

CHAPTER 154: LAND USE AND DEVELOPMENT

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GENERAL PROVISIONS

§ 154.001 TITLE.

This chapter shall be known and may be cited as the “Land Use Ordinance of the Town of Hermon, Maine” and will be referred to herein as “this chapter”.

(Ord. passed 1-3-2013)

§ 154.002 AUTHORITY.

This chapter is adopted in accordance with the home rule, subdivision control, land use regulation, and shoreland zoning, provisions of Title 30-A M.R.S.A., as amended, and Article VIII, Part 2, of the Maine Constitution.

(Ord. passed 1-3-2013)

§ 154.003 PURPOSE.

The purposes of this chapter are:

(A) To encourage the most appropriate use of land throughout the town consistent with the comprehensive plan;

(B) To shape the future of the landscape by regulating the types and intensities of development allowed in various parts of town;

(C) To ensure that allowed development does not overtax the community’s infrastructure and carefully plan growth of infrastructure to meet the needs of the growing community;

(D) To provide adequate light and air;

(E) To prevent overcrowding of real estate;

(F) To conserve natural resources and protect critical resource areas from the impacts of development;

(G) To prevent housing development in unsanitary areas;

(H) To promote traffic safety;

(I) To promote the coordinated development of unbuilt areas;

(J) To provide opportunities for and access to a reasonable level of consumer products and services in the village center;

(K) To promote development of industrial zones near Bangor and transportation corridors

(rail, I-95, etc.);

(L) To insure the maintenance of the public health and safety respecting the features of land, buildings, and premises;

(M) To provide for the preservation of open space and aesthetic appearance;

(N) To avoid overcrowded housing;

(O) To promote the development of the town as a desirable place to live;

(P) To encourage the formation of community units;

(Q) To conserve and enhance the taxable value of land and buildings by protecting the integrity of the districts created herein from encroachment by incompatible uses;

(R) To provide safety from fire and other elements; and generally;

(S) To promote the health, safety, convenience and welfare of the inhabitants of the town.

(Ord. passed 1-3-2013)

§ 154.004 VALIDITY AND SEVERABILITY.

In the event that any article, section, subsection, or other provision of this chapter is held or becomes invalid or void, by virtue of any decision of any court of competent jurisdiction, or by virtue of any controlling Federal, State, or other law, then only such article, section, subsection or other provision which is specifically mentioned in such decision of the court, or which is specifically controlled by such Federal, State, or other law, shall be affected and the remaining portions of this chapter shall continue to be valid, and remain in full force and effect.

(Ord. passed 1-3-2013)

§ 154.005 BASIC REQUIREMENTS.

All buildings or structures hereinafter erected, constructed, reconstructed, moved, structurally altered, enlarged, and uses of land in the town, shall be in conformity with the provisions of this chapter. No building, structure, land or water area shall be used for any purpose or in any manner except as permitted within the district in which such building, structure, land or water area is located.

(Ord. Passed 1-3-2013)

§ 154.006 AMENDMENTS.

(A) *Initiation of amendments.* An amendment of this chapter may be initiated by a written petition as detailed in § 10.01 of the Charter, or by recommendation of the Planning Board, or

by a recommendation of the Town Council. The Town Council may approve such proposed amendments by a majority vote.

(B) *Zoning amendment*- No request for a zone change shall be considered until the applicant has paid a \$300.00 fee. If fees shall be payable to the town and shall be for the cost of processing the application and shall not be refundable regardless of the final decision. Any required legal notices shall be paid for by the applicant.

(1) The Town Council shall refer proposed amendments to the Planning Board at least thirty days before the legislative meeting at which said amendment is to be considered. The Planning Board shall make investigation of the proposed amendment, including whether the requested amendment is compatible with the purposes and provisions of this chapter and the current comprehensive plan, and present a written report to the Council. The Planning Board shall hold a public hearing on the proposed amendments in accordance with the requirements of 30-A M.R.S.A. section 4352, subsection 9, and where applicable, subsection 10, and such public hearing shall be so held. Notices shall be given to all abutters within 1000' of the parcel or parcels for which a change in boundaries is sought.

(2) The Town Council shall fix the time and place of a public hearing on the proposed amendments in accordance with its Charter, and the requirements of 30-A M.R.S.A. § 4352(9), and where applicable, (10), and such public hearing shall be so held.

(3) Proposed amendments disapproved by the Planning Board may be enacted only by two-thirds" vote of the Town Council members present and voting.

(4) Amendments shall go into effect 30 days after enactment.

(5) Whenever an amendment to the Zoning Map is made, the Planning Board shall make such change on the official zoning map.

(6) Notwithstanding the provisions of division (B)(1), above, the Planning Board may initiate the amendment process by recommending an ordinance amendment, including the rendering that the amendment is compatible with the purposes and provisions of the ordinance and the current comprehensive plan, without prior referral from the Town Council.

(C) *Repetitive petitions*. No proposed change in this chapter which has been unfavorably acted upon by the Town Council shall be considered on its merits by the Town Council within one year after the date of such unfavorable action unless adoption of the proposed change is recommended by six affirmative votes on the part of the Planning Board.

(Ord. Passed 1-3-2013) (**Amended 10-22-2015**)

§ 154.007 CONTRACT ZONING.

Pursuant to 30-A M.R.S.A. § 4352(8), property in the town may be re-zoned through the process of contract zoning in accordance with the following provisions:

(A) *Purpose*. On occasion, where competing and incompatible uses conflict, traditional zoning methods and procedures, such as variances, site plan approval and special exception approval are inadequate. In these special situations, more flexible and adaptable zoning methods are needed to permit differing land uses in both developed and undeveloped areas. In

consideration of a change of zoning classification of a particular property or group of properties, it may be determined that public necessity, convenience, or the general welfare require that provisions be made to impose certain limitations or restrictions on the use or development of that property. Such conditions are deemed necessary to protect the best interests of the property owner, the surrounding property owners in the neighborhood, all other property owners and citizens of the town, and to secure appropriate development consistent with the town's comprehensive plan.

(B) *Definition.* **CONTRACT ZONING** is the process by which a property owner, in consideration of the re-zoning of his or her property, agrees to the imposition of certain conditions or restrictions not imposed on similarly zoned properties.

(C) *Mandatory conditions.* Any zone change adopted pursuant to this division shall:

- (1) Be consistent with the comprehensive plan of the town;
- (2) Only include conditions and restrictions which relate to the physical development and operation of the subject property; and
- (3) Be subject to an agreement executed by authorized representatives of both the property owner and the town providing for the implementation and enforcement of all terms and conditions imposed and agreed to by the parties pursuant to this division.

(D) *Discretionary conditions.* Any zone change adopted pursuant to this division may include reasonable conditions and restrictions relating to one or more of the following:

- (1) Limitations on the number and types of authorized uses on the property;
- (2) Limitations on the height and lot coverage of any structure or structures built on the property;
- (3) Increased setbacks and side yards for any structure or structures built on the property;
- (4) The installation, operation and maintenance of physical improvements for the convenience of the general public, including but not limited to off street parking lots, traffic control devices, lighting, fencing, shrubbery, screening, open spaces and buffer areas;
- (5) The dedication or conveyance of property for public purposes, including but not limited to streets, drainage, scenic and conservation easements, parks and utility systems; and
- (6) Any additional conditions and restrictions which relate to the physical development and operation of the subject property that the Town Council deems reasonably necessary to accomplish the purposes of this division, to protect the general welfare, the best interests of the property owner, surrounding property owners, the neighborhood, and all other property owners and citizens of the town, or to secure appropriate development consistent with the comprehensive plan.

(E) *Procedure.*

- (1) *Application and documents required.* Amendments considered under this division shall be initiated by application to the Town Council on an application form supplied by the

Code Enforcement Officer for that purpose. Eight copies of the complete application, including the documents listed below, shall be submitted which detail:

- (a) The names and addresses of all record owners of the property to be re-zoned;
- (b) The names and addresses of the owners of all property located within 500 feet of the property to be re-zoned;
- (c) A detailed description of the proposed use that necessitates re-zoning;
- (d) An architect's plan of the proposed development to be undertaken should the re-zoning be approved;
- (e) An architect's estimate of the total cost of the proposed development to be undertaken should the re-zoning be approved;
- (f) A scaled map depicting all structures currently located on the subject property and within 500 feet of the boundaries of the subject property;
- (g) Photographs of the subject property including, but not limited to, photographs of all structures and other improvements on the property, photographs from adjacent public ways and photographs showing the existing vegetation and landscaping on the site;
- (h) Written evidence of the applicant's legal interest in the subject property;
- (i) The tax map and lot number(s) of the subject property;
- (j) A copy of the town's most recent tax map depicting the subject property;
- (k) The name of the zone in which the subject property is currently situated;
- (l) The name of the zone to which the applicant desires to have the property re-zoned;
- (m) A list of all uses permitted, whether with a permit from the Code Enforcement Officer or with special exception approval granted by the Zoning Board of Appeals, in the zone to which the applicant desires to have the subject property re-zoned;
- (n) The lots standards for the zone to which the applicant wishes to have the property re-zoned;
- (o) A copy of the Zoning Map of the town on which is indicated the location of the subject property;
- (p) A copy of any conditions and restrictions proposed by the applicant to be placed upon the property should the re-zoning be granted; and
- (q) Such other information as may be requested by the Town Council, Planning Board, Town Manger or Code Enforcement Officer.

(2) *Fees.* No application for contract zoning shall be considered until the applicant has paid a \$300 fee. All fees shall be payable to the town and shall be for the cost of processing the application and shall not be refundable regardless of the final decision. Any required legal

notices shall be paid for by the applicant.

(3) *Staff input.* Following the submission of all application materials, fees and bonds, the applicant shall meet with the Town Manager, Code Enforcement Officer and all appropriate department heads, to review the proposal and to elicit input concerning proposed conditions and restrictions.

(4) *Planning Board.* Following the applicant's meeting with the staff, the applicant shall meet with the Planning Board to review the proposal and to elicit input concerning proposed conditions and restrictions.

(5) *Town Council.* Following the applicant's meeting with the Planning Board, the applicant shall meet as often as may be necessary with the Town Council or its designees until the Council and the applicant have agreed upon all of the terms and conditions of a written contract providing for the implementation and enforcement of the proposed re-zoning. Upon agreement, the proposed re-zoning shall be presented to the Planning Board to conduct a hearing prior to the Town Council's vote on the agreement.

(6) *Hearing.* If the Planning Board recommends a proposed amendment, such zoning change, subject to the conditions and restrictions agreed upon by the Town Council and the applicant, may be adopted, after notice and hearing as prescribed in 30-A M.R.S.A. § 4352(8)(C), by a majority vote of the Town Council. If the Planning Board does not recommend the proposed zoning change, such zoning change may be adopted only by two-thirds' vote of the Town Council members present and voting

(7) *Shoreland.* A copy of the zoning change related to property in a Shoreland Zone, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection in accordance with 38 M.R.S.A. § 4-A, subsection 3.

(8) *Recording.* No contract zoning change approved by the Town Council shall be effective until after the execution and recording in the Penobscot County Registry of Deeds a written contract containing a complete description of the zone change together with all of the conditions and restrictions agreed upon by the Town Council and the applicant and appropriate provisions for implementation and enforcement of same. The contract shall be executed by the applicant and by at least a majority of the members of the Town Council. Following recording, the zone change, together with all conditions and restrictions, shall run with the subject property.

(9) *Contract zoning not permit or site approval.* Approval of a contract zoning change does not and shall not be construed to constitute either permit or site plan approval for any proposed project, development or use. Following the approval of any contract zone change, any proposed project, development or use must, before commencement or construction, be submitted to any review process otherwise required by local ordinance. During the review process, the reviewing authority shall ensure the applicant's compliance not only with the minimum review standards set forth as part of this chapter, but also with any additional conditions and restrictions imposed by the agreement between the Town Council and the applicant.

(Ord. Passed 1-3-2013) (**Amended 10-22-2015**)

§ 154.008 EFFECTIVE DATE.

This chapter shall be effective 30 days after passage by the Town Council.

(Ord. Passed 1-3-2013)

§ 154.009 DEFINITIONS; RULES OF INTERPRETATION.

(A) *Rules of interpretation.* Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word “may” is permissive; “shall” is mandatory and not discretionary.

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

ACCESS WAY. Any public or private street, right-of-way, or road used to enter or leave a public or private street or adjacent land using a motor vehicle.

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

ADJACENT GRADE. The natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

ADMINISTRATIVE APPEAL. An appeal to the Board of Appeals from a determination made by the Code Enforcement Officer in enforcing this chapter and/or the Planning Board in interpreting this chapter. Such determination may involve an interpretation of the provisions of this chapter or a finding of fact made by the Code Enforcement Officer or Planning Board.

AFFORDABLE HOUSING. Housing units which will meet the sales price and/or rental targets established by the comprehensive plan for housing affordability.

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

AGRICULTURAL LAND SPREADING OF PRE-TREATED SEPTAGE. The land spreading of pre-treated septage upon sites which meet the requirements for “agricultural use sites” specified by the Maine Septage Management Rules adopted by the Maine Department of Environmental Protection Regulations, Chapter 420, Section 11.C. (06-096 C.M.R. 420), as amended or superseded.

AGRICULTURE. The production, keeping or maintenance for sale or lease, of plants including, but not limited to, forages and sod crops; grains and seed crops; fruits and

vegetables, and ornamental and green house products. **AGRICULTURE** does not include forest management and timber harvesting activities.

AGRICULTURE, COMMERCIAL. The use of land for growing and/or production of field crops, fruits, vegetables, flowers, nursery stock (including ornamental plants) and trees. This section is not intended to regulate non-commercial growing or production of the above items or casual sales of the above items.

ALTERATION. A change, or modification in construction, or a change in structural members of a building such as bearing walls, columns, or beams.

ANIMAL HUSBANDRY. Dairying; raising of livestock; breeding or keeping of animals, birds or fish as a business or gainful occupation. Specifically excluded are fur farms, raising of pigs and dog kennels.

APARTMENT HOUSE. A multiple-family dwelling for three or more families, living independently of each other, each in a separate dwelling unit within the one building.

APPLICANT. The person applying for subdivision approval under these regulations.

AQUACULTURE. The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

ARCADE. Any business containing six or more coin or token operated video games or pinball machines.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain having a 1% or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Rate Map or Flood Hazard Boundary Map cited in §§ 154.155 through 154.166.

AUTOMOTIVE BODY SHOP. A business establishment engaged in rebuilding or reconditioning of motor vehicles, or body, frame or fender straightening and repair, or painting and undercoating, but not the sale of gasoline, other motor fuels, or motor oil.

AUTOMOTIVE SERVICE STATION. Automotive service station-premises used or designed to be used for the supply of gasoline, kerosene or any other motor oil or lubricating oil, or grease; such premises may include facilities for minor repairs, sales and installation of minor automotive parts, and installation or sale of major parts such as engines and automobile dealership or annex thereof.

