decommissioning and Site Restoration Plan and Requirements. An Application for a WEF Site Permit shall include a decommissioning and site restoration plan containing the information and meeting the requirements in this section.

- A) The plan shall provide for the removal from the Project Parcels, and lawful disposal or disposition of, all Wind Turbines and other structures, hazardous materials, and electrical facilities. The plan shall provide for the removal of all access roads and foundations unless the landowner wishes them left in place. The plan shall provide for the restoration of the Project Parcels to a condition similar to that which existed before construction of the WEF.
- B) The plan shall provide for the decommissioning of the site upon the expiration or revocation of the WEF Permit, or upon the abandonment of the WEF. The WEF shall be deemed abandoned if its operation has ceased for six consecutive months without substantiating communication concerning the ceasing of operations to the satisfaction of the Planning Board.
- C) The plan shall include provisions for financial surety to ensure completion of decommissioning and site restoration, in form and amount satisfactory to the Planning Board. A performance bond or a cash escrow account held by the Town with 5% of the estimated cost of decommissioning to be added by the WEF on an annual basis shall be acceptable surety, the total amount to be based on the estimated cost of completing the decommissioning and site restoration in accordance with the approved plan, adjusted for inflation, and as approved by the Planning Board.
- D) The plan shall include written authorization from the WEF Permittee and all owners of all Project Parcels for the Town to access the Project Parcels and implement the decommissioning and site restoration plan, in the event that the WEF Permittee fails to implement the plan. The written authorization shall be in a form approved by the Planning Board and recorded in the Waldo County Registry of Deeds.

5.15 Mitigation Waiver Agreement. Non-participating Landowners may waive certain specified protections in this Ordinance using a written, legally enforceable Mitigation Waiver negotiated between the wind turbine Applicant and the Non-participating Landowner, who thereby becomes a Participating Landowner. Complete copies of executed Mitigation Waivers must be included with the submission of the WEF Application. The Mitigation Waiver must be recorded in the Waldo

County Registry of Deeds, and describe the benefited and burdened properties. Any subsequent deed must advise all subsequent owners of the burdened property.

- 5.16 Inspections. Wind Turbines shall be inspected after construction is completed but before becoming operational, and every two years thereafter, for structural and operational integrity by a Maine licensed professional engineer, and the Owner/operator and/or Licensee shall submit a copy of the inspection report to the Planning Board. If such report recommends that repairs or maintenance are to be conducted, then the Owner/operator and/or Licensee shall provide the Planning Board with a written schedule for the repairs or maintenance. Failure to complete the repairs or maintenance in accordance with the schedule shall be deemed a violation of this Ordinance.
- 5.17 Liability Insurance. The Applicant, Permittee, Owner/operator and Licensee, as applicable, shall maintain a current general liability policy for the WEF that covers bodily injury and property damage in an amount commensurate with the scope and scale of the WEF, and acceptable to the Planning Board. Certificates of insurance shall be provided to the Planning Board annually. The policy must include the requirement that the Planning Board will be provided at least ten days notice by the policy provider in the case of cancellation or change to the policy. In addition, the Applicant, Permittee, Owner/operator and Licensee, as applicable, must inform the Planning Board of such changes.
- 5.18 Construction Codes.
- A) All wiring shall be installed according to local, state, and national electrical codes.
 - B) All construction shall be conducted in accordance with the International Building Code 2006, published by the International Code Council, Inc.

Section VI. Operational License

- 6.1 Applications for a WEF Operational License shall be submitted to the Planning Board.
- A) Where an Applicant is applying for a new or amended WEF Site Permit, the application for a WEF Operational License, or amended license, shall be submitted to the Planning Board in conjunction with the Site Permit application, and shall include the application form and the separate fee specified in Section VII.
 - B) Where an Applicant is applying for a WEF Operational License renewal, a new License as the result of transfer of ownership or operation, or reinstatement or modification of an Operational License, the Applicant shall submit an application form, a copy of the existing WEF Site Permit, and the fee specified in Section VII.
- 6.2 The application for a WEF Operational License shall include the following items:
- A) The Applicant's name, address and phone number, and the name, address and phone number of the Owner/operator, if different;
 - B) An emergency directory for the Owner/operator sufficient to allow the Town to contact the Owner/operator at any time;
 - C) Evidence of the Applicant's technical and financial ability to operate the WEF in accordance with this Ordinance, the Site Permit, and the Operational License;
 - D) For any Project Parcel that is not owned by the Applicant, a copy of any agreement(s) between the owner of the Project Parcel and the Applicant;
 - E) An updated security plan in accordance the requirements of Section V(k);
 - F) An updated fire prevention and emergency response plan in accordance with the requirements of Section V(l);
 - G) An updated emergency shutdown plan in accordance with the requirements of Section V(m);