AVERAGE DAILY TRAFFIC (ADT). The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

AVIATION FIELD. A place where aircraft can land and take off, which is equipped with hangers, facilities for refueling and repair and various accommodations for passengers.

BARBER SHOP, BEAUTY SHOP. A commercial establishment whose business is cutting and dressing hair, shaving and performing related services.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

BASEMENT - FLOODPLAIN AREAS. Any area of the building having its floor subgrade (below ground level) on all sides.

BASEMENT - NON FLOODPLAIN AREAS, NON SHORELAND AREAS. A portion of a building partly underground but having less than half its clear height below the grade of the adjoining ground.

BASEMENT - SHORELAND AREAS. Any portion of a structure with a floor-to-ceiling height of six feet or more and having more than 50% of its volume below the existing ground level.

BED AND BREAKFAST. Any dwelling in which transient lodging, boarding and lodging are provided and offered to the public for compensation for less than one week. This dwelling shall also be the full-time, permanent residence of its proprietors. There shall be no cooking in any individual guest room.

BERM. A man-made mound of earth used to shield or buffer properties from adjoining uses, highways, or noise, or to control the direction of surface water flow.

BILLBOARD. A sign, structure or surface larger than six square feet which is available for advertising purposes off the premises, but excluding directional or traffic signs.

BOARD. Town of Hermon Planning Board

BOAT LAUNCHING FACILITY. A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

BUFFER AREA. A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

BUILDING. Any structure, either temporary or permanent, with a roof, awning or other covering, containing three or more enclosed sides, and designed or used for the shelter or enclosure of any person, animal or property of any kind.

BUILDING HEIGHT. The vertical distance measured from the mean elevation of the finished grade at the front of the building to the highest point of the building for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUSINESS AND PROFESSIONAL OFFICE. Offices for lawyers, engineers, architects, accountants, building contractors, doctors, dentists or other similar professionals, and banking, security and commodity brokerage, real estate sales, travel agency, employment counseling, insurance sales, advertising, mailing and stenographic services and other services of a similar nature.

(a) **BUSINESS AND PROFESSIONAL OFFICE, CLASS 1.** A business office or professional office having less than 3,000 square feet of floor area.

(b) **BUSINESS AND PROFESSIONAL OFFICE, CLASS 2.** A business office or

professional office having 3,000 square feet or more of floor area.

BUSINESS PARK. A tract of land that is planned, developed and operated as an integrated facility for a number of individual commercial uses, with consideration to transportation facilities, circulation, parking, utility needs, aesthetics, and compatibility. Business Parks shall not include incompatible industrial uses, such as junkyards, recycling facilities, truck terminals, warehousing, manufacturing or other similar uses.

BUSINESS VEHICLE. A device, customarily and regularly used in the conduct of a business, legal for passage over a public way under its own motive power, as a towed vehicle, or upon a towed vehicle. **BUSINESS VEHICLES** include, but are not limited to, automobiles, vans, pick-ups, trucks, tractors, tractor- trailer combinations, “low-boy” or flat bed equipment trailers, construction equipment, bulldozers, excavators, loaders, backhoes, compressors, drilling rigs and paving equipment. Excluded are mobile homes, recreational vehicles and utility trailers as defined above.

CAMPGROUND. Any area or tract of land to accommodate two or more parties in temporary living quarters, including, but not limited to, tents, recreational vehicles or other shelters.

CASUAL SALES. A general term for the occasional sales at retail which are also known as yard sales, garage sales, barn sales, moving sales. Casual sales exhibit the following characteristics: they are infrequently held (more than ten days per calendar year is deemed frequent) they do not entail the purchase for resale; the volume of goods sold is not such that it necessitates a special place for storage and/or display; goods offered for sale are not transported from another location for the purpose of resale; and, signs advertising such sales are small, generally less than four square feet, and temporary in nature as regards construction and materials. Purchased advertising is of such size and detail as befits the infrequent nature of sales at retail from that location.

CELLAR. See **BASEMENT**.

CEMETERY. Land used or intended to be used for the burial of dead human beings or animals and dedicated for such purpose, including mausoleums and mortuaries when operated as part of a cemetery and within its boundaries, but excluding crematoria.

CERTIFICATE OF COMPLIANCE. A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this chapter.

CHURCH. A building or structure, or group of buildings and structures, designed, primarily intended and used for the conduct of religious services.

CLINIC - MEDICAL/DENTAL. An establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists or social workers and where patients are not lodged overnight.

CLINIC - SUBSTANCE ABUSE. A program or facility operated for the purpose of providing treatment for persons with heroin or other opiate addictions, when the treatment provided includes administration of prescriptions of methadone or other opiate replacements for either detoxification or maintenance purposes. For purposes of this definition the

SUBSTANCE ABUSE includes but is not limited to substance abuse treatment programs licensed by the State of Maine Department of Behavioral and Development Services Office of Substance Abuse to provide opiate supervised withdrawal and maintenance treatment services on an out patient basis.

CLUB. An association of persons for social, fraternal, educational, political, athletic, literary or other like purposes so long as any such purposes is not conducted for profit.

CODE ENFORCEMENT OFFICER. A person appointed by the Town Manager and confirmed by the Town Council to administer and enforce town ordinances. Reference to the Code Enforcement Officer shall include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like where applicable.

CO-LOCATION. The use of communications facility by more than one communications company or telecommunications provider.

COMMERCIAL COMPLEX (SHOPPING CENTER). Defined as a grouping of two or more commercial units built primarily for retailing purposes on common property planned, developed, owned or managed as a unit with common off street parking provided for the same site.

COMMERCIAL DIVISION UNIT (CDU). A separate and distinct leasable space in a commercial development or multi-tenanted non-residential development.

COMMERCIAL FEEDLOT. A place where large numbers of beef cattle or hogs are kept for a relatively short period of time prior to being shipped to a slaughter house.

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

COMMUNICATIONS FACILITY. A structure or structures used for transmitting and receiving radio, microwave, or similar electromagnetic signals, not including antennae and satellite dishes designed for ordinary home or farm use or a use that requires radio dispatching as an accessory use to the permitted use. Communications facilities shall not mean a utility pole that supports electric or telephone transmission lines, and which is owned by a public utility.

COMMUNITY LIVING ARRANGEMENT - A housing facility for eight (8) or fewer persons with disabilities, that is approved, authorized, certified, or licensed by the State as provided for in 30-A M.R.S.A. § 4357-A, as it may be amended. A community living arrangement may include a group home, foster home or intermediate care facility. "Disability" has the same meaning as the term "handicap" in the federal Fair Housing Act, 42 United States Code, Section 3602. A community living arrangement is deemed a single-family use of property for the purposes of zoning.

COMMUNITY SERVICE ORGANIZATION. A non-profit charitable institution, not to include private clubs, the primary function of which is serving the public health or social welfare of the community.

COMPLETE APPLICATION. An application shall be considered complete upon submission of the required fee and all information required by this chapter or by a vote by the Planning Board to waive the submission of required information.

COMPLETE SUBSTANTIAL CONSTRUCTION. The completion of no less than 75% of the costs of the proposed improvements within a development. If the project is to consist of individual lots to be sold or leased by the applicant, the cost of construction of buildings on those lots shall not be included. If the project is a multifamily development, or if the applicant proposes to construct the buildings within the project, the cost of building construction shall be included in the total costs of proposed improvements.

COMPREHENSIVE PLAN. A document or interrelated documents adopted by the Town Council containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and strategies for implementation of the policies. Specifically, the town comprehensive plan, 5-1-1995, as amended and adopted on 1-17-1996, and subsequently amended from time to time.

CONDOMINIUM . The term means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership through an established owners association. A **CONDOMINIUM** shall also mean a group of two or more detached or semi-detached one family, duplex or multiple dwellings.

CONFORMING USE. The use of buildings, structures or land which complies with all applicable provisions of this chapter.

CONSERVATION EASEMENT. A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

CONSTRUCTED. Includes built, erected, reconstructed, moved upon, or any physical operations on the premises which are required for construction.

COVENANT. An agreement or promise of two or more parties, reduced to writing, signed and delivered, by which either of the parties pledges himself or herself that something is done or shall be done.

CREMATORIA. Facilities used for the cremation of human or animal remains.

DAY CARE.

HOME DAY CARE. A registered/licensed day care facility that regularly provides care for up to eight children at one time from zero to 13 years of age. The facility shall be located in the family dwelling or an approved structure on the same lot occupied by the family dwelling.

ADULT DAY CARE. A program of care and activities carried out on a regular basis by a person or persons in a family dwelling or an approved structure on the same lot occupied by

the family dwelling. Care shall be given for up to eight adults, 19 years of age or older.

CHILD or ADULT DAY CARE CENTER. A licensed person/persons or agency that provides for the care of children outside of a residential dwelling or any center caring for persons over the age of 19.

DENSITY. The number of dwelling units per acre of land.

DESIGN REVIEW. The comprehensive evaluation of a proposed development and its impact on neighboring properties and the community as a whole, from the standpoint of site and landscape design, architectural, materials, colors and lighting and signs in accordance with adopted criteria and standards.

DEVELOPED AREA. Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

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

DIMENSIONAL REQUIREMENTS. Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

DIRECT WATERSHED OF A GREAT POND. That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purpose of this chapter, the watershed boundaries shall be as delineated in the comprehensive plan, or upon maps provided for that purpose to the town by the Maine Department of Environmental Protection, Bureau of Water Quality, Division of Water Quality Control. Due to the scale of the map, there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a registered land surveyor showing where the drainage divide lies.

DISTRICT. A specified portion of the town, delineated on the official zoning map, upon which are imposed certain regulations and requirements or various combinations thereof, in accordance with the provisions of this chapter.

DRIVEWAY. A vehicular access way serving two dwelling units or less, or serving a single business which generates average daily traffic (ADT) of fewer than ten trips.

DWELLING. A building or portion thereof used for residential occupancy, including single-family, two-family, and multiple-family dwellings, but excluding hotels, motels, lodging houses, or overnight cabins. A mobile home shall be considered a dwelling for the purpose of this chapter.

DWELLING, DETACHED. A dwelling entirely surrounded by open space.

DWELLING, MULTIPLE-FAMILY. A residential building designed for and occupied by three or more families living independently of each other, and containing a separate dwelling unit for each family.

DWELLING, SINGLE-FAMILY. A dwelling unit detached from any other dwelling unit, designed for and occupied by a single family only.

DWELLING, TWO-FAMILY. A detached dwelling containing two dwelling units designed for and occupied by not more than two families living independently of each other, and containing a separate dwelling unit for each family.

DWELLING UNIT. A room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking and eating. The term shall include mobile homes but shall not include utility trailers or recreational vehicles.

EARTH. Topsoil, sand, gravel, clay, peat, rock or other geologic minerals.

EARTH-MOVING ACTIVITY. The removal of topsoil, rock, minerals, sand, gravel, and similar earth materials, from a location.

EDUCATIONAL USE AND STRUCTURE. Any use of structure or land where instruction, teaching, or training in any field of knowledge is provided as a public service or for a fee.

ELDER LIVING QUARTERS (ELQ). A temporary self-contained dwelling unit, attached or detached, established, used and maintained solely for the purpose of domicile for the parent(s) or elderly kin of the owner(s) or occupants of an existing single-family dwelling located upon a conforming lot of record.

ELEVATED BUILDING.

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

(b) In the case of Zone A, **ELEVATED BUILDING** also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

ELEVATION CERTIFICATE. An official form (FEMA Form 81-31, 02/06, as amended) that:

(a) Is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and

(b) Is required for purchasing flood insurance.

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

ENGINEERED SUBSURFACE WASTE WATER DISPOSAL SYSTEM. A subsurface waste water disposal system designed, installed, and operated as a single unit to treat 2,000 gallons per day or more; or any system designed to be capable of treating waste water with characteristics significantly different from domestic waste water (i.e. BOD5 and total suspended solid concentrations higher than domestic waste water as specified in Table 703.1 of the Maine Subsurface Waste Water Disposal Rules (144A CMR 241, dated 7-1-1995, as amended).

ESSENTIAL SERVICES. Gas, electrical or communication facilities (not otherwise defined in this section); steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services. Structures such as high voltage transmission towers, microwave relay towers, groups of high voltage transformers (so-called “sub-stations”, which are used more in transmission of utility products than in their distribution, shall be considered “structures necessary for essential services” rather than essential service components.

EXCAVATION. Removal of earth or earth material from its original position.

EXPANSION OF A STRUCTURE. An increase in the floor area or volume of a structure, including all extensions such as, but not limited to, attached decks, garages, porches and greenhouses.

EXPANSION OF USE. The addition of months to a uses operating season; or the use of more floor area or ground area devoted to a particular use.

FACADE. The exterior wall of a building exposed to public view.

FAMILY. An individual or a group of two or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a lodging house or hotel.

FARM STAND. A building or structure from which agricultural products grown on the premises are sold to the general public. The farm stand shall be accessory to the use of the premises for agricultural purposes.

FENESTRATION. The design and placement of windows and doors in a building.

FILLING. Depositing matter on or into the ground or water.

FINAL PLAN. The final drawings on which the applicant’s plan of development or subdivision is presented to the Planning Board for approval and which, if approved, may be

recorded at the Registry of Deeds.

FIREWOOD PROCESSING. A place where firewood is delivered, cut and split, and from which it is sold.

FLOOD or FLOODING.

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in division (a)(1) of this definition.

FLOOD ELEVATION STUDY. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.

FLOODPLAIN OR FLOOD-PRONE AREA. Any land area susceptible to being inundated by water from any source (see ***FLOODING***).

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

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

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

FLOODWAY. See ***REGULATORY FLOODWAY***.

FLOOR AREA - NON SHORELAND AREAS . The sum, in square feet, of the floor areas of all roofed portions of a building, as measured from the interior faces of the exterior walls.

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

FLOOR SPACE, GROUND. The sum, in square feet, of the floor space on the ground level of all roofed portions of a building, as measured from the interior faces of the exterior walls.

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

FORESTED WETLAND. A freshwater wetland dominated by woody vegetation that is six meters tall or taller.

FORESTRY. The planting, cultivating or the harvesting of trees or shrubs in a ten acre or more area, excepting activities associated with approved site plans and subdivisions.

FOUNDATION. The supporting substructure of a building or other structure including, but not limited to, basements, slabs, sills, posts or frost walls.

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

FRESHWATER WETLAND.

(a) Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

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

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

FRONTAGE. The horizontal distance measured in a straight line between the intersections of the side lot lines with the front lot line bounding a public street.

FUNCTIONALLY WATER-DEPENDENT USES. Those uses that require for their primary purpose, location on submerged lands or that require direct access to, or location in,

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

GOVERNMENTAL USE. Any building or land held, used, or controlled exclusively for public purposes by any department or branch of government, federal, state, county or municipal, without reference to ownership of building or of the real estate upon which it is situated.