- H) An updated decommissioning and site restoration plan in accordance with the requirements of Section (V)(n), including a transfer of financial surety rights from prior License holder;
 - I) Updated liability insurance information in accordance with the requirements of Section (V)(q); and
 - J) A signed statement from the Applicant that the Applicant agrees to assume full responsibility for complying with the provisions of this Ordinance and the Site Permit, including agreeing to continue or complete any duties and obligations of the former Operational License holder under this Ordinance or former Operational License, including, but not limited to, the requirement for post-construction sound measurements, post-construction stray voltage testing, wind turbine inspections, and submission to inspections. Items (3) through (9) do not need to be duplicated if the Operational License is submitted in conjunction with an application for a Site Permit.
- 6.3 The Planning Board shall, with assistance from such staff, consultants, committees or commissions as it deems appropriate, determine whether the Application is complete. If an Application is not complete, then the Applicant shall be so advised, and no further action shall be taken by the Planning Board until a complete Application is received.
- 6.4 After the Planning Board determines that an Application is complete, the Planning Board shall determine whether the Application meets all requirements of this Ordinance. In determining whether the Application meets the requirements of this Ordinance, the Planning Board may obtain assistance from such staff and consultants as it deems appropriate. The Planning Board shall process the Application as soon as reasonable and feasible, given the complexity of the Application, other business facing the Town, staff and other resources, questions that arise during the review process, and other matters affecting the time needed to complete the review process.
- 6.5 If an Application is complete and meets all requirements of this Ordinance, and the Applicant has paid all fees and costs, then the Planning Board shall approve a WEF Operational License for the WEF. If an Application does not meet all requirements of this Ordinance or the Applicant has not paid all fees and costs, then the Planning Board may deny the Application or approve the Application with conditions that will assure compliance with this Ordinance. If an Application is approved with conditions, then a WEF Operational License for the WEF shall be issued when all conditions of approval have been satisfied, or, when the Planning Board deems appropriate under the circumstances, the Planning Board may issue a Temporary Operational License for up to 90 days.

Section VII. Fees and Costs

- 7.1 Preliminary Cost Agreement. At the time an Application for a WEF Site Permit is filed with the Town, the Applicant shall execute for the benefit of the Town an agreement to pay and provide adequate surety guaranteeing payment of the cost of the investigation, review and processing of the Application, including without limitation by way of enumeration, legal, engineering, acoustical, planning, environmental, and staff administrative costs as provided in this Ordinance. The agreement shall provide for the establishment of an escrow account with a minimum of \$10,000 cash deposit to be provided by the Applicant to begin review under this Ordinance. The Town may use the funds in the escrow account in connection with the application review as allowed by this Ordinance. In the event that the cash deposit in escrow is insufficient to complete the review, the Town shall notify the Applicant that additional funds are necessary and of the amount reasonably believed necessary to complete the review, and the Applicant shall provide the additional funds. The Planning Board shall not begin processing, or in the case of where additional funds are requested, shall not continue processing, the Application until the preliminary cost agreement is approved and signed and until the required surety, or additional surety, and/or funds, are provided to the Town.
- 7.2 The application fee for a Site Permit shall consist of a base application fee of \$2,500.00, plus \$500.00 for every WT included in the project.
- 7.3 The application fee for an Operational License is \$1,000.
- 7.4 The annual fee for an Operational License is \$250.00.

Section VIII. Expiration of Site Permit Approval and WEF Operational License

- 8.1 If on-site construction of a WEF is not significantly commenced within one year of the date of issue of a Site Permit, the Site Permit shall automatically lapse and become null and void. If an approved WEF is not completed within 30 months after a Site Permit is issued, then the Site Permit shall expire, and the Applicant must reapply. The Planning Board may, for good cause shown, grant a one-time extension of up to six months for either start of construction or completion of construction provided such request is submitted prior to the lapse or expiration of the Site Permit.
- 8.2 A WEF Operational License issued under this Ordinance shall expire twenty years after the date it is issued, unless earlier terminated.
- 8.3 A WEF Operational License shall be deemed abandoned if its operation has ceased for six consecutive months, without communication to the Planning Board of an explanation to the Planning Board's satisfaction. An Operational License expires immediately upon abandonment.
- 8.4 A WEF Operational License shall automatically terminate upon transfer of ownership or operation of the WEF. The proposed new owner or operator shall be required to obtain a new Operational License, which must be in place prior to the transfer of ownership or operation of the WEF.

Section IX. Violations, Complaints and Penalties

- 9.1 Violations of This Ordinance. It shall be unlawful to construct or operate any WEF or part thereof in violation of any provision of this Ordinance, a WEF Site Permit, or a WEF Operational License; any violation thereof is punishable, upon conviction, in accordance with 30-A M.R.S.A. § 4452(3), and shall include attorneys fees and a penalty to address economic benefit as provided in 30-A M.R.S.A. § 4452(3)(D) and (H). All fines assessed under this Ordinance shall inure to the benefit of the Town of Thorndike. Each day a violation exists or continues shall constitute a separate offense.
- 9.2 Complaint Review Board. Prior to permitting any WEF, the town shall establish a Complaint Review Board to serve as the enforcing Authority. The Complaint Review Board will consist of three Commissioners as follows:
 - A) One Town Selectperson
 - B) The Code Enforcement Officer (CEO)
 - C) One member of the Planning Board
- 9.3 Complaints and Modification, Revocation or Suspension. The Complaint Review Board pursuant to Section IX(9.3) will serve as the Enforcing Authority for WEFs and will have continuing jurisdiction to modify, revoke, or suspend all WEF Operational licenses in accordance with this section. Such authority shall be in addition to the Town's authority to prosecute violations and take other enforcement action.
 - A) In this section, "violation" means a violation of this Ordinance, or a violation of a WEF Site Permit issued under this Ordinance, or a violation of a WEF Operational License.
 - B) Any resident of the Town, real property tax-payer to the Town, or Town official may file a written complaint with the Town Clerk alleging that a WEF Permittee, Owner/operator or Licensee has committed or is committing a violation. Such complaints shall be forwarded to the Complaint Review Board.
 - C) The Complaint Review Board shall preliminarily review the complaint. In connection with its preliminary review, the Complaint Review Board may require the Code Enforcement Officer or other person or persons to conduct such investigations and make such reports as the Complaint Review Board may direct. The Complaint Review Board may request information from the WEF Permittee, Owner/operator and/or Licensee, the complainant, and any other person or entity to assist with its preliminary review.
 - D) Following its preliminary review, the Complaint Review Board may:

- 1) Dismiss the complaint;
- 2) Refer the complaint to the Town attorney for prosecution; or
- 3) Conduct a public meeting to determine whether the alleged violation(s) have occurred, and what remedial action should be taken. Prior to such meeting, notice of the meeting shall be given to the WEF Permittee, Owner/operator, Licensee, as applicable, and the complainant. The WEF Permittee, Owner/operator, Licensee, as applicable, and the complainant, and any other person, may appear at the meeting and may offer testimony and other relevant evidence, and may be represented by any attorney. If the Complaint Review Board concludes that violations have occurred, the Complaint Review Board may:
 - a) Impose conditions on the WEF Site Permittee, Owner/operator and/or Licensee to the extent reasonably necessary to discontinue the violation(s) or avoid any recurrence thereof; or
 - b) Suspend the WEF Site Permit and/or Operational License until such time as the WEF Permittee, Owner/operator and/or Licensee presents and implements a plan, satisfactory to the Complaint Review Board that will discontinue the violation(s) or prevent any recurrence thereof, and meets such further conditions as the Complaint Review Board deems appropriate to discontinue and prevent further violations; or
 - c) Recommend to the Select Board that the matter be referred to the Town's attorney for prosecution seeking that the WEF Site Permit and/or Operational License be revoked and that decommissioning of the WEF be directed, if the Complaint Review Board concludes that no reasonable modification can be made to the WEF to discontinue or prevent violations; or
 - d) Refer the matter to the Select Board and Town's attorney for prosecution, subject to Complaint Review Board and Select Board approval; or
 - e) Take no action, if the Complaint Review Board concludes that no further action is needed to discontinue or prevent violations, and that prosecution is unwarranted.
- E) Following any such hearing, the Complaint Review Board's written decision shall be furnished to the WEF Permittee, Owner/operator and/or Licensee, as applicable, and to the complainant.
- F) An appeal from the decision of the Complaint Review Board may be taken to the Appeals Board by the WEF Permittee, Owner/operator or Licensee, or a complainant. Such appeal must be in writing and must specify the grounds thereof, and must be filed with the Town Clerk within 30 days after the final action of the Complaint Review Board. The Town Clerk shall provide any appeal to the Appeals Board. The Appeals Board shall fix a reasonable time for the hearing of the appeal, and shall give public notice thereof as well as due notice to the WEF Permittee, Owner/operator and/or Licensee, as applicable, and the complainant. The action of the Complaint Review Board shall be sustained unless the Appeals Board, by a favorable vote of the majority of all members of the Appeals Board, reverses or modifies the Complaint Review Board's determination.
- G) An appeal from a decision of the Board of Appeals shall be made to Superior Court in accordance with M.R.Civ.P. 80B.

Section X. Maintenance, Amendments, and Miscellaneous Requirements

- 10.1 A WEF shall be constructed, operated, and maintained, and repaired in accordance with the approved Site Permit, Operational License, and this Ordinance. Where a standard or requirement is not provided by either this Ordinance, the WEF Site Permit or the WEF Operational License, the WEF Permittee and Licensee shall comply with Good Utility Practices.
- 10.2 All components of the Wind Turbine Project shall conform to relevant and applicable local, state and national building codes.

- 10.3 A WEF Permittee may apply to the Planning Board for changes to a WEF Site Permit or Operational License. The Application shall describe the requested change or changes. The Planning Board shall review the Application and determine what provisions of this Ordinance and Appendix will apply to the Application. The Application will then be processed in accordance with all provisions of this Ordinance deemed to be applicable by the Planning Board. The provisions of Section (VII), together with all other instances where this Ordinance outlines financial obligations of the Applicant, Permittee, Owner/operator and Licensee shall apply to any Application for changes to a WEF Site Permit or Operational License. An Application for changes will be required for any significant modification to the approved WEF Permit, including, but not limited to: any change in the number of WTs; any change in WT height, location, design, or specification; or any substantive change to any required plan or insurance coverage.
- 10.4 The WEF Permittee, Owner/operator and/or Licensee, as applicable, shall notify the Town of any extraordinary event as soon as possible, and in no case more than 12 hours after the event. "Extraordinary events" shall include but not be limited to tower collapse, catastrophic turbine failure, fires, leakage of hazardous materials, unauthorized entry to the tower base, thrown blade or hub, any injury to a Facility worker or other person that requires emergency medical treatment, or other event that impacts the health and safety of the Town or its residents.
- 10.5 Approval of a WEF Permit under this Ordinance does not exempt an Applicant from obtaining other applicable permits from the Town of Thorndike, such as building, electrical, plumbing and shoreland zoning permits, as applicable, or any applicable state or federal permit.

Section XI. Severability; Conflicts with Other Ordinances, Laws, and Regulations; Appeal

- 11.1 If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or part thereof. The Town hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, phrase or part thereof even if any one or more sections, subsections, sentences, clauses, phrases or parts thereof may be declared invalid or unconstitutional.
- 11.2 Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other Town Ordinance, or Federal or State of Maine rule, regulation or statute, the more restrictive provision shall apply.
- 11.3 Except as provided in Section IX.3 F), an aggrieved party may appeal a decision of the Planning Board to Superior Court in accordance with M.R.Civ.P. 80B.

Section XII. Effective Date

- 12.1 This Ordinance shall take effect immediately upon passage.

Appendix.

- A.1 Introduction. The purpose of this Appendix is to describe the requirements for pre-construction and post-construction sound and vibration monitoring. Determining the sound and vibration impacts is a highly technical undertaking and requires a serious effort in order to collect reliable and meaningful data for both the public and decision-makers. This protocol is based in part on criteria published in American National Standards S12.9 - Quantities and Procedures for Description and Measurement of Environmental Sound, and S12.18 for the measurement of sound pressure level outdoors. Where there are differences between the procedures and definitions of this document and ANSI standards, this document shall apply. Where a standard's requirements may conflict with other standards or with this document, the most stringent requirements shall apply. IEC 61400-11 procedures are not suitable for enforcement of these requirements except for the presence of tones.
- A.2 Instrumentation. All instruments and other tools used to measure audible, inaudible and low frequency sound shall meet the requirements for ANSI or IEC Type 1 Integrating Averaging Sound Level Meter with one-third octave band analyzer with frequency range from 6.3 Hz to 20k Hz and capability to simultaneously measure dBA LN and dBC LN. The instrument must also be capable of measuring low level background sounds down to 20 dBA, and must conform, at a minimum, to the

requirements of ANSI S1.43-1997. Measurements shall only be made with the instrument manufacturer's approved wind screen. A compatible acoustic field calibrator is required with certified ± 0.2 dB accuracy. Portable meteorological measurement requirements are outlined in ANSI S12.9 Part 3 and are required to be located within 5 meters of the sound measuring microphone. The microphone shall be located at a height of 1.2 to 1.5 meters for all tests unless circumstances require a different measurement position. In that case, the reasons shall be documented and include any adjustments needed to make the results correspond to the preferred measurement location.

A.3 Pre-construction Sound Measurement and Study. An assessment of the sound environment in the area surrounding the proposed WEF is necessary in order to predict the impact of a proposed project. The following guidelines shall be used in developing an estimate of an area's pre-construction sound environment. All testing is to be performed by a Qualified Independent Acoustical Consultant chosen by the Planning Board. The Applicant may file objections detailing any concerns it may have with the Planning Board's selection. These concerns will be addressed in the study. Objections must be filed prior to the start of the sound study. Test results and the study will be reported to the Planning Board.

A) *Location of Measurement Points for Pre-construction Sound Measurement.* Sites to be used as Measurement Points shall be selected as follows.

- 1) Sites should not be located near large objects, such as buildings. The distance to buildings or other structures should be twice the largest dimension of the structure, if possible.
- 2) The sites shall include those locations anticipated to have the highest sound emissions of the proposed WEF.
- 3) The sites shall include those locations where the background soundscape is quietest.
- 4) The sites shall include locations along the property line(s) of Project Parcel(s) and Participating Parcel(s). The intent is to anticipate the locations along the property line(s) that will receive the highest sound emissions. The Applicant and the owner of relevant Project Parcel(s) and Participating Parcel(s) must provide access to allow measurements to be taken. The Permit will not be approved if such access is refused. Mitigation Waivers for any parcel(s) do not eliminate the requirement that access be provided.
- 5) The sites shall include locations selected to represent the sound level at all Sensitive Receptors located within 1.5 miles of the boundaries of the proposed WEF.
- 6) Sites shall be located with the assistance of the Planning Board and property owner(s).
- 7) Additional sites may be chosen by the Consultant conducting the study if these sites will improve the accuracy of the study's conclusions.

B) *Conditions under which Measurements are to be Taken.* At each Measurement Point, information will be gathered under the conditions specified.

- 1) The duration of each measurement shall be ten continuous minutes for each quantity listed in Part c(3)A, below, at each location. Longer-term tests are not appropriate. In most cases, it should be possible to derive all values described in Part c(3)A from a single ten minute sample. The duration must include at least six minutes that are not affected by transient sounds from near-by and non-natural sources. Multiple ten minute samples over longer periods may be used to improve the reliability, in which case the quietest ten minute sample will be used.
- 2) Measurements shall be taken during the times of day and night expected to be have the quietest background sound level, as appropriate for the site. The preferred nighttime testing time for background sound levels is from 10 pm until 4 am. If circumstances indicate that samples should be taken at a different time, then the test may be conducted at an alternate time, if approved by the Planning Board.