GRADE. In relation to buildings, the average of the finished ground level at the center of each wall of a building.

GREAT POND. Any inland body of water, which in a natural state, has a surface area in excess of ten acres, and any inland body of water artificially formed or increased, which has a surface area in excess of 30 acres except for the purposes of this chapter, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

GREAT POND CLASSIFIED GPA. Any great pond classified GPA, pursuant to 38 M.R.S.A. Art. 4-A, § 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

GROUND COVERAGE. The sum, in square feet, of the total surface area of a lot covered by the principal structure, accessory structures and impervious surfaces.

GYMNASIUM, FITNESS CENTER. A building which contains facilities and equipment for exercising, physical training, and sports activities.

HEIGHT OF A STRUCTURE. The vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

HIGH INTENSITY SOIL SURVEY. A map prepared by a certified soil scientist, identifying the soil types down to one-eighth acre or less, at a scale equivalent to the development plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

HIGH WATER MARK. See **NORMAL HIGH WATER MARK.**

HISTORIC STRUCTURE. Any structure that is:

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

HOME OCCUPATION. An occupation or profession which is customarily conducted on or in a residential structure or property and which is clearly incidental to and compatible with the residential use of the property and surrounding residential uses. (See § 154.080.)

HOSPICE. A building or structure which is used for the housing and care of terminally ill human beings. It shall also include accessory uses which are directly associated with the housing and care of terminally ill human beings such as kitchen facilities, solarium's, physicians' office, etc.

HOTEL. A building with rooms which are occupied or are designed or intended to be occupied for sleeping purposes by more than 15 persons.

HOUSEHOLD PETS. Those domestic animals normally considered household companions but excluding horses, cows, sheep, goats, llamas, ostriches, mink, swine, chickens, turkeys, or any animals raised for sale or for sale of their products.

INCREASE IN NONCONFORMITY OF A STRUCTURE. Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of non-conformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally from any portion of the existing structure to fill in the space left by an L or U shaped structure. Similarly, there is no increase in nonconformity with the height requirement if the expansion increases the height of the structure no further than the highest point of the existing nonconforming structure.

INDIVIDUAL PRIVATE CAMPSITE. An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten individuals and which involves site improvements which may include, but not be limited to, gravel pads, parking areas, fire places, or tent platforms.

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

JUNK. Waste or discarded material which may be treated or prepared so as to be used again in another form.

JUNKYARD. An open area used for the storage, keeping, sorting, processing, bailing, abandonment, or sale of junk, or for the abandonment, dismantling or demolition of automobiles or other vehicles or their parts.

KENNEL, BREEDING. A kennel where dogs are bred. Breeding kennels with more than ten adult dogs (dogs more than six months old) shall meet the requirements for commercial kennels.

KENNEL, COMMERCIAL. A kennel where dogs and/or cats are boarded. Such kennels may include retail sales of pet products, grooming, training, and other related services.

KENNEL, NON-COMMERCIAL. A private kennel with up to ten adult dogs. Such a kennel does not meet any of the criteria of commercial kennels. **NON-COMMERCIAL KENNELS** with more than ten adult dogs shall meet the requirements for breeding kennels.

KIN. A group of persons of common ancestry.

LARGER VEHICLE. A vehicle that has a larger length, width or turning radius and/or lesser acceleration capability than standard passenger vehicles or small trucks. Larger vehicles include buses, commercial trucks, and recreational vehicles.

LEVEL OF SERVICE (LOS). A measure of the quality of the operating conditions within a traffic stream as determined from a capacity analysis, using the methodology described by the Transportation Research Board (TRB), a service of the National Research Council, in the edition of the *Highway Capacity Manual, Special Report 209* as utilized by the Maine Department of Transportation. There are six levels of service ranging from LOS A, with free traffic flows and no delays to LOS F, with forced flow and congestion resulting in complete failure of the roadway.

LIVESTOCK FOR HOME USE. For purpose of this chapter, livestock shall include the following domestic animals: cattle, horses, fowl, rabbits and sheep; home use is noncommercial use. Home livestock does not include raising of pigs, fur farms, goat farms or commercial feed lots.

LIVING SPACE. The sum, in square feet, of floor areas of all roofed portions of a building, as measured from the interior faces of the exterior walls but excluding areas of basements, cellars, unfinished attics, attached garages, breezeways and unenclosed porches. With the respect to mobile homes, factory-built tip-outs and similar additions from the manufacturer which do not require a structural alteration of the mobile home, may be included

in the calculation of the minimum living space.

LOADING SPACE. An off-street space on the same lot with a building or contiguous with a group of buildings for the temporary parking of a vehicle while loading or unloading merchandise or materials, and which abuts upon a public way.

LOCALLY ESTABLISHED DATUM. For purposes of this chapter, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where mean sea level data is too far from a specific site to be practically used.

LODGING HOUSE. A building in which the rooms are rented with or without meals to fifteen persons or less. A boarding house or rooming house or a furnished room shall be deemed a lodging house.

LOT. A parcel of land described on a deed, plat or other legal document.

LOT AREA - NON SHORELAND AREA. The total horizontal area within the lot lines.

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

LOT, CORNER. A lot with at least two contiguous sides abutting upon a street.

LOT (GROUND), COVERAGE. The percentage of the lot covered by buildings and other impervious surfaces. Impervious surfaces are any materials that prevent absorption of stormwater into the ground, such as paving, patios, pools, and driveways.

LOT, INTERIOR. Any lot other than a corner lot.

LOT, THROUGH. Any interior lot having frontages on two more or less parallel streets, or between a street and a waterbody, or between two waterbodies, as distinguished from a corner lot. All sides of through lots adjacent to streets and waterbodies shall be considered frontage, and front yards shall be provided as required.

LOT, REAR. A parcel of land which has frontage on a private way, which frontage and private way are to be approved by the Code Enforcement Officer.

LOT LINE. A line of record bounding a lot that divides one lot from another or from a public or private street or any other public space.

LOT LINE, FRONT. On an interior lot, the line separating the lot from the street. On a corner lot or through lot, the line separating the lot from either street. On a back lot, the line parallel or nearly parallel to the street.

LOT LINE, REAR. The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten feet long, lying farthest from the lot line. The rear lot line shall be opposite the front lot line of least dimension.

LOT LINE, SIDE. Any lot line other than the front lot line or the rear lot line.

LOT OF RECORD. A parcel of land, the dimensions of which are shown on a legal document or map on file with the Penobscot County Register of Deeds, or in common use by municipal and county officials.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in §§ 154.125 through 154.140 and §§ 154.155 through 154.166 of this chapter.

LUMBER YARD. A place where lumber and other building construction materials are sold.

MDEP. Maine Department of Environmental Protection

MDOT. Maine Department of Transportation

MANUFACTURED HOME PARK or SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MANUFACTURED HOUSING. Structures as defined in 30-A M.R.S.A. § 4358, which are transportable in one or more sections, which were constructed in a manufacturing facility after 6-15-1976.

MANUFACTURING, HEAVY. Heavy manufacturing shall include industrial uses in which manufacturing processes are conducted indoors or out of doors and in which external evidence of the manufacturing process is detectable out of doors. Heavy manufacturing, for the purposes of this chapter, includes but is not limited to: Wood fiber products manufacturing; chemical manufacturing; textile mills; steel fabrication; manufactured housing manufacturing; roof truss manufacturing; sawmills, turneries and fuel wood production; dairies; grain mills; seafood products production; and beverage manufacturing.

MANUFACTURING, LIGHT. Light manufacturing shall include industrial uses in which manufacturing processes are wholly contained within a building and which exhibit no external evidence of a manufacturing process such as but not limited to noise, odor, vibration, dust, smoke, cinders, or fumes.

MARIJUANA-

a. Medical Marijuana Cultivation and Processing Facility - A facility owned or operated by a Registered Dispensary used for the cultivation or growing of medical marijuana.

b. Registered Dispensary or Dispensary A not for profit entity registered under 22 M.R.S.A. Section 2428 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational material to registered patients who have designated the dispensary to cultivate marijuana for their medical use and the registered primary caregivers of those patients.

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

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

MEAN SEA LEVEL. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.

MINIMUM LOT WIDTH. The closest distance between the side lot lines of a lot.

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

MINERAL EXTRACTION. Any operation within any 12-month period which removes more than 1,000 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

MINOR DEVELOPMENT. All development that is not new construction or a substantial improvement, such as repairs, maintenance, or renovations, whose value is less than 50% of the market value of the structure. It includes, but is not limited to, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, towers, fencing, and pipelines.

MOBILE HOME PARK. A lot laid out to accommodate at least three mobile homes.

MOTEL. A building or group of attached or detached buildings containing sleeping rooms, all of which have separate entrances and parking spaces for each sleeping room, and which is intended to be used principally by automobile transients for compensation.

MULTI-FAMILY. A building containing three or more dwelling units- Each building shall contain a minimum of three dwelling units and a maximum of four dwelling units. Multi-family units are those units which are rented month by month or leased long term.

MULTI-FAMILY DEVELOPMENT. A subdivision which contains three or more dwelling units on land in common ownership, such as multi-family dwellings and apartment buildings. Multi-family developments shall only consist of units which are rented month by month or leased long term.

MULTI-UNIT RESIDENTIAL. A residential structure containing three or more

residential dwelling units.

MUNICIPAL ENGINEER. Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.

MUNICIPAL USE or STRUCTURE. Any use of land or structure by the town or any municipal or quasi-municipal corporation of the town in the exercise of any of its governmental functions; and any use of land or structure by a person or agency having a contract with the town to provide services to the town for the public to serve or promote any aspect of the general welfare, to the extent the use is directly related to such contract or such services.

NEIGHBORHOOD GROCERY STORE. A store of less than 2,000 square feet of floor space intended to serve the convenience of a residential neighborhood with such items as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items. A neighborhood grocery store may include the sale of motor fuels.

NET RESIDENTIAL ACREAGE. The gross acreage available for residential development, excluding the area for streets or street access and the areas unsuitable for development.

NET RESIDENTIAL DENSITY. The number of dwelling units per net residential acre.

NEW CONSTRUCTION. Structures for which the “start of construction” commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

NON-CONFORMING LOT. A single lot of record which, at the effective date of adoption or amendment of this chapter, does not meet the area, frontage, or width requirements of the district in which it is located.

NON-CONFORMING STRUCTURE. A structure which does not meet one or more of the following dimensional requirements: setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this chapter or subsequent amendments took effect.

NON-CONFORMING USE. Use of buildings, structures, premises, land, or parts thereof, which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this chapter or subsequent amendments took effect.

NORMAL HIGH-WATER LINE. That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

OLDER ADULT/DISABILITY HOUSING - A housing project that provides housing in dwelling units or other accommodations such as suites or individual rooms for senior households in which a head of household is at least fifty-five (55) years old or for disabled persons regardless of age.

The project may include facilities for outside agencies to provide services to residents and may provide a regular program of supportive services and/or meals to some or all residents. This project may offer limited nursing and 24-hour care. In addition to the residential facilities, the project may include common facilities to provide services to residents. This use may include facilities commonly referred to as retirement housing, congregate housing, or independent living centers that provide limited support services. The housing project shall not average more than 2 bedrooms per dwelling unit and/or a maximum of 6 bedrooms per suite. For purposes of this use, the term “disabilities” shall have the same meaning assigned by federal law and regulations pursuant to the Fair Housing Act Amendments of 1988. (Amended 10-22-2015)

OLDER ADULT/DISABILITY CARE FACILITY - A care facility that provides housing together with a program of supportive services and meals to some or all of its residents including 24-hour a day care and medical oversight. In addition to the residential facilities, the project includes common facilities, including common kitchen and dining facilities, to provide services to residents. This use may include facilities commonly referred to as nursing homes, hospices, rehabilitation centers, Alzheimer’s facilities, or assisted living facilities that provide a complete package of care and support services. For purposes of this use, the term “disabilities” shall have the same meaning assigned by federal law and regulations pursuant to the Fair Housing Act Amendments of 1988. (Amended 10-22-2015)

OFF STREET PARKING SPACE. An area of not less than 200 square feet, no side of which shall be less than ten feet, exclusive of access of maneuvering area, to be used for temporary parking for one motor vehicle. A loading space shall not be considered an off-street parking space.

ONE HUNDRED-YEAR FLOOD. See ***BASE FLOOD.***

OPEN SPACE. A parcel of land or an area of water, or a combination of land and water within any development which is designed and intended for the use and enjoyment of the residents of such development. Off-street parking space, side-walks, and streets shall not be considered ***OPEN SPACE.***

OUTDOOR WOOD BOILER. An outdoor wood boiler is a heating appliance that burns firewood and is located outside of the building which it is heating as defined by the Maine Department of Environmental Regulations, Chapter 150.

OUTLET STREAM. Any perennial or intermittent stream, as shown on the most recent edition of a 7.5-minute series or, if not available, a 15-minute series topographic map produced by the United States Geological Survey, that flows from a freshwater wetland.

PASSENGER CAR EQUIVALENTS AT PEAK HOUR. The number of passenger cars, or in the case of non-passenger vehicles, the number of passenger cars that would be displaced by non-passenger vehicles, that pass through an intersection or on a roadway under prevailing roadway and traffic conditions at 100 that hour of the day during which the traffic volume generated by the development is higher than the volume during any other hour of the day. For the purpose of this chapter, one tractor-trailer combination is the equivalent of two passenger cars.

PERMITTED USES. A use of land or structure permitted in a particular district provided

such use complies with the applicable provisions off this chapter.

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

PERSONAL PROPERTY. Movable property not affixed to the land. **PERSONAL PROPERTY** includes but is not limited to goods, wares, merchandise, motor vehicles, household items and furnishings, but excluding bulk storage of materials that are flammable or explosive or create hazardous conditions.

PIERS, DOCKS, WHARVES, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BEYOND THE NORMAL HIGH-WATER LINE OR WITHIN A WETLAND.

(a) **TEMPORARY.** Structures which remain in or over the water for less than seven months in any period of 12 consecutive months.

(b) **PERMANENT.** Structures which remain in or over the water for seven months or more in any period of 12 consecutive months.

PLACE OF AMUSEMENT. Any location offering exotic dancing as defined by § 111.03 of this code, adopted 1-29-1996, as amended.

PLACE OF PUBLIC ASSEMBLY OR CULTURE. Use of building, structure or land which may or may not be conducted as a business, An area where large numbers of individuals collect to participate or to observe programs of participation, such as auditoriums, theaters, movie houses, banquet rooms, museums, and other similar uses.