- 3) Measurements must be made on a week-day of a non-holiday week. Week-end measurements may be taken at selected sites where there are weekend activities that may be affected by WT sound.
 - 4) Measurements must be taken at 1.2 to 1.5 meters above the ground and at least 15 feet from any reflective surface, following ANSI S12.9 Part 3 protocol together with any other requirements found in this Ordinance.
 - 5) Measurements taken when the wind speeds exceed two meters per second (4.5 miles per hour) at the microphone location are not valid. A windscreen of the type recommended by the monitoring instrument manufacturer must be used for all data collection.
 - 6) All elements of any pre-existing WEF, whether operated by the current Applicant or some other party, must be turned off for the duration of background sound level measurements. Willingness of the Applicant to abide by this condition for any future Applicants is a requirement of Permit approval.
- C) *Quantities to be Measured.* At each Measurement Point, the following information will be gathered, at a minimum, and provided as part of the Study.
- 1) L_{eq} , L_{10} and L_{90} , each to be given in dBA and in dBC. L_{90} is the value for the quietest continuous minute of a continuous ten minute period, L_{10} is the value for the loudest continuous minute of a continuous ten minute period, and L_{eq} is the average value over the entire ten minute period. To distinguish these values from their post-construction counterparts, these values may be denoted $L_{eq}(pre)$, $L_{10}(pre)$ and $L_{90}(pre)$, with an “A” or a “C”, depending on the weight. For instance, $L_{10}A(pre)$ means the A-weighted preconstruction measurement of L_{10} . The ten minute period shall be considered invalid if either
 - a) $L_{10}A$ minus $L_{90}A$ is greater than 10 dBA; or
 - b) $L_{10}C$ minus $L_{90}C$ is greater than 15 dBC.
 - 2) One-third octave band sound pressure levels, averaged over each ten minute sample selection. These concerns will be addressed in the study. Objections must be filed prior to the start of the sound study. Test results and the study will be reported to the Planning Board.
 - a) *Location of Measurement Points for Pre-construction Sound Measurement.* Sites to be used as Measurement Points shall be selected as follows.
 1. Sites should not be located near large objects, such as buildings. The distance to buildings or other structures should be twice the largest dimension of the structure, if possible.
 2. The sites shall include those locations anticipated to have the highest sound emissions of the proposed WEF.
 3. The sites shall include those locations where the background soundscape is quietest.
 4. The sites shall include locations along the property line(s) of Project Parcel(s) and Participating Parcel(s). The intent is to anticipate the locations along the property line(s) that will receive the highest sound emissions. The Applicant and the owner of relevant Project Parcel(s) and Participating Parcel(s) must provide access to allow measurements to be taken. The Permit will not be approved if such access is refused. Mitigation Waivers for any parcel(s) do not eliminate the requirement that access be provided.

5. The sites shall include locations selected to represent the sound level at all Sensitive Receptors located within 1.5 miles of the boundaries of the proposed WEF.
 6. Sites shall be located with the assistance of the Planning Board and property owner(s).
 7. Additional sites may be chosen by the Consultant conducting the study if these sites will improve the accuracy of the study's conclusions.
- b) *Conditions under which Measurements are to be Taken.* At each Measurement Point, information will be gathered under the conditions specified.
1. The duration of each measurement shall be ten continuous minutes for each quantity listed in Part c(3)A, below, at each location. Longer-term tests are not appropriate. In most cases, it should be possible to derive all values described in Part c(3)A from a single ten minute sample. The duration must include at least six minutes that are not affected by transient sounds from near-by and non-natural sources. Multiple ten minute samples over longer periods may be used to improve the reliability, in which case the quietest ten minute sample will be used.
 2. Measurements shall be taken during the times of day and night expected to be have the quietest background sound level, as appropriate for the site. The preferred nighttime testing time for background sound levels is from 10 pm until 4 am. If circumstances indicate that samples should be taken at a different time, then the test may be conducted at an alternate time, if approved by the Planning Board.
 3. Measurements must be made on a week-day of a non-holiday week. Week-end measurements may be taken at selected sites where there are weekend activities that may be affected by WT sound.
 4. Measurements must be taken at 1.2 to 1.5 meters above the ground and at least 15 feet from any reflective surface, following ANSI S12.9 Part 3 protocol together with any other requirements found in this Ordinance.
 5. Measurements taken when the wind speeds exceed two meters per second (4.5 miles per hour) at the microphone location are not valid. A windscreen of the type recommended by the monitoring instrument manufacturer must be used for all data collection.
 6. All elements of any pre-existing WEF, whether operated by the current Applicant or some other party, must be turned off for the duration of background sound level measurements. Willingness of the Applicant to abide by this condition for any future Applicants is a requirement of Permit approval.
- c) *Quantities to be Measured.* At each Measurement Point, the following information will be gathered, at a minimum, and provided as part of the Study.
1. L_{eq} , L_{10} and L_{90} , each to be given in dBA and in dBC. L_{90} is the value for the quietest continuous minute of a continuous ten minute period, L_{10} is the value for the loudest continuous minute of a continuous ten minute period, and L_{eq} is the average value over the entire ten minute period. To distinguish these values from their post-construction counterparts, these values may be denoted $L_{eq}(pre)$, $L_{10}(pre)$ and $L_{90}(pre)$, with an "A" or a "C", depending on the weight. For instance, $L_{10}A(pre)$ means the A-weighted preconstruction measurement of L_{10} . The ten minute period shall be considered invalid if either
 - i. $L_{10}A$ minus $L_{90}A$ is greater than 10 dBA; or
 - ii. $L_{10}C$ minus $L_{90}C$ is greater than 15 dBC.