PLACE OF PUBLIC ENTERTAINMENT. Use of building, structure or land which may or may not be conducted as a business, designed primarily for the entertainment and/or participation of the public, such as, but not limited to, race tracks, sporting events, show grounds, fairgrounds, drive-in movies, and recreational facilities such as golf and ski facilities, and other similar uses.

PLANNED UNIT DEVELOPMENT. A means of residential land development which sets aside traditional, present land use controls in favor of more administrative discretion in the Planning Board. It permits a mixture of land uses, residential, commercial, institutional and recreational; creativity in design including both the clustering and mixing of land use types; and finally provisions for open space. The tract of land is developed as a whole according to a plan agreed upon by the Planning Board and the developer.

PLANNING BOARD. The Planning Board of the town.

PREMISES. One or more lots which are in the same ownership and are contiguous or separated only by a road or waterbody, including all buildings, structures and improvements.

PRE-TREATED SEPTAGE. Raw septage which has been treated, before application with lime in a quantity sufficient to produce a pH of 12 after two hours of contact. Other methods of pre-treatment using *Processes to Significantly Reduce Pathogens* (PSRP) in

accordance with the criteria of Title 40, Chapter 257, Appendix IIA of the Code of Federal Regulations may be allowed if the criteria of §§ 154.065 through 154.096 of this chapter is met.

PRINCIPAL STRUCTURE. The structure in which the primary use of the lot is conducted.

PRINCIPAL USE. A use other than one which is wholly incidental or accessory to another use on the same premises.

PROFESSIONAL ENGINEER. A professional engineer, registered in the State of Maine.

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

PUBLIC PARKS, PLAYGROUNDS. A tract of land, designated and used by the public for active and passive recreation including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities, but not including campgrounds and commercial recreation.

PUBLIC SERVICE. A public service corporation means an airline, railroad or vessel corporation operating in the State of Maine.

PUBLIC UTILITY. A gas utility, natural gas pipeline utility, electric utility, telephone utility, telegraph utility, water utility, sewer utility, cable television utility, radio paging service utility and radio common carrier utility as defined in 35-A M.R.S.A. § 102.

PUBLIC WATER SYSTEM. A water supply system that provides water to at least 15 service connections or services water to at least 25 individuals daily for at least 30 days a year.

PUBLIC WAY. A way owned and maintained by the State, the County, the Town of Hermon over which the general public has the right to pass.

RAILROADING. The establishment and operation of a rail system consisting of the roadbed, track, rolling stock, station and related assets and facilities.

RAISING OF LIVESTOCK FOR HOME USE. For purpose of this chapter, livestock shall include the following domestic animals: cattle, horses, fowl, rabbits and sheep; home use is non-commercial use.

RECENT FLOOD PLAIN SOILS. The following soil series as described and identified by the National Cooperative Soil Survey:

- (a) Alluvial Cornish Charles.
- (b) Fryeburg Hadley Limerick.

- (c) Lovewell Medomak Ondawa.
- (d) Podunk Rumney Saco.
- (e) Suncook Sunday Winooski.

RECORDING PLAN. An original of the final plan, suitable for recording at the Registry of Deeds and which need show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

RECREATIONAL FACILITY. A place designed and equipped for conducting sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

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

REDEMPTION CENTER. A stand-alone facility licensed by the Maine Department of Agriculture which collects beverage containers and refunds the statutory deposit pursuant to 32 M.R.S.A. § 1861.

REGULATORY FLOODWAY.

(a) The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot; and in

(b) Zone A riverine areas, the floodway is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

REPLACEMENT SYSTEM. A system intended to replace:

- (a) An existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure; or
- (b) Any existing overboard wastewater discharge.

RESEARCH AND TESTING FACILITY OF A LABORATORY NATURE. An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, which may include engineering and product development.

RESERVED AFFORDABLE HOUSING. Affordable housing which is restricted by means of deed covenants, financing restrictions, or other binding, long term methods to occupancy by households making 80% or less of the area median household income.

RESIDENCE-BASED SERVICE BUSINESS. A residential property involving the storage of vehicles and equipment on the premises with all business services rendered off the property.

RETAIL STORE. Commercial establishment through which is sold directly to consumers, goods in small quantities or broken lots, and not in bulk. The term shall not include casual sales, as defined.

RETAIL STORE, CLASS 1. A retail store having less than 2,000 square feet of floor area.

RETAIL STORE, CLASS 2. A retail store having 2,000 square feet or more of floor area.

RIGHT OF WAY. The area or strip of land over which the public has a right of passage in the case of a public way or street, or over which a private individual has the right of passage in the case of a private way.

RIGHT OF WAY LINE. The line separating a lot from a right of way.

RIPRAP. Rocks, irregularly shaped, and at least six inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two units horizontal to one unit vertical or less.

RIVER. A free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of 25 square miles to its mouth.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

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.

ROOF. The cover of any building, including the eaves and similar projections.

ROOF LINE. A horizontal line intersecting the highest point or points of a structure.

ROOMING, BOARDING HOUSE. Any residential structure where lodging and/or meals are provided for compensation for a period of at least one week, and where a family residing in the building acts as proprietor or owner. There shall be no provisions for cooking in any individual guest room.

SAWMILL. A mill or machine for sawing logs for commercial purposes.

SCREENING. A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

SEPTAGE STORAGE AND HANDLING FACILITY. Any land area, structure, location, equipment, or combination of them, used for the storage, treatment, or processing, of septage, other than land area used solely for general agriculture upon which agricultural land spreading of pre-treated septage is conducted and holding tanks regulated by the *Subsurface Wastewater*

Disposal Rules (10-144A CMA 241 7/80, as may be amended), Section 17.

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

(a) In the case of electric service:

1. The placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
2. The total length of the extension is less than 1,000 feet.

(b) In the case of telephone service:

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

SERVICE ESTABLISHMENT. A business where the principal use is providing personal services, including but not limited to barber shops, beauty salons, shoe repair shops, tailors, laundries.

SERVICE ESTABLISHMENT, CLASS 1. A service establishment having less than 2,000 square feet in floor area.

SERVICE ESTABLISHMENT, CLASS 2. A service establishment having 2,000 square feet or more in floor area.

SETBACK. The minimum horizontal distance from a lot line to the nearest part of a structure; except that the front setback shall be the minimum horizontal distance measured from the right of way line, where discernible, and where not discernible, from the center line of the traveled way (where such distance is specified in this chapter), to the nearest part of a structure. In shoreland areas, setback is measured from the nearest horizontal distance from the normal high-water line to the nearest part of a structure, road, parking space or other regulated object or area.

SHORE FRONTAGE. The length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation.

SHORELAND ZONE. The land area located within 250 feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet of the upland edge of a freshwater wetland rated high to moderate value by the Maine Department of Fisheries and Wildlife (IFW), or within 75 feet of a fresh water wetland that has not been rated by IFW as having moderate to high value; or within 75 feet of the normal high-water line of a stream, including outlet streams from freshwater wetlands.

SIDEWALK. Any strip or section of concrete, stone or macadam, the prime purpose of which is a walkway.

SIGHT DISTANCE. The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Sight distance is measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle ten feet behind the curb line or edge of shoulder, with the height of eye 3% feet, to the top of an object 4% feet above the pavement.

SIGN. A name, identification, description, display, or illustration directly or indirectly affixed to a structure, parcel, or lot and related to an object, product, place, activity, person, institute, organization or business conducted on the premises.

SIGNIFICANT RIVER SEGMENTS. See 38 M.R.S.A. § 437.

SITE PLAN. A plan, drawn to scale, showing uses and structures proposed for a parcel of land as required by the town ordinance. It includes lot lines, streets, building sites, reserved open spaces, buildings and major landscape features, both natural and man-made.

SITE PLAN REVIEW. The review of the site plan of any proposed project by the Planning Board or Code Enforcement Officer.

SKETCH PLAN. Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for approval by the Board.

SMALL WIND ENERGY SYSTEM. A wind energy system conversion system consisting of a single wind turbine, single tower, and associated control or conversion electronics that generates power for an individual property for the purpose of producing on-site energy, and shall not exceed three and one-half Kw for residential and six Kw for small commercial.

SPECIAL FLOOD HAZARD AREA. See ***AREA OF SPECIAL FLOOD HAZARD.***

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

STATE OR STATE-AID HIGHWAY. Highway designated by MDOT as a State or State-Aid Highway pursuant to 23 M.R.S.A. §53.

STORAGE-SELF (COLD OR CLIMATE CONTROLLED) FACILITY. An enclosed structure subdivided into small units, designed primarily to be used for renting or leasing

individual storage spaces only, usually under a written rental agreement in which the occupants themselves customarily store and remove their own personal property on a self serve basis (see definition **PERSONAL PROPERTY**.)

STORY. A place in a building between the surface of any floor and the surface of the next floor above, or, if there is no floor above, then the space between such floor and the ceiling or roof above.

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

STREET.

(a) Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on project plans designated as rights-of-way for vehicular access other than driveways.

(b) **STREET CLASSIFICATION:**

1. **ARTERIAL STREET.** A major thoroughfare which serves heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic-generating areas, and/or is designated as an “arterial” by the MDOT.

The following roadways shall be considered arterial streets:

- a. Interstate 95.
- b. US Route 2 (State Route 100).
- c. Union Street (State Route 222).
- d. Coldbrook Road

2. **COLLECTOR STREET.** A street with average daily traffic of 400 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

3. **CUL-DE-SAC.** A street with only one outlet and having the other end for reversal of traffic movement.

4. **INDUSTRIAL or COMMERCIAL STREET.** A streets serving industrial or commercial uses.

5. **TOWN STREET (TOWN ROAD).** A street or road that is owned by the Town of Hermon.

56. **MINOR RESIDENTIAL STREET.** A street serving only residential properties and which has an average daily traffic of less than 400 vehicles per day.

STRUCTURE. Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, signs, walls and the like. The term includes structures temporarily or permanently located, such as decks and satellite dishes. For floodplain management purposes, a fixed gas or liquid storage tank that is principally above ground is also a structure.

STRUCTURES NECESSARY FOR ESSENTIAL SERVICES. A structure not to exceed 200 square feet in gross floor area or 16 feet in height; operated by an essential service, including but not limited to pumping stations, pad mounted transformers, electronic switching equipment, and satellite dishes. Such utility structures are to be unoccupied except for required maintenance.

SUBDIVISION. The division of a tract or parcel of land into three or more lots within any five-year period, as defined in 30-A M.R.S.A. § 4401, subsection 4.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50% of the market value of the structure before the damage occurred.

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

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

SUBSTANTIAL START. Completion of 30% of a permitted structure or use measured as a percentage of estimated total cost.

SUBSURFACE SEWAGE DISPOSAL SYSTEM. A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 M.R.S.A. § 414, any surface wastewater disposal system licensed under 38 M.R.S.A. § 413, subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 M.R.S.A. Ch. 13, subchapter 1.

SUSTAINED SLOPE. A change in elevation where the referenced percent grade is

substantially maintained or exceeded throughout the measured area.

SWIMMING POOL, PRIVATE. A structure that is maintained or used for recreational bathing, without charge, by the household and guests of an individual.

TEMPORARY STRUCTURE. Structure permitted to exist during the construction of a principal or accessory structure, but which shall not be a dwelling or a residential structure. The temporary structure shall be promptly removed upon completion of construction.

TIMBER HARVESTING. The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

TRACT or PARCEL OF LAND. All contiguous land in the same ownership, provided that lands on the opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

TRIBUTARY STREAM. A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the term “stream” as defined elsewhere in this chapter, and only applies to that portion of the tributary stream located within the Shoreland Zone of the receiving water body or wetland.

TRUCK TERMINAL. An area or building where trucks load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation. **TRUCK TERMINALS** may also include facilities for servicing trucks, and storage facilities, such as warehouses incidental to the principal use.

UPLAND EDGE. The boundary between upland and wetland.

USABLE OPEN SPACE. That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding 10%.

USE. The purpose for which land or structure is arranged, designed, intended or occupied.

UTILITY TRAILER. A vehicle without motive power, designed to be towed by a passenger automobile but not designed for human occupancy and which may include a utility trailer, boat trailer, horse trailer, or snowmobile trailer.

VARIANCE. A relaxation of the literal terms of this chapter where such relaxation is not contrary to the public interest and where a literal enforcement would otherwise result in unnecessary or undue hardship (as defined in this chapter). A variance is authorized only for height, area, and size of structures or size of yards and open spaces.

VEGETATION. All live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under four inches in diameter, measured at four and one-half above ground level.

VEHICLE TRIP. One way vehicle movement from an origination point to a destination point. It is not a round trip.

VETERINARY CLINIC. A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to treatment.

VIOLATION. The failure of a structure or development to comply with a community's floodplain management regulations.

VOLUME OF A STRUCTURE. The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

WAREHOUSING. A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, but excluding bulk storage of materials that are flammable or explosive or create hazardous conditions.

WATER BODY. Any great pond, river, or stream.

WATER CROSSING. Any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the water course. Such projects include, but may not be limited to, roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings.

WETLAND. See **FRESHWATER WETLAND.**

WETLANDS ASSOCIATED WITH GREAT PONDS AND RIVERS. Wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or riverine.

YARD. The area of land on a lot not occupied by the principal structure or building.

YARD, FRONT. The area of land between the front lot line or right of way line and the nearest part of the principal structure or building.

(Ord. Passed 1-3-2013) (**Amended 10-22-2015**)

ADMINISTRATION AND ENFORCEMENT

§ 154.020 ADMINISTERING BODIES.

(A) *Code Enforcement Officer.* Unless otherwise provided in this chapter the Code Enforcement Officer (hereafter “CEO”), as duly appointed by the Town Manager and confirmed by the Town Council of the town, shall administer and enforce this chapter. No building permit or certificate of occupancy shall be issued by the CEO except in compliance with the provisions of this chapter. The CEO shall have the following duties, among others, in enforcing this chapter:

(1) *Records.* A permanent written record of applications submitted, permits issued and revoked appeals and variances granted, court actions, violations found, and fees collected shall be maintained. Such records shall include the name of the person who enjoys such use or variances, the date such use or variance commenced, a termination date, if any, and all restrictions or conditions imposed by the Planning Board or Board of Appeals. A copy of such records shall be kept at the Town Office. For purposes of this duty, the Board of Appeals shall inform the CEO of actions taken by it. With regard to shoreland zoning, a summary of these records will be submitted to the Maine Department of Environmental Protection biennially.

(2) *Permits and referrals.* The CEO shall act upon building, construction and use applications, refer permits requiring site plan review to the Planning Board, review subdivision applications for completeness of submissions and refer such applications to the Planning Board, and refer requests for variances and administrative appeals to the Board of Appeals. Notwithstanding the above, at the CEO’s discretion, any application may be forwarded directly to the Planning Board for a decision. Whenever such referral occurs, the term **CODE ENFORCEMENT OFFICER** may also refer to the Planning Board, as appropriate.