2. One-third octave band sound pressure levels, averaged over each ten minute sample.
 3. A narrative description of any intermittent sounds registered during each measurement.
 4. A narrative description of the steady sounds that form the background soundscape.
 5. Digital recording of all data, sampled at a rate of at least 44,100 Hz with signed 16 bit Pulse Code Modulation, as described in IEC 60908, and measured using a recording instrument meeting ANSI S1.4. This may be augmented with video recordings.
 6. Wind speed and direction, humidity and temperature, together with the corresponding information from the nearest ten meter weather reporting station.
- d) *Information to be supplied by the Applicant.* The Applicant must provide the following information.
1. The make and model of all WT units to be installed in the WEF.
 2. The sound power of all WT units to be installed in the WEF, expressed in watts, and abbreviated as L_w . This information must have been determined for the WT manufacturer under laboratory conditions specified by IEC 61400-11, and provided to the Applicant. It cannot be assumed that these values represent the highest sound output for any operating condition; they reflect the operating conditions necessary to meet the IEC 61400-11 requirements. The lowest frequency for acoustic power (L_w) required in IEC 61400-11 is 50 Hz. This Ordinance requires wind turbine certified acoustic power (L_w) levels at rated load for the total frequency range from 6.3 Hz to 10,000 Hz, in one-third octave frequency bands tabulated to the nearest 0.1 dB.
 3. Any additional information that the Consultant reasonably deems necessary to fulfill the requirements in Part c(5), below.
 4. The burden is on the Applicant to provide sufficient information to establish that operation of the WEF will meet the requirements of this Ordinance.
- e) Required Elements of the Study
1. The purpose of the study is, first, to establish a consistent and scientifically sound procedure for evaluating existing background levels of audible and low-frequency sound; and, second, to determine whether the proposed WEF will meet the conditions set forth in Section V The characteristics of the proposed WEF and the features of the surrounding environment will influence the design of the study. Site layout, types of WES/WT selected and the existence of other significant local audible and low frequency sound sources and Sensitive Receptors should be taken into consideration.
 2. Determining whether the proposed WEF will meet the conditions set forth in this Ordinance requires that the Consultant predict the postconstruction sound level of the proposed WEF. At each Measurement Point, the Consultant must estimate values for L_{90} , L_{10} and L_{eq} , both A-weighted and C-weighted, for a total of six values at each Measurement Point. These pre-construction estimates of the post-construction sound level will be denoted $L_{90}(\text{post})$, $L_{10}(\text{post})$ and $L_{eq}(\text{post})$, each of which may have an "A" or a "C" to indicate the method of weighting.
 3. In determining these post-construction values, the Consultant should assume worst-case conditions for producing sound emissions. The assumed wind speed shall be the speed that results in the worst-case (i.e., highest) dBA and dBC sound levels in the area surrounding the WEF. The wind direction shall be taken to be the

dominant wind direction in each season. If other wind directions may cause levels to exceed those of the predominant wind direction at Sensitive Receptors, then these levels and conditions shall be considered in the Study. To accommodate enforcement under weather conditions where this is a significant difference between the wind speed at ground-level and at hub-height, any predictive model shall assume that the winds at hub-height are sufficient for the highest sound emission, even though the enforcement tests will be with ground-level wind speeds of ten miles per hour or less.

4. In the event that there are several pending Permit Applications, or preexisting WEF(s), the estimated post-construction values shall be the combined predicted output of all proposed or existing WEFs. All of these WEFs will be treated using the same methodology to arrive at combined value for the predicted post-construction sound level.
5. Each additional WEF adds to the sound-burden of a community. If the contribution to sound levels of a proposed WEF, together with the sound generated by pre-existing WEFs would raise sound levels beyond the limits of this Ordinance, then the proposed WEF will not be approved.
6. At a minimum, the study shall include the following information, and meet the following requirements.
 - i. The study shall address conditions in all four seasons, and it is required that measurements be taken at each Measurement Point at least once in each of the four seasons. The quietest period of each season should be chosen for measurement.
 - ii. The study may be based on computer models, but shall include a description of all assumptions made in the model's construction and algorithms. This description must be sufficient to allow an independent third party to verify the conclusions of the study. If the model does not consider the effects of wind direction, worst-case weather, operating conditions, geography of the terrain, and/or the effect of reinforcement from coherent sounds or tones from the turbines, then these shortcomings must be identified and other means used to adjust the model's output to account for these factors.
 - iii. The minimum and maximum distance between any Measurement Points.
 - iv. The distance between each Measurement Point and any significant local sound sources.
 - v. The predicted sound pressure levels for each of the 1/1 octave bands as un-weighted dB in tabular form from 6.3 Hz to 10,000 Hz. This should be given for a set of locations throughout the study area deemed by the Consultant and Planning Board to be representative.
 - vi. Eight iso-contour maps shall be included, two for each season, showing the level of pre-construction background sound, as given by $L_{90}A(\text{pre})$ and $L_{90}C(\text{pre})$. These maps shall extend to a minimum of 1.5 miles beyond the perimeter of the project boundary, and may be extended to a distance of more than 1.5 miles at the discretion of the Planning Board. The scale shall be such as to allow individual Measurement Points and Sensitive Receptors to be distinguished.
 - vii. Eight iso-contour maps shall be included, two for each season, showing the level of post-construction sound, as given by $L_{\text{eq}}A(\text{post})$ and $L_{\text{eq}}C(\text{post})$. These maps shall cover the same area and use the same scale as those in (F).
 - viii. Eight iso-contour maps shall be included, two for each season. Four of these maps shall show the value of $L_{\text{eq}}A(\text{post})$ minus $L_{90}A(\text{pre})$, one map for each

season; and four maps shall show $L_{eq}C(\text{post})$ minus $L_{90}A(\text{pre})$, one map for each season. These maps shall cover the same area and use the same scale as those in (F).