(3) *Inspections.* The CEO shall inspect property for compliance with the provisions of this chapter.

(4) *Information.* The CEO shall provide information regarding this chapter to property owners.

(5) *Violations.* The CEO shall investigate alleged violations of this chapter.

(6) *Court action.* Where authorized (§ 154.027(B)), the CEO shall initiate court action to prevent or halt violations of this chapter.

(7) *Enforcement, general.* The CEO shall take other actions required to adequately enforce this chapter.

(8) *Meetings.* The CEO shall regularly attend meetings of the Planning Board and meetings of the Board of Appeals as required.

(9) *Revocations.* The CEO shall revoke a permit after notice if it was issued in error or if it was based on erroneous information.

(B) *Planning Board.*

(1) *Site plan review.* The Town Planning Board shall be responsible for reviewing and acting upon applications for site plan review approval in accordance with the provisions of §§ 154.180 through 154.190 of this chapter. Following site plan review approval, the applicant shall return to the CEO for building and other permits. Notwithstanding the above, at the Planning Board's discretion, any application may be forwarded directly to the CEO for a decision. Whenever such delegation occurs, the term **PLANNING BOARD** may also refer to the Code Enforcement Officer, as appropriate.

(2) *Subdivisions.* The Planning Board shall also review subdivision applications in accordance with the provisions of §§ 154.205 through 154.214 of this chapter. Following subdivision approval, the applicant shall return to the CEO for any building or other permits.

(C) *Board of Appeals.* The Board of Appeals shall be responsible for deciding administrative and variance appeals in accordance with the requirements of §§ 154.275 through 154.285 of this chapter. Following the issuance of any decision favorable to the applicant, the applicant shall return to the CEO for building and other permits.

(Ord. passed 1-3-2013)

§ 154.021 CODE ENFORCEMENT OFFICER (CEO) PERMIT REQUIRED.

A permit from the CEO shall be required before beginning or undertaking any of the following activities:

(A) *Building or construction.* No building or structure shall be erected, constructed, added to, commenced or structurally altered until a building permit has been issued by the CEO. All applications for such permits shall be to the CEO and shall be accompanied by a plan, showing the shape and dimensions of the lot, the location, size and use of existing structures, and the location, size and use of proposed structures. An application shall be accompanied by a plumbing permit, where required, a building permit fee in accordance with the provisions of the building code of the town, and any other information as may be necessary to provide for the execution and enforcement of this chapter. The application shall be signed by the applicant.

(1) *Road access to a public way.* No road entrance or exit onto a public way shall be constructed until a road access permit has been issued by the Road Commissioner or his/ her designee and/or a copy of a Maine Department of Transportation permit has been received by the CEO.

(B) *Moving or demolition.* All buildings which are removed from or moved onto, or moved around within a lot, or demolished.

(C) *Change of use.* The change of any premises from one category of land use to any more restrictive land use.

(D) *Activities listed in the schedule of land uses.* Any activity listed in §§ 154.040 through

154.047 (establishment of districts) or § 154.046(E) (schedule of land uses) of this chapter as requiring a permit from the Code Enforcement Officer (CEO). No permit may be issued under this provision for an activity which is part of a site or project requiring site plan review approval until such approval has been granted by the Planning Board.

(E) *Site plan review activities.* Any activity approved by the Planning Board under the site plan review provisions of §§ 154.180 through 154.190 of this chapter.

(F) *Shoreland zoning activities.* Any activity listed in §§ 154.125 through 154.140 (shoreland zoning) or § 154.138 as requiring a permit from the CEO. See § 154.140(D) for additional provisions for administering permits in the Shoreland Zone. No permit may be issued under the provisions of § 154.140 for an activity requiring a Planning Board permit until approval for such permit has been granted by the Planning Board in accordance with the provisions of § 154.140.

(G) *Floodplain management activities.* Any activity listed in §§ 154.155 through 154.166 (floodplain management) and § 154.156 as requiring a permit from the CEO. Such permit shall be issued in accordance with the provisions of §§ 154.157, 154.158, and 154.159.

(Ord. Passed 1-3-2013) (**Amended 10-22-2015**)

§ 154.022 PERMIT APPLICATION PROCEDURE.

(A) *Application.* All applications for a CEO permit shall be submitted in writing to the CEO on forms provided for the purpose. All applications shall be signed by the owner or owners of the property or other person(s) authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.

(B) *Submissions.* There shall be submitted with all applications two copies of a layout or plot plan drawn to scale showing:

(1) The actual dimensions of the lot to be built upon;

(2) The location and size of all buildings, structures, and other significant features currently existing on the lot, as well as all water bodies and wetlands within 250 feet of the property boundaries;

(3) The exact size and location on the lot of the buildings and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this chapter;

(4) The existing and intended use of each building or structure;

(5) Where applicable, the location of soils test pits, subsurface sewage disposal systems, parking lots, driveways, signs, buffer strips, fences and private wells; and

(6) Such other information as may be reasonably required by the Code Enforcement

Officer (CEO) to provide for the administration and enforcement of this chapter.

(C) *Fee.* Applications for a permit shall be accompanied by a fee established by the Town Council.

(D) *Burden of proof.* The applicant shall have the burden of proving that a proposed Land Use activity is in conformity with the provisions of this chapter.

(Ord. passed 1-3-2013)

§ 154.023 PROCESSING APPLICATION.

Within ten days of the date of receipt of a complete application for a permit, the CEO shall examine such application and physically examine the premises to determine whether or not the proposed building, structure or use would be in compliance with this chapter and the building code of the town.

(A) *Referrals.* All applications which would require action from the Board of Appeals or which would require approval by the Planning Board shall within such period of ten days be referred to the applicable Board for action. After approval, with or without conditions, by such Board, the CEO shall issue a building permit within five days after being notified of such approval, provided that such proposed building, structure or use otherwise complies with the building code of the town, and all other applicable laws.

(B) *Approvals or denials.* In all other cases, the CEO shall within such period of ten days approve or deny such application for a building or land use permit in accordance with whether or not such proposed building or structure complies with this chapter and the building code of the town.

(C) *Notification.* The CEO shall inform the applicant in writing of any action taken by him regarding the permit application. If such application is rejected by the CEO, such notice to the applicant shall contain a brief statement of the findings of the CEO and the reasons for his rejection. No permit shall be issued except to the owner of record or the owner's authorized agent.

(Ord. passed 1-3-2013)

§ 154.024 DURATION OF PERMIT.

All building permits are valid for a two-year period during which the authorized work is continuous. A permit under which no substantial work is commenced within six months after issuance, or under which authorized work is suspended or abandoned for a period of six consecutive months, shall expire, and the permit shall be forfeited.

(Ord. passed 1-3-2013)

§ 154.025 CERTIFICATE OF OCCUPANCY.

No building or structure hereafter constructed, reconstructed, erected, structurally altered, added to, or moved onto a lot, shall be used or occupied until a certificate of occupancy has been issued by the Code Enforcement Officer (CEO), certifying that the building or structure complies with this chapter and the building code of the town. Application for the certificate of occupancy shall be coincident with application for the building permit. Upon completion of the building or structure, the applicant shall notify the CEO who shall within ten days issue or deny a certificate of occupancy. If the certificate is denied, such denial shall be in writing and accompanied by a written statement of the reasons for the denial.

(Ord. passed 1-3-2013)

§ 154.026 APPLICANT RESPONSIBILITY.

(A) *Posting.* The applicant shall conspicuously post any permit issued, on the lot where the activity will occur, at a location clearly visible from the street.

(B) *Appeals.* Appeals from decisions of the CEO may be taken to the Board of Appeals in accordance with the provisions of §§ 154.275 through 154.285 of this chapter.

(Ord. passed 1-3-2013)

§ 154.027 ENFORCEMENT.

(A) *Notice of violations.* It shall be the responsibility of the Code Enforcement Officer (CEO) to enforce all provisions of this chapter. If the CEO finds that any provision of this chapter is being violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The CEO may give a violator a specific period of time to correct such offense. The CEO shall immediately order discontinuance of illegal use of lands, buildings, or structures, removal of illegal buildings, structures, additions, or work in progress, or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.

(B) *Legal action.* The CEO, with the advice and consent of the Town Manager, is authorized to institute, or cause to be instituted by the Town Attorney, in the name of the town, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this chapter. This section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this chapter.

(C) *Administrative consent agreement.* Upon recommendation of the Town Attorney as to form and compliance with this chapter, certain violations of this chapter may be resolved by an administrative consent agreement executed by the violator and the Town Council. An administrative consent agreement shall require, unless the Town Council expressly finds that the violation was the direct result of erroneous advice or approval by town officials based on facts fully and accurately presented, that:

- (1) The violation will be corrected in all respects;
- (2) The violator admits to the violation; and
- (3) The violator pays an appropriate monetary penalty of not less than \$100 and the town's legal costs.

(D) *Installation of public utility service, Shoreland Zone and subdivisions.* No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the Shoreland Zone or in any subdivision unless written authorization attesting to the validity and currency of all local permits required under this chapter or any previous ordinance, has been issued by the appropriate municipal officials, indicating that installation has been approved.

(Ord. passed 1-3-2013)

ESTABLISHMENT OF DISTRICTS

§ 154.040 ESTABLISHMENT OF DISTRICTS.

(A) For the purpose of this chapter, the town is divided into seven districts to be designated as follows:

- (1) Agriculture/Forestry District (AF).
- (2) Residential A District (RA).
- (3) Residential B District (RB).
- (4) Residential C District (RC).
- (5) Village Commercial District (VC).
- (6) Commercial District (C).
- (7) Industrial District (I).

(B) For land uses in shoreland zones, see §§ 154.138 and 154.139.

(Ord. passed 1-3-2013)

§ 154.041 PURPOSE OF DISTRICTS.

(A) *Agriculture/Forestry District (AF).* This district is established for areas currently farmed or managed for forest products. New dwellings are allowed, but the predominate character of these areas is rural.

(B) *Residential A District (RA).* This district is established to protect the essential

characteristics of a residential area of mostly single-family dwellings, or areas where such development is desired. Agricultural uses such as livestock shall not be allowed. It is the intent of this district to promote and encourage a suitable environment for family life, by preventing incompatible uses and structures.

(C) *Residential B District (RB)*. This district is established to encourage and protect medium density residential development with single, two and multiple-family dwellings, and certain other facilities residential in character or serving the neighborhood. Also, this district is intended to provide area for public and semi-public uses compatible with and necessary to residential development. At the same time, this district is intended to protect the rural use and character of land and agricultural uses. It is the intent of this district to harmonize agricultural and residential use.

(D) *Residential C District (RC)*. This district is established to encourage and protect medium density residential development with single, two and multi-family dwellings, mobile home parks and certain other facilities residential in character or serving the neighborhood.

(E) *Village Commercial District (VC)*. This district is established for new commercial development in the form of mercantile and service businesses which draw their markets locally rather than regionally. This district is intended for the conversion of many of the existing dwellings in the area into a mix of home/offices for professionals who need access to the motoring public (e.g. real estate, insurance, family practice physicians, psychologists, dentists, chiropractors, etc) and conversions into retail or service businesses (such as restaurants, beauty/barber shops, specialty stores, etc), with one or two shopping plaza projects. In order to continue the traditional village mix of uses, new residences shall be permitted in these areas.

(F) *Commercial District (C)*. This district is established to provide for general retail sales, services and business space within the town in locations capable of conveniently servicing the community and oriented primarily to automobile access.

(G) *Industrial District (I)*. This district is established to provide space for existing industries and their expansion and future industrial development for the purpose of manufacturing, processing, treatment, research, warehousing, storage and distribution where there is no danger of explosion or other hazard to health or safety. The intent of this district is to encourage non-polluting industrial development at a safe and reasonable density. This district is also established to accommodate certain commercial and industrial uses, which desire location in spacious, attractive surroundings. Development in this district includes light manufacturing, warehousing, distributing, or other treatment of goods and products, truck terminals and other similar uses, designed to ensure sufficient space for building, expansion, parking, loading facilities, and landscaping.

(Ord. passed 1-3-2013)

§ 154.042 LOCATION OF DISTRICTS.

For the purpose of this chapter, the boundaries of all districts in the town are hereby

established as shown on the zoning map of the town, which map shall be referred to and designated as the “Zoning Map of the Town of Hermon”, and which together with all notations, references, and other explanatory matters thereon, is hereby declared a part of this chapter.

(Ord. Passed 1-3-2013)

§ 154.043 UNCERTAINTY OF BOUNDARY LOCATIONS.

Where due to the scale, lack of detail or illegibility of the zoning map of the town, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundary line as shown thereon, the Code Enforcement Officer (CEO) shall make an interpretation of said map upon request of any person. Any party aggrieved by any such interpretation, may take an administrative appeal to the Board of Appeals, pursuant to §§ 154.275 through 154.285 of this chapter. The CEO and the Board of Appeals, in interpreting the zoning map or deciding such appeal, shall apply the following standards:

(A) District boundary lines are intended to follow lot lines, or be parallel or perpendicular thereto, or to follow along the center lines of streets, highways, roads, alleys, railroad lines, or water courses, unless such boundary lines are fixed by dimensions shown on the zoning map.

(B) Where district boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundary lines.

(C) Where a district boundary line divides a lot, the location of any such boundary line, unless indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale shown thereon.

(D) Boundaries indicated as approximately following town limits shall be construed as following town limits.

(E) Boundaries indicated as following shorelines shall be construed as following such shorelines, and in the event of a natural change in the shoreline, shall be construed as moving with the actual shoreline.

(F) If, after the application of the foregoing standards, uncertainty still exists as to the exact location of a district boundary line, the boundary line shall be determined by the Board of Appeals after consideration of the history of the uses of the property, the history of zoning ordinances of the town, and all other relevant data.

(Ord. passed 1-3-2013)

§ 154.044 DIVIDED LOT.

Where a district boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this chapter, the regulations applicable to the less restricted portion of the lot may be extended not more than

30 feet into the more restricted portion of the lot, provided the lot has frontage in the less restricted district. All land within the Shoreland Zoning District, however, shall comply with the provisions of the §§ 154.125 through 154.140, shoreland zoning. For the purposes of this section, the districts are classified as follows: Agriculture/Forestry, Residential A, Residential B, Residential C, Village Commercial, Commercial, and Industrial.

(Ord. passed 1-3-2013)

§ 154.045 LOCATION OF DOCUMENTS.

This chapter, together with the official zoning map, shall be located in the town office and shall be the final authority as to the current zoning status of the land and water areas, buildings and other structures in the town.

(Ord. passed 1-3-2013)

§ 154.046 SCHEDULE OF USES.

(A) *Activity categories.* Land uses permitted in the town's zoning districts, in conformance with the performance standards contained in §§ 154.065 through 154.096 are shown in a matrix in division (E) below. The various land uses contained in the matrix are organized into the following activity classifications:

- (1) Agriculture and other open space uses;
- (2) Residential;
- (3) Commercial;
- (4) Industrial;
- (5) Institutional; and
- (6) Miscellaneous.

(B) *Symbols used in schedule of uses.* The following symbols contained in the schedule of uses in division (E) below have the following meanings:

- (1) *District symbols.*
 - (a) AF - Agriculture/Forestry;
 - (b) RA - Residential A District;
 - (c) RB - Residential B District;
 - (d) RC - Residential C District;
 - (e) C - Commercial District;

(f) VC - Village Commercial; and

(g) I - Industrial District.

(2) *Permit required symbols.*

(a) Y- Uses allowed without a permit;

(b) P - Uses requiring a building permit or other type of permit from the Code Enforcement Officer. All “class 1” uses require site plan review approval from the Code Enforcement Officer.

(c) S - Uses requiring site plan review approval from the Planning Board in accordance with the requirements of §§ 154.065 through 154.096, using the procedures found in §§ 154.180 through 154.190.

(d) N - Not permitted.

(C) *Uses substantially similar to permitted uses.*

(1) *Uses allowed without a permit.* Uses substantially similar to those allowed without a permit, but which are not listed in the schedule of land uses, may be permitted upon a ruling of the Code Enforcement Officer (CEO) that such use is substantially similar to such uses.

(2) *Uses requiring a permit from the CEO.* Uses substantially similar to those requiring the review and approval of the CEO under this chapter, but which are not listed in the schedule of land uses, may be permitted by the CEO.

(3) *Uses requiring site plan review approval.* Uses substantially similar to those requiring site plan review approval of the planning board under this chapter, but which are not listed in the schedule of land uses, may be permitted by the Planning Board.

(4) *Prohibited uses.* Uses substantially similar to a prohibited use in the schedule of land uses, as determined by the CEO, are prohibited.

(D) *Compliance with performance standards.* All uses which are permitted, including those that are allowed without a permit, must occur and be maintained in compliance with the applicable requirements of the performance standards listed in §§ 154.065 through 154.096.

(E) *Schedule of land uses.*

(1) *Agriculture and other open space uses.*

AGRICULTURE AND OTHER OPEN SPACE USES	AF	RA	RB	RC	C	VC	I
Agricultural Land spreading of Pre-	S	N	N	N	N	N	N

Treated Septage							
Animal Husbandry							
On parcel 2 acres or larger	Y	N	P	N	N	N	N
On parcel less than 2 acres	Y	N	S	N	N	N	N
Commercial Feed Lot	S	N	N	N	N	N	N
Equestrian Activity – Riding, Training, Showing, Breeding	Y	N	S	N	N	N	N
Farm Stand	Y	N	Y	N	N	N	N
Off Site Farm Stand¹	N	N	N	N	P ¹	P ¹	P ¹
Forestry	S	S	S	S	S	S	S
Fur Farm	S	N	N	N	N	N	N
General Agriculture	Y		P	N	N	N	N
Spreading of Manure	Y ²	N					
Goat Farm	S	N	N	N	N	N	N
Livestock for Home Use							
On parcel 5 acres or larger	Y	N	P	N	N	N	N
On parcel less than 5 acres	Y	N	S	N	N	N	N
Raising of Pigs	S	N	N	N	N	N	N
Public Parks, Playgrounds	S	S	S	S	N	S	N
Recreation Trails	Y	Y	Y	Y	Y	Y	Y
Accessory Structure or Use	P	P	P	P	P	P	P

Note to Table of Agricultural and Other Open Space Uses:

¹**Off-Site Farm Stand** - Applicants for an off-site farm stand shall provide to the CEO a signed lease agreement from the property owner(s). Off-site farm stands may be in operation only during the months of July, August, September, and October of each year and the stand shall be removed from site by November 15th of each year. Adequate off-street parking shall be provided. Signage shall be of the temporary sandwich type (A-frame) or located on the stand itself. Items sold from an off-site farm stand shall be limited to those relating to vegetables, fruit and flowers.

²**All spreading** of manure must conform with the requirements of the Maine Department of Agriculture's November 2, 2001 publication entitled, Manure Utilization Guidelines, as amended and M.R.S.A. §4201-4209 (the Nutrient Management Law). All manure storage areas must be constructed or modified to prevent the discharge of effluent or contaminated stormwater.

RESIDENTIAL USES	AF	RA	RB	RC	C	VC	I
Single – Family Dwelling	P	P	P ³	P	N	P	N
Elder Living Quarters (ELQ)	P	P	P	P	N	P	N

Mobile Home for ELQ	P	N	S	S	N	S	N
Community Living Arrangement	P	P	P	P	N	P	N
Home Occupation 1	P	P	P	P	P	P	P
Home Occupation 2	S	N	S	N	P	S	P
Home Occupation 3	S	P	S	N	P	S	P
Manufactured Housing exclusive of Mobile Homes	P	P	P	P	N	P	N
Mobile Homes	P	N	P	P	N	N	N
Mobile Home Park	N	N	N	S	N	N	N
Two-Family Dwelling	P ²	N	P ³	P ⁴	N	P ⁴	N
Multiple Family Dwelling	N	N	P ⁴	P ⁴	N	S ⁴	N
Non-Commercial Greenhouse	Y	Y	Y	Y	N	Y	N
Planned Unit Development ⁵	S	S	S	S	N	S	N
Multi-Family Development ⁶	N	N	S	S	N	S	N
Older Adult/Disability Housing	N	N	S	S	N	S	N
Rooming, Boarding House	N	N	P	P	N	N	N
Rear lot development, in accordance with § 154.091	N	N	P	N	N	P	S
Accessory Structure or Use	P	P	P	P	N	P	N

Notes to Table of Residential Uses:

² **AF District** - Minimum lot size for a two-family dwelling shall be 1.5 acres with one unit owner occupied.

³ **RB District - Single and Two-Family Dwellings**

a) Minimum lot size for a single-family dwelling shall be 1 acre.

b) Minimum lot size for a two-family shall be 1.5 acres.

⁴ **RB, RC and VC Districts – Multi-family Dwellings** shall meet the following requirements:

a) All acreage required must be classified as buildable. Easement areas, freshwater wetlands and other unusable areas shall not be classified as buildable for the purpose of determining minimum lot size.

b) Minimum lot size for a three-family dwelling shall be 2 acres.

c) Minimum lot size for a four-family dwelling shall be 2.5 acres.

d) **RC District:** The maximum residential density shall be six dwelling units per acre.

e) **VC District:** The two units per acre - maximum of eight units per lot

f) **RB District:** Each multi-family dwelling shall be limited to no more than 4 units.

g) Minimum frontage for each multi-family dwelling shall be 200 feet.

h) Multi-family dwellings on rear lots as described in section 154-091 of this chapter shall have the lot sizes detailed above, with setbacks twice the minimum requirements of the zone.

⁵ See §§ 154.065 through 154.096, §§154.086(C) (3)

⁶ See §§ 154.065 through 154.087 (B)(1)

⁷ See §§ 154.098

(Amended)

COMMERCIAL USES	AF	RA	RB	RC	C	VC	I
Auction Barn	P	N	N	N	S	S	S
Automobile Body Shop	N	N	N	N	S ⁹	S ⁹	P
Automobile Service Station	N	N	N	N	P	S	P
Aviation Field	S	N	N	N	N	N	S
Bakery	N	N	N	N	P	P	P
Barber Shop, Beauty Shop	N	N	N	N	P	P	P
Bed and Breakfast	P	N	P	N	N	P	N
Building Supply/Lumber Yard	N	N	N	N	P	N	P
Business and Professional Office, Class 1 ⁷	N	N	N	N	P	P	P
Business and Professional Office, Class 2	N	N	N	N	S	S	S
Business Park	N	N	N	N	S	S	S
Campground	S	N	N	N	N	N	S
Commercial Art Studio	P	N	N	N	P	P	P
Commercial Greenhouse	S	N	N	N	S	S	S
Commercial Complex (Shopping Center)	N	N	N	N	S	S	N
Communication Facility	S	N	N	N	S	N	S
Contract Postal Unit	N	N	N	N	P	P	P
Home Day Care	P	P	P	P	N	P	N
Adult Day Care	S	N	S	S	N	S	N
Child/Adult Day Care Center	N	N	N	N	S	S	S
Funeral Home	N	N	N	N	S	S	S
Golf, Ski, Other Recreation Facility	S	N	S	N	S	S	S
Gymnasium, Fitness Center	N	N	N	N	P	S	P
Hotel/Motel/Overnight Cabin	N	N	N	N	P	N	P
Kennel, Breeding ¹⁰	S ¹⁰	N	S ¹⁰	N	S ¹⁰	S ¹⁰	S ¹⁰
Kennel, Commercial ¹¹	S ¹¹	N	N	N	S ¹¹	S ¹¹	S ¹¹
Kennel, Non – Commercial ¹⁰	P ¹⁰	N	P ¹⁰	N	P ¹⁰	P ¹⁰	P ¹⁰
Laundromat/Dry Cleaner	N	N	N	N	P	P	P
Medical Marijuana Cultivation and/or Processing Facility ¹⁴	N	N	N	N	N	N	S ¹⁴
Medical Marijuana Cultivation - Private Caregivers ¹⁵	Y ¹⁵	Y ¹⁵	Y ¹⁵	Y ¹⁵	Y ¹⁵	Y ¹⁵	Y ¹⁵
Medical, Dental Clinic Substance Abuse Clinic ¹²	N N	N N	N N	N N	S S	S S	S S ¹²
Medical Labs	N	N	N	N	S	S	S
Motor Vehicle Sales and Rentals	N	N	N	N	P	S	P
Neighborhood Grocery Store	N	N	S	S	S	S	S
Newspaper/Printing Facility	N	N	N	N	P	N	P

COMMERCIAL USES (continued)	AF	RA	RB	RC	C	VC	I
Place of Public Amusement	N	N	N	N	N	N	N
Place of Public Assembly or Culture	N	N	N	N	P	S	P
Place of Public Entertainment	N	N	N	N	P	N	P
Recreational Vehicle Sales and Rental	N	N	N	N	P	S	P
Redemption Center ¹³	N	N	N	N	S ¹³	S ¹³	P ¹³
Restaurant	N	N	N	N	S	S	S
Retail Store Class 1 ⁸	N	N	N	N	P	P	P
Retail Store Class 2	N	N	N	N	S	S	S
Service Establishments Class 1 ⁸	N	N	N	N	P	P	P
Service Establishments Class 2	N	N	N	N	S	S	S
Storage-Self Facility							
1-10 Units	P	N	N	N	P	N	P
11 and up	S	N	N	N	S	N	S
Veterinary Clinic	S	N	N	N	P	S	P
Accessory Structure or Use	P	N	P	P	P	P	P

Notes to Table of Commercial Uses:

⁸ **Class 1 Uses** require Site Plan Review Approval by the Code Enforcement Officer.

⁹ **Automotive Body Shop** - Vehicles awaiting bodywork shall be in a screened in area as approved by the Planning Board.

¹⁰ **Breeding kennels and noncommercial kennels** shall have a minimum lot size of 5 acres. Setbacks for structures shall be the same as for the underlying zone. Setbacks for outdoor runs shall be 200 feet to nearest residence or 50 feet to nearest residential side line, whichever is greatest. In no case shall outside runs for kennels be within the minimum setback for the zone.

¹¹ **Commercial kennels** shall have a minimum lot size of 5 acres. Setbacks for structures shall be the same as for the underlying zone. Setbacks for outdoor runs shall be 300 feet to nearest residence or 100 feet to nearest residential side line, whichever is greatest. In no case shall outside runs for kennels be within the minimum setback for the zone.

¹² **Substance Abuse Clinic**

- a) All substance abuse clinics shall have a minimum of 5 acres.
- b) All substance abuse clinics shall be situated on land owned by the care provider.
- c) All buildings associated with the clinic must be located at least 100 feet from all property lines which abut the VC, C and I Districts and at least 500 feet from the AF, RA, RB and RC Districts.
- d) No clinic shall be operated within a half mile radius of any school or daycare facilities operating at the time of the application for a Substance Abuse Clinic.

¹³ **Redemption Center** - Beverage containers shall not be stored on site for more than thirty (30) days.

¹⁴ **Medical Marijuana Cultivation and/or Processing Facility** standards see §154.083

Definition for Medical Marijuana Cultivation and/or Processing Facilities see §§ 154.008

¹⁵ **Medical Marijuana Cultivation – Private Caregivers**

Per Rules Governing the Maine Medical Use of Marijuana Program 10- 144 CMR, Chapter 122, Section 2, §2.7.1.1.1- An enclosed outdoor area must have a privacy fence at least 6 feet high that obscures the view of the marijuana to discourage theft and unauthorized intrusion. Additionally all fencing associated with an outdoor growing area must be located a minimum of 55' from all property lines and 1000' from any school property line.

INDUSTRIAL USES	AF	RA	RB	RC	C	VC	I
Administrative Offices of Manufacturing, Research Corporations	N	N	N	N	P	N	P
Firewood Processing	S	N	N	N	N	N	P
Fuel Storage	N	N	N	N	N	N	S
Junkyard	N	N	N	N	N	N	S
Living Quarters for Security Personnel¹⁷	N	N	N	N	N	N	P ¹⁷
Manufacturing, Heavy	N	N	N	N	N	N	S
Manufacturing, Light	N	N	N	N	S	N	S
Recycling Facilities	N	N	N	N	N	N	S
Railroading	N	N	S	N	P	N	P
Researching and Testing Facilities of a Laboratory Nature	N	N	N	N	N	N	P
Sawmill	S	N	N	N	N	N	S
Septage Storage and dewatering facility	N	N	N	N	N	N	S ¹⁸
Storage of Pulpwood or Logs for Shipping	Y	N	N	N	S	N	P
Storage, Processing of Agricultural Products	S	N	N	N	N	N	S
Truck Terminal	N	N	N	N	S	N	P
Warehousing	N	N	N	N	P	N	P
Wholesaling of Goods and Products	N	N	N	N	P	N	P
Rear lot development, in accordance with § 154.091	N	N	P	N	N	P	S ¹⁶
Accessory Structure or Use	S	N	S	N	P	N	P

Notes to Table of Industrial Uses:

¹⁶ **Rear Lot Development in Industrial District:** Only “Open Space Uses” are allowed as rear lot development in the Industrial District.

¹⁷ **Living quarters for security personnel,** employed by a company located in the industrial park, limited to one dwelling unit. The living quarters may be located within the principal structure.