- ix. All maps shall use of contour interval of no more than 5 dB, and shall extend out, at a minimum, to distance sufficient to show the 30 dBA or 40 dBC boundary, whichever is greater.
- x. Maps shall show the location of a Measurement Points, sources of any significant local non-WEF sound or vibration, and the location of all Sensitive Receptors, including, but not limited to, schools, daycare centers, hospitals, residences, places of worship, and elderly care facilities.
- xi. A map shall be included that shows the layout of the project area, including topography, the project boundary lines and property lines.
- xii. Any additional information that the Consultant and Planning Board reasonably believe will aid in making a more informed decision as to whether the proposed WEF will meet the requirements of this Ordinance.

D) Post-construction Sound Measurement and Study

- 1) Post-construction sound studies require two sets of measurements. One set of measurements shall be gathered using the same methodology as outlined in Part (c), above. These measurements may be referred to as the “WEF-Off Measurements.” The second set of measurements shall be gathered as set forth in this Part (d), and may be referred to as the “WEF-On Measurements”. The WEF-On Measurement Points shall be the same as those used as WEF-On Measurement Points. All testing is to be performed by a Qualified Independent Acoustical Consultant chosen by the Planning Board.
- 2) At the discretion of the Planning Board, the pre-construction sound measurements, taken in Part (c), can be substituted for the WEF-Off Measurements if a random sampling of 10% of the pre-construction study sites shows that $L_{90}A$ and $L_{90}C$ levels have not changed by more than ± 5 dB when measured under the same meteorological conditions.
- 3) If there have been any complaints about WEF sound or low frequency sound by any resident of an occupied dwelling, then a location or locations on that property will be included in the WEF-Off and WEF-On Measurement Points.
- 4) This location(s) will be selected jointly by the complainant and Consultant. In addition, the Consultant and Planning Board may include additional Measurement Points where they reasonably believe that doing so will improve the accuracy of the study.
- 5) The WEF-On Measurements shall be taken under the conditions listed below, and the quantities measured shall be as specified in Part c(3), above.
 - a) The duration of each measurement shall be ten continuous minutes for each quantity listed in Part c(3)A, above, at each location. The duration must include at least six minutes that are not affected by transient sounds from near-by, non-natural, non-WEF sources. Multiple ten minute samples over longer periods may be used to improve the reliability.
 - b) Measurements must be taken at 1.2 to 1.5 meters above the ground and at least 15 feet from any reflective surface, following ANSI S12.9 Part 3 protocol together with any other requirements found in this Ordinance.
 - c) Measurements must be taken with the wind speed at hub-height sufficient for full operating capacity, and at two meters per second (4.5 miles per hour) or less at the microphone location. Conditions should reflect the loudest sound emissions from the WEF. For purposes of enforcement, the wind speed and direction at the WT blade height shall be selected to reproduce the conditions leading to the enforcement action.

A windscreen of the type recommended by the monitoring instrument manufacturer must be used for all data collection.

- 6) The Consultant shall provide a study including the same information and meeting the same requirements as the pre-construction sound study described in Part c(5), except that the values for $L_{90}(\text{post})$, $L_{10}(\text{post})$ and $L_{\text{eq}}(\text{post})$ (both A-weighted and C-weighted) shall be taken to be the measured WEF-On values.
- 7) For the purposes of enforcement, the post-construction values of $L_{90}A(\text{post})$, $L_{90}C(\text{post})$, $L_{10}A(\text{post})$, $L_{10}C(\text{post})$, $L_{\text{eq}}A(\text{post})$ and $L_{\text{eq}}C(\text{post})$ are defined to be equal to the measured WEF-On value of each quantity.

References

ANSI/ASA S12.9-1993/Part 3 (R2008) - American National Standard Quantities and Procedures for Description and Measurement of Environmental Sound, Part 3: Short-Term Measurements with an Observer Present

This standard is the second in a series of parts concerning description and measurement of outdoor environmental sound. The standard describes recommended procedures for measurement of short-term, time-average environmental sound outdoors at one or more locations in a community for environmental assessment or planning for compatible land uses and for other purposes such as demonstrating compliance with a regulation. These measurements are distinguished by the requirement to have an observer present. Sound may be produced by one or more separate, distributed sources of sound such as a highway, factory, or airport. Methods are given to correct the measured levels for the influence of background sound. For the purposes of this Ordinance the options that are provided in ANSI S12.9-Part 3 (2008) shall be applied with the additional following requirements:

Wind Turbine Siting Acoustical Measurements ANSI S12.9 Part 3 Selection of options and other requirements

4.2 background sound: Use definition (1) 'long-term

4.3 long-term background sound: The L_{90} excludes short term background sounds

4.4 basic measurement period: Ten (10) minutes L_{90} (10 min)

4.5 Sound Measuring Instrument: Type 1 integrating meeting ANSI S1.43

6.5 Windscreen: Required

7.1 Long-term background sound

7.2 Data collection Methods: Second method Observed samples to avoid contamination by short term sounds (purpose: to avoid loss of statistical data)

8 Source(s) Data Collection: All requirements in ANSI S12.18 Method #2 precision to the extent possible while still permitting testing of the conditions that lead to complaints.