¹⁸ **Septage Storage** and Dewatering Facilities see §§ 154.092

¹⁸ **Reserved**

INSTITUTIONAL USES	AF	RA	RB	RC	C	VC	I
Cemetery	N	N	S	N	N	N	N
Church	N	N	S	P	N	S	N
Club	N	N	S	P	P	S	P
Community Service Organizations	N	N	S	N	S	S	S
Educational Uses and Structure	N	N	S	P	N	P	N
Governmental Use	N	N	N	N	N	S	S
Hospital	N	N	S	N	N	N	N
Municipal Uses and Structures	N	N	S	P	S	P	S
Older Adult / Disability Care Facility	N	N	N	S	N	S	N
USPS Post Office	N	N	S	N	S	S	S
Accessory Structure or Use	N	N	P	P	P	P	P

Notes to Tables of Institutional Uses

¹⁹ See §§ 154.098

²⁰ Reserved
(Amended)

MISCELLANEOUS USES	AF	RA	RB	RC	C	VC	I
Earth Filling²¹							
<1,000 yards	Y	Y	Y	Y	Y	Y	Y
1,000-10,000 yards	P	P	P	P	P	P	P
>10,000 yards	S	S	S	S	S	S	S
Earth Excavation²¹							
<1,000 yards	P	P	P	P	P	P	P
1,000 yards or more	S	S	S	S	S	S	S
Essential Services	P	P	P	P	P	P	P
Essential Services Structures	S	S	S	S	S	S	P
Signs							
Outside of Complexes and Parks (See §§ 154.225)	N	P	P	P	P/S	P/S	P/S
Commercial Complex (Shopping Center) (See §§ 154.225)	N	N	N	N	S	S	S
Business/Commercial/Industrial Park (See §§ 154.225)	N	N	N	N	S	S	S
Mobile Home Park (See §§ 154.084.)	N	N	N	S	N	N	N
Outdoor Wood Boilers (See §§ 154.086)	P	N	P	N	N	N	S
Small Wind Energy Systems (See §§ 154.093)	S	N	S	N	N	N	N
Accessory Structure or Use	P	P	P	P	P	P	P

Note to Table of Miscellaneous Uses:

²¹ *Earth Filling and Excavation - Erosion control measures shall be placed so as to avoid siltation of neighboring property, streams, brooks, and wetlands. No fill shall be placed*

within twenty (20) feet of neighboring property.

(Ord. Passed 1-3-2013) (**Amended 10-22-2015**)

§ 154.047 SCHEDULE OF DIMENSIONAL REQUIREMENTS

	AF	RA	RB	RC	VC	C	I
1. <u>Minimum Lot Area</u> Septic System Off-lot Sewer or Water Off-lot Sewer and Water	1 acre NA NA	1 acre 1 acre 1 acre	1 acre 1 acre 1 acre	1 acre 20,000 sq. ft. 7,500 sq. ft.	1 acre NA	1 acre 20,000 sq. ft. 10,000 sq. ft.	1 acres N/A 20,000 sq. ft.
2. <u>Frontage</u> Septic System Off-lot Sewer and Water	200 ft NA	150 ft 150 ft	200 ft 200 ft	100 ft 75 ft	100 ft NA	100 ft 100 ft	100 ft 100 ft
3. <u>Front Setback</u> From right-of-way line, where discernible If not discernible	40 ft 68 ft	40 ft 68 ft	40 ft 68 ft	20 ft 46 ft	20 ft 46 ft	20 ft	30 ft
4. <u>Side Setback</u> - From Side lot line	20 ft	20 ft	20 ft	5 ft	10 ft	10 ft	10 ft
5. <u>Rear Setback</u> - From Rear lot line	20 ft	20 ft	20 ft	5 ft	10 ft	10 ft	20 ft
6. <u>Ground Coverage</u> - Maximum % of Lot Area	30%	40%	30% (B)	60%	75%	75%	80% (A)
7. <u>Structure Height Limit</u> Stories Not to Exceed	2-1/2 35 ft	2-1/2 35 ft	2-1/2 35 ft	2-1/2 35 ft	2-1/2 35 ft	3 45 ft	N/A 45 ft

(Ord. Passed 1-3-2013)

PERFORMANCE STANDARDS

§ 154.065 GENERAL APPLICABILITY.

All uses of land, buildings and structures, in the town shall comply with the following regulations, where applicable. Unless otherwise indicated, these regulations pertain to all districts except the Shoreland Zoning District. Uses of land, buildings and structures within the Shoreland Zoning District shall be governed by the provisions and regulations of §§ 154.125 through 154.140, shoreland zoning.

(Ord. passed 1-3-2013)

§ 154.066 ACCESS TO PUBLIC WAYS.

(A) *Required access.* No building permit shall be issued for the construction of any building unless such building lot has the frontage required by this chapter and there is direct legal access to a public way. One of the following conditions must be met:

(1) *Public way.* A way owned and maintained by the State, the County, or the Town of Hermon over which the general public has the right to pass.

(2) *Exception for an approved subdivision street that has not been accepted as a public way.* One building permit may be issued for a lot with frontage on a subdivision street shown on a final subdivision plan which has been approved by the Planning Board as consistent with this chapter, but which has not been accepted as a public way by the Town Council. Under this circumstance, no additional building permits may be issued until the aforementioned subdivision street has been accepted as a public way by the Town Council.

(B) *Access to a public way: permits required.*

(1) *State and state-aid highways.* All access ways connecting to any state or state-aid highway shall meet the minimum access permitting requirements of the Maine Department of Transportation (MDOT) *Highway Driveway and Entrance Rules*. A copy of the MDOT driveway/entrance permit must be submitted as a part of any application for a building permit or development permit.

(2) *Town-owned roads.* A Road Access Permit shall be obtained from the Road Commissioner or his/her designees for any road / driveway connecting to a Town-owned road. A Road Access Permit is required prior to the CEO's issuance of a building permit or a permit for a new use, change of use, or expansion of a use.

(a) Roads shall be located and designed to provide safe ingress and egress, to and from the site, and to minimize conflict with the flow of traffic on the public way.

(b) Issuance of a Road Access Permit does not guarantee the parcel to be a buildable lot.

(c) *Permit fees.* A no-fee permit must be obtained from the CEO before any new or upgraded road access is installed. If the road access installation is done prior to obtaining a permit, an “after the fact” permit is required. The cost of an “after the fact” permit shall be \$20.00. Once the Road Commissioner or his/her designees has given notice that an “after the fact” permit is needed and it is not applied for within 24 hours, the cost of the permit shall double and penalty fees will be applied.

(d) The cost of purchasing and installing the initial road access culvert(s) will be the responsibility of the applicant. More than one road access culvert maybe allowed, if approved by the Road Commissioner or his/her designees. This approval will not be granted unless there are legitimate extenuating circumstances that will justify a second road access.

(e) All installations shall be according to the Town’s specification for culvert installation.

(f) Notwithstanding the other provisions of this chapter the Town will not be responsible for installing, replacing or resetting a road access culvert if the applicant, his agents or assigns, cause the conditions which necessitate that a culvert be installed, replaced or reset. The intent of this section is to place responsibility on the applicant if he causes his own need for work to be performed, and to place responsibility on the Town if environmental or other uncontrollable factors cause the need for work to be performed. By way of example, and not limitation, the applicant would be responsible for repairing and replacing a culvert if he ran over the end of it with a vehicle and closed off the end, or if he paved a large area and directed the run-off toward a culvert that was too small, or realigned the driveway so that the new location may warrant a culvert. The Town would be responsible in such cases as a rusted-out culvert or a culvert that has risen due to frost action.

(g) All culverts shall have a minimum length of 24 feet and a maximum length of 30 feet, unless specific written approval to do otherwise is obtained from the Road Commissioner or his/her designees. This approval will not be granted unless there are legitimate extenuating circumstances that make a different length preferable.

(h) All culverts shall be a minimum of 12 inches in diameter. The Road Commissioner or his/her designees may require a larger diameter culvert be installed if he/she deems it necessary based on circumstances that exist or will exist after the improvements have been completed. All culverts shall be set in gravel of good quality and designed to allow the free flow of water through both ends with a minimum of 9 inches of cover. Both ends of the culvert shall be stabilized and graded to prevent soil erosion as directed by the Road Commissioner or his/her designees.

(i) All materials used to backfill shall be properly compacted in accordance with MDOT specifications.

(j) The permittee shall remove and sweep clean any mud, dirt, silt or any other debris that accumulates on the pavement in the area of the project at the end of each day during installation(s). If damage is done to Town property during the installation, the restoration work is the responsibility of the permittee. The Road Commissioner or his/her designees will notify the permittee in writing what damage was done and what needs to be done for corrective action.

(C) *Commercial and industrial districts.*

(1) *Applicability.* These standards apply to all access ways, other than driveways to single family and two-family dwellings. Further, these standards apply to:

(a) All public or private access ways onto state highways, state-aid highways and town public ways; and

(b) The alteration of existing access ways onto said highways and public ways; and

(c) Changes in use on the property serviced by such access ways.

(2) *State and state-aid highways.* Access ways connecting to any state or state-aid highway shall meet the minimum access permitting requirements of the Maine Department of Transportation *Highway Driveway and Entrance Rules*.

(3) *Large developments.* Access ways that are expected to carry more than 100 passenger car equivalent (PCE) trips in the peak hour shall meet the minimum access permitting requirements of the Maine Department of Transportation *Rules and Regulations Pertaining to Traffic Movement Permits*.

(4) *Subdivisions and site plan review.* Access ways serving Subdivisions and Uses Requiring Site Plan Review shall meet the transportation provisions in § 154.205 through 154.214.

(5) *Design standards.* All access ways shall be located and designed in profile and grading to provide for safe and convenient ingress and egress, to and from the site, and to minimize conflict with the flow of traffic. Access ways shall be designed to adequately accommodate the volume and character of vehicles anticipated to be attracted daily. Provision shall be made for convenient and safe emergency vehicle access to all buildings and structures at all times.

(a) *Multiple frontages.* Where a lot has frontage on two (2) or more streets, the Board may require that road access to the lot be provided across the frontage and to the street where there is less potential for traffic congestion and hazards to traffic and pedestrians.

(b) *Shared access ways.* Shared access ways that connect two (2) or more sites to the public street system shall be encouraged for adjacent sites. Where practicable and to improve safety, the Board may require shared access ways for two (2) or more sites with frontage on Route 2, Cold Brook Road, and Odlin Road.

(c) *Interconnected development.* Where topographic and site conditions allow, the Board may require vehicle and/or pedestrian connections to adjoining lots of similar existing or potential use if it will:

1. Facilitate fire protection services as approved by the Fire Chief; and/or

2. Enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a public street, such as Route 2, Cold Brook Road and Odlin Road.

(d) *Corner lots.* Where a site occupies a corner of two (2) intersecting roads, no access entrance or exit shall be located within fifty (50) feet of the point of tangency of the existing or proposed curb radius of that site.

(e) *Corner obstructions.* No fence, wall, sign, structure, or landscaping shall be placed within the area within twenty (20) feet of an intersection of any two streets in such a manner to materially impede vision between a height of two and one-half (2½) and ten (10) feet above street level.

(f) *Sight distance.* The minimum allowable sight distance for all access entrances/exits onto public streets to the maximum extent possible, shall be as follows:

Allowable Speed (Miles Per Hour)	Sight Distance (Feet)
20	155
25	200
30	250
35	305
40	360
45	425
50	495
55	570
60	645

Note: The Board may require up to 50% greater sight distances when at least 30% of the traffic using the access entrance/exit will be by larger vehicles.

(g) *Angles.* Access ways shall intersect the street at an angle of, or as near to, ninety (90) degrees as site conditions will permit and in no case less than sixty (60) degrees.

(h) *Access widths.* Access entrances and exits shall be designed to be wide enough to adequately accommodate the volume and character of vehicles anticipated. The minimum traveled way width for an access shall be 25 feet. The maximum traveled way width of an access shall be 35 feet. Accesses serving large volumes of daily traffic or traffic of over fifteen (15%) percent truck traffic shall utilize widths at or approaching the maximum width allowed. The Board may require or allow an even wider

access to accommodate higher traffic volumes, larger vehicles, and/or the need for an additional lane but only with the approval from the Road Commissioner or his/her designees.

(i). *Maximum grade.* The grade of the access way shall not be more than 3% for a distance of seventy-five (75) feet from the edge of the pavement of the street intersection.

(j) *Stacking or queuing standards for drive-up businesses.* Stacking or queuing spaces shall be located on-site and shall not be located within the required setbacks. Stacking or queuing spaces shall not interfere with the stall and aisle space requirements as described in the off-street parking and loading.

1. *Banks or other commercial uses.* There shall be a minimum of eight (8) spaces.

2. *Drive-up restaurant or business.* There shall be eleven (11) spaces for the drive-up window, with a minimum of five (5) of these spaces for the ordering station.

(Ord. Passed 1-3-2013) (Amended 10-22-2015)

§ 154.067 AGRICULTURE, ANIMAL HUSBANDRY, LIVESTOCK, AND PETS.

(A) *Manure spreading.* All spreading and/or storage of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on 11-1-2001, and the Nutrient Management Law (7 M.R.S.A. §§ 4201 through 4209).

(B) *Farm buildings.* Farm buildings other than dwellings, shall not be constructed within 75 feet of a neighboring property line.

(C) *Feed lots.*

(1) Feed lots, fenced runs, and similar intensively used facilities, for raising and caring for animals, excluding pastures, shall not be located within 100 feet of a neighboring property line.

(2) Intensive use. **INTENSIVELY USED** shall be the keeping of animals on a plot of land which is used to hold more than the numbers of animals per acre given in this section.

Dairy cattle	1.2 animals/acre
Horses	2 animals/acre
Chickens	141.5 animals/acre
Beef cattle	1.4 animals/acre
Sheep	9.1 animals/acre

Swine

3.7 animals/acre

Acreage shall be calculated based on the area utilized by the animals during the winter, except that no area shall be considered to be smaller than one acre

(D) *Farm stands.* Farm stands for the sale of agricultural products shall conform to the following requirements:

- (1) Farm stands shall be constructed at least 40 feet back from the right of way line.
- (2) Farm stands shall be used exclusively for the sale of agricultural products.
- (3) Signs shall not exceed four square feet of surface area and shall otherwise comply with the provisions of §§ 154.225 through 154.233, signs.
- (4) Farm stands shall be operated on land owned or leased by the vendor.
- (5) Farm stands shall not exceed 200 square feet in size.
- (6) Farm stands shall provide off-street parking entirely on the same parcel as the stand is located or on adjacent parcel leased or owned by the owner/operator. In no instance should parking be separated from the stand by a public way.

(E) *Household pets.* Nothing in this section prohibits the keeping of household pets such as dogs and cats. The keeping of horses, ponies, and other large pets, requires conformance to this section.

(F) *Livestock for home use.* A minimum of two acres shall be provided for the first “head of livestock kept for home use” with an additional acre for each additional head. For purposes of this provision, a head of livestock shall be considered as one of the following: a dairy cow, a beef cow, two horses, 25 fowl, 25 rabbits, or seven sheep or goats. All spreading and/or storage of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on 11-1-2001, and the Nutrient Management Law (7 M.R.S.A. §§ 4201 through 4209).