8.3(a) All meteorological observations required at both (not either) microphone and nearest 10m weather reporting station.

8.3(b) For a 10 minute sound measurement to be valid the wind velocity shall not exceed 2m/s (4.5 mph) measured less than 5m from the microphone. Compliance sound measurements shall not be taken when winds exceed 2m/s.

8.3(c) In addition to the required acoustic calibration checks the sound measuring instrument internal noise floor must also be checked at the end of each series of ten minute measurements and no less frequently than once per day. Insert the microphone into the acoustic calibrator with the calibrator signal off. Record the observed dBA and dBC reading from the sound level meter or other recording instrument to determine an approximation of the instrument self noise. This calibrator covered microphone must demonstrate that the results of this test are at least 5 dB below the immediately previous ten minute acoustic test results for the acoustic data to be valid. This test is necessary to detect undesired increase in the microphone and sound level meter internal self noise. As a precaution sound measuring instrumentation should be removed from any air conditioned space at least an hour before use. Nighttime

measurements are often performed very near the dew point. Minor moisture condensation inside a microphone or sound level meter can increase the instrument self noise and void the data.

8.4 to the end: The remaining sections of ANSI S 12.9 Part 3 Standard do not apply.

**ANSI S12.18-1994 (R2004) American National Standard
Procedures for Outdoor Measurement of Sound Pressure Level**

This American National Standard describes procedures for the measurement of sound pressure levels in the outdoor environment, considering the effects of the ground, the effects of refraction due to wind and temperature gradients, and the effects due to turbulence. This standard is focused on measurement of sound pressure levels produced by specific sources outdoors. The measured sound pressure levels can be used to calculate sound pressure levels at other distances from the source or to extrapolate to other environmental conditions or to assess compliance with regulation. This standard describes two methods to measure sound pressure levels outdoors. METHOD No. 1: general method; outlines conditions for routine measurements. METHOD No. 2: precision method; describes strict conditions for more accurate measurements. This standard assumes the measurement of A-weighted sound pressure level or time-averaged sound pressure level or octave, 1/3-octave or narrow-band sound pressure level, but does not preclude determination of other sound descriptors.

**ANSI SI.43-1997(R2007) American National Standard
Specifications for Integrating Averaging Sound Level Meters**

This Standard describes instruments for the measurement of frequency-weighted and time-average sound pressure levels. Optionally, sound exposure levels may be measured. This standard is consistent with the relevant requirements of ANSI SI.4-1983(R 1997) American National Standard Specification for Sound Level Meters, but specifies additional characteristics that are necessary to measure the time average sound pressure level of steady, intermittent, fluctuating, and impulsive sounds.

**ANSI S1.11-2004 American National Standard
'Specification for Octave-Band and Fractional-Octave-Band Analog and Digital Filters'**

This standard provides performance requirements for analog, sampled-data, and digital implementations of bandpass filters that comprise a filter set or spectrum analyzer for acoustical measurements. It super-cedes ANSI S1.11-1986 (R1998) American National Standard Specification for Octave-Band and Fractional-Octave-Band Analog and Digital Filters, and is a counterpart to International Standard IEC 61260:1995 Electroacoustics - Octave-Band and Fractional-Octave-Band Filters. Significant changes from ANSI S1.11-1986 have been adopted in order to conform to most of the specifications of IEC 61260:1995. This standard differs from IEC 61260:1995 in three ways: (1) the test methods of IEC 61260 clauses 5 is moved to an informative annex, (2) the term 'band number', not present in IEC 61260, is used as in ANSI S1.11-1986, (3) references to American National Standards are incorporated, and (4) minor editorial and style differences are incorporated.

**ANSI S1.400-2006 American National Standard
Specifications and Verification Procedures for Sound Calibrators
IEC 60908 Audio Recording – Compact disk digital audio system**

Applies to a pre-recorded optical reflective digital audio disc system. Defines those parameters of compact discs that affect interchangeability between discs and players. Is also intended as a reference for manufacturers wishing to produce discs and/or players that conform to the system described.

IEC 61400-11

Second edition 2002-12, Amendment 1 2006-05

IEC 61400-11

Second edition 2002-12, Amendment 1 2006-0

Wind turbine generator systems - Part 11: Acoustic noise measurement techniques

The purpose of this part of IEC 61400 is to provide a uniform methodology that will ensure consistency and accuracy in the measurement and analysis of acoustical emissions by wind turbine generator systems. The standard has been prepared with the anticipation that it would be applied by:

- the wind turbine manufacturer striving to meet well defined acoustic emission performance requirements and/or a possible declaration system;
- the wind turbine purchaser in specifying such performance requirements;
- the wind turbine operator who may be required to verify that stated, or required, acoustic performance specifications are met for new or refurbished units;
- the wind turbine planner or regulator who must be able to accurately and fairly define acoustical emission characteristics of a wind turbine in response to environmental regulations or permit requirements for new or modified installations.

This standard provides guidance in the measurement, analysis and reporting of complex acoustic emissions from wind turbine generator systems. The standard will benefit those parties involved in the manufacture, installation, planning and permitting, operation, utilization, and regulation of wind turbines. The measurement and analysis techniques recommended in this document should be applied by all parties to insure that continuing development and operation of wind turbines is carried out in an atmosphere of consistent and accurate communication relative to environmental concerns. This standard presents measurement and reporting procedures expected to provide accurate results that can be replicated by others.