(G) *Right to farm.* The following provisions shall apply to all land areas in the Agriculture/Forestry and Residential B Districts:

(1) *Agricultural buffers.* Wherever agricultural uses and new development unrelated to the agricultural operations abut, 100-foot wide buffers shall be provided to reduce the exposure of the abutting development to odors, noise, and other potential nuisances related to the agricultural operation. Provision of buffers shall be the responsibility of the proponent of the non-agricultural use. Such buffers may consist of vegetative screening, woodlands, vegetated berms, or natural topographic features.

(2) *Right to farm.* Pursuant to 17 M.R.S.A. § 2805, no method of operation used by a farm or farm operation located in the Agriculture/Forestry District or Residential B District may be considered a violation of this chapter, if the method of operation constitutes a best management

practice as determined by the Maine Department of Agriculture.

(3) *Required disclosure.* In the case of any proposed residential development that abuts agricultural uses, the reviewing entity shall require the applicant to issue a disclosure to potential purchasers of lots or dwelling units as follows: “This property adjoins land used for agricultural purposes. Farmers have the right to apply approved chemical and organic fertilizers, pesticides, and herbicides, and to engage in farm practices which may generate dust, odor, smoke, noise, and vibration.” This disclosure shall be required as a note on a subdivision plan or site plan, and may also be required to be made through other means reasonably calculated to inform a prospective purchaser, such as by posting, distribution of handbills, inclusion in an offering plan or real estate listing information sheet, or letter of notification. This section may also be applied to any commercial development at the discretion of the reviewing authority.

(Ord. passed 1-3-2013)

§ 154.068 AIR POLLUTION, FIRE CONTROL, NOISE AND LIGHTING.

(A) *Atmospheric pollution.* It shall be unlawful for any person to discharge into the atmosphere soot, fly ash, dust, cinders, dirt, oxides, gases, vapors, odors, toxic or radioactive substances, waste, particulate, solid, liquid or gaseous matter or other materials, in such a manner as to constitute atmospheric pollution in excess of the performance standards as established by the Maine Department of Environmental Protection as may be amended from time to time.

(B) *Odor.*

(1) Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be removed, stopped or so modified as to remove the odor. Exception: § 154.067(G).

(2) Tanneries, stock yards, glue factories, oil refineries, soap factories, artificial gas manufacture and similar uses must present detailed plans for elimination of obnoxious odors to the reviewing authority before a building or land use permit is granted.

(C) *Noxious gases.* Detailed plans of any process likely to emit noxious gases must be presented to the reviewing authority providing for the control of such gases or fumes before a building or land use permit is granted.

(D) *Fire and safety hazards.* Only such structures which are constructed in conformity with the “Building Code of the Town of Hermon, Maine.” are permitted.

(E) *Noise and hours of operation.*

(1) All noise shall be muffled so as not to be objectionable due to intermittent, beat frequency or shrillness.

(2) The permitting authority may require documentation of noise levels, if it determines that the proposed development might produce more than ambient levels of noise such that abutting and/or adjacent properties would be adversely affected. If the permitting authority determines there will be

an adverse affect due to the intermittent, beat frequency or shrillness of noise associated with the proposed development, it may limit the development's hours of operation or deny the project. **AMBIENT** meaning the noise that is constantly and spontaneously occurring as "background noise".

(F) *Lighting standards.*

(1) *Purpose.* The purpose of these lighting standards is to ensure appropriate outdoor lighting by addressing the issues of safety, efficiency, the environment and aesthetics. All development approval under this sub chapter shall be provided with adequate outside lighting to ensure a safe environment. All lighting intended to illuminate any outdoor area, or the outside of any building, shall be directed into the property served by such lighting so that no undesirable illumination or glare will be produced on adjacent streets or lots occupied by residential, institutional or public uses.

(2) *Performance standards.* The following standards shall apply:

(a) *Regulations.* Unless determined to be a safety hazard or in violation of any state or federal law, all outdoor lighting shall comply with this section, except for the following: lighting installed and maintained for public safety by municipal, state or federal government; approved signs; external illumination of flags; approved lighting for athletic fields; temporary outdoor lighting; holiday lighting; luminaries with lamp or lamps rated at a total of 2,000 lumens or less.

(b) *Lumen.* For the purposes of this section, a lumen is a unit of lumen's flux. One foot-candle is equal to one lumen per square foot. The lumen-output values shall be the initial lumen output ratings of a lamp.

1. No luminaries shall produce a stray, dazzling light or reflection onto neighboring residential properties, or onto any public road so as to impair the vision of any driver.

2. Luminaries shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent buildings. No luminaries shall emit any direct light above its horizontal plane. The Planning Board may grant exceptions for lights that are aesthetically consistent with decorative streetlights and located on parcels adjacent to such streetlights.

3. No flood or spot luminaire of any lumen output rating shall be aimed, directed or focused toward any adjacent or nearby residential parcel.

4. Rather than leaving security lights on, the use of motion sensors is encouraged.

5. Direct or indirect illumination shall not exceed one-half foot-candle upon abutting residential properties.

6. Luminaire height, including the base, shall not exceed 25 feet. Exceptions may be granted only when it can be demonstrated that the intent of this section will still be substantially met.

(c) *Existing nonconforming luminaires.*

1. The continued use of nonconforming luminaires legally existing as of the effective date of this section shall be permitted unless determined to be a safety hazard.

2. Nonconforming luminaires replaced or moved after the effective date of this section shall

comply with the provisions of this section.

(Ord. passed 1-3-2013)

§ 154.069 AIRPORT FLIGHT PATH.

Notwithstanding any other provisions of this section, no use may be made of land or water in such a manner as to create electrical interference with navigational signals or radio communication between Bangor International Airport and aircraft, make it difficult for pilots to distinguish between airport lights and other, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

(Ord. passed 1-3-2013)

§ 154.070 ARCHAEOLOGICAL AND HISTORIC SITES.

(A) Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the CEO or Planning Board, shall be submitted by the applicant to the Maine Historic Preservation Commission (MHPC) for review and comment, at least 20 days prior to action being taken by the CEO or Planning Board. The CEO or Planning Board shall consider comments received from the MHPC prior to rendering a decision on the application and shall require that archaeological sites and historic places be protected to the maximum extent possible in accordance with the MHPC's recommendations. As used in this section, the term **ELIGIBLE** shall mean an application having been filed with the relevant state or federal agency.

(B) *Subdivision and site plan review requirement.* For sites identified in the 2010 comprehensive plan as having a potential for historic and archaeological resources, subdivision and non-residential property developers must look for and identify any historic or archaeological resources, and take appropriate measures to protect those resources, including but not limited to, modification of proposed site design, construction timing, and/or extent of excavation.

(Ord. passed 1-3-2013)

§ 154.071 CAMPGROUNDS.

Campgrounds shall be allowed in those districts specified by this chapter. Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and to the following provisions. Campgrounds within the Shoreland Zoning Districts shall comply with §§ 154.125 through 154.140 below.

(A) *Definitions.*

(1) A **CAMPGROUND** shall mean land upon which one or more tents are erected or recreational

vehicles are parked for temporary dwelling use on sites arranged specifically for that purpose, and for the use of which sites a fee is charged.

(2) A **RECREATIONAL VEHICLE** shall mean travel trailer, camping trailer, and motor home.

(3) A **RECREATIONAL VEHICLE SITE** shall mean a parcel of land for the placement of a single recreational vehicle.

(4) A **TENT SITE** shall mean a parcel of land for the placement of a single tent.

(B) *General.*

(1) Campgrounds shall provide water and sewer systems, sanitation stations, and convenience facilities in accordance with the regulations set for by the Maine Department of Human Services and the town.

(2) Campgrounds shall contain a minimum of two thousand square feet (not including roads and driveways) for each recreation vehicle site outside of the Shoreland Zoning Districts.

(3) Recreational vehicles, tent sites, utility buildings, and service buildings outside the shoreland districts shall be set back a minimum of 25 feet from any park boundary line abutting upon a public street or highway and at least a minimum of 25feet from any other park or area property lines lot lines.

(4) All campgrounds shall be completely screened from adjacent land and public roads by a vegetative buffer area of not less than 25 feet in width and not less than six feet in height, except that safe visual clearances shall be provided at each entrance to and exit from the campground.

(5) All campgrounds shall be set back at least 1,000 feet from any Residential A District.

(6) Vegetative buffer shall consist of conifers trees such as pine, spruce, and fir.

(7) A minimum of 300 feet of off-street parking space shall be provided for each recreational site.

(8) No less than 20 and no more than 450 campsites in any one campground.

(9) No travel trailer, camper, self-contained vehicles, or similar vehicles shall be used as a permanent place or abode, dwelling or business for indefinite periods of time. Continuous occupancy extending beyond four months in any 12-month period shall be presumed to be permanent occupancy. Further, the duration of stay during October 1 to April 30 shall be limited to a total of 30 days for any individual or unit, and then only if the campground can furnish sewer and water on site during this period as required by the State of Maine Subsurface Wastewater Disposal Rules.

(Ord. passed 1-3-2013)

§ 154.072 COMMUNICATIONS FACILITIES.

(A) New or expanded communications facilities shall be setback 105% of the structure's height from all property lines and setback 500 feet from any public road right of way. In the Industrial

District, the setback will be reduced to 105% of its height from all property lines. All setbacks shall be measured from the base of the communications tower associated with the facility to the property lines and road right of way lines. Exception: Guy anchors, guy wires, and structures other than towers and antennas associated with the facility must only meet the setbacks listed in § 154.047, schedule of dimensional requirements, above.

(B) Maximum height limits shall be as follows:

Agriculture and Forestry District

Self-supporting and guyed	199
towers =	feet

Commercial and Industrial District

Self-supporting and guyed	500
towers =	feet

(C) A new communications facility must provide evidence that the applicant has made diligent good faith efforts to negotiate co-location on an existing facility, building, or structure, and had been denied access.

(D) A new communications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.

(E) A new communications facility must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements. However, security lighting may be used as long as it is shielded to be down directional to retain light within the boundaries of the site.

(F) A new communications facility must be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.

(G) A new communications facility must comply with the current Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled *Structural Standards for Steel Antenna Towers and Antenna Supporting Structures*.

(H) The proposed communications facility will have no unreasonable adverse impact upon designated scenic resources within the town, as identified either in the municipally adopted comprehensive plan, or by a state or federal agency. In determining the potential unreasonable adverse impact of the proposed facility upon the designated scenic resources, the Planning Board shall consider the following factors:

(1) The extent to which the proposed communications facility is visible above tree line, from the viewpoint(s) of the impacted designated scenic resource;

(2) The type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;

(3) The extent to which the proposed communications facility would be visible from the viewpoint(s);

(4) The amount of vegetative screening;

(5) The distance of the proposed facility from the viewpoint and the facility's location within the designated scenic resource; and

(6) The presence of reasonable alternatives that allow the facility to function consistently with its purpose.

(I) A communications facility that is not operated for a continuous period of 12 months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing and order the removal of the facility within 90 days of receipt of the written notice. The owner of the facility shall have 30 days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned. If the owner fails to show that the facility is in active operation, the owner shall have 60 days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation. If a surety has been given to the municipality for removal of the facility, the owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.

(Ord. passed 1-3-2013)

§ 154.073 CORNER CLEARANCE; CORNER OBSTRUCTIONS.

No fence, wall, sign, structure, or landscaping shall be placed within the area within 20 feet of an intersection of any two public streets in such a manner to materially impede vision between a height of two and one-half feet and ten feet above street level.

(Ord. passed 1-3-2013)

§ 154.074 DAY CARE: HOME DAY CARE/ADULT DAY CARE/CHILD/ADULT DAY CARE CENTER.

(A) *Home day care.* (To be located in a residential dwelling or accessory structure): a permit to operate a home day care in the AF, RA, RB, VC, RC Districts shall be issued by the CEO, provided that:

(1) All required state licensing to operate an home day care facility is obtained or a letter from the Department of Human Services stating that no license or inspections are needed.

(2) Off-street parking space is provided for drop-off and picking up of clients. A designated parking space is provided for each employee. A residential driveway is acceptable for this purpose so long as it does not interfere with temporary parking for client drop-off or pick-up.

(3) Signage must conform to the zoning district.

(4) No structured area for active play shall be located in the front yard.

(5) Outside play/activity areas shall be fenced in with appropriate fence similar to chain link or picket, with a minimum height of four feet. Appropriate fencing shall be used where needed to shield neighboring property from sight and noise.

(6) A ratio of client to care provider(s) shall in no case exceed state registration or licensing provisions.

(7) All facilities shall be reviewed by an officer of the Town Fire Department.

(8) Fire egress/escape plans shall be posted in all interior spaces occupied by the facility.

(9) Proof of notifications to all abutting property owners of the plan by the applicant to operate a home day care facility.

(10) Hours of operations shall be limited to those hours between 6:00 a.m. and 8:00 p.m.

(B) *Adult day care.* (Located in a residential dwelling or accessory structure only): a permit to operate an adult day care facility shall be issued by the Town Planning Board provided that:

(1) All required state licensing to operate an adult day care facility is obtained or a letter from the Department of Human Services stating that no license or inspections are needed.

(2) Proof of notifications to all abutting property owners of the plan by the applicant to operate an adult day care facility.

(3) Hours of operations shall be limited to those hours between 6:00 a.m. and 8:00 p.m.

(4) All facilities shall be reviewed by an officer of the Town Fire Department.

(5) Fire egress/escape plans shall be posted in all interior spaces occupied by the facility and shall be reviewed on a monthly basis.

(6) Signage must conform to the zoning district.

(7) Off-street parking space is provided for drop-off and picking up of clients. A designated parking space is provided for each employee. A residential driveway is acceptable for this purpose so long as it does not interfere with temporary parking for client drop-off or pick-up.

(8) Outside play/activity areas shall be fenced in with appropriate fence, similar to chain link or picket, with a minimum height of four feet. Appropriate fencing shall be used where needed to shield neighboring property from sight and noise.

(C) *Child/adult day care center.* (Village Commercial, Commercial or Industrial areas only): a permit to operate a child day care center or adult day care center shall be issued by the Town Planning Board, provided that: (Note: child day care centers are encouraged in existing residences in the Industrial Districts.)

(1) Copy of the approved state licensing to operate a child/adult day care center is provided or a letter from the Department of Human Services stating that no license or inspections are needed.

(2) All applications for a child/adult day care center shall provide a site plan showing buildings and outside play areas.

(3) All existing or new structures housing a child or adult day care center shall meet building, sanitation, traffic safety and fire safety requirements.

(4) All facilities shall be reviewed by an officer of the Town Fire Department.

(5) Fire egress/escape plans shall be posted in all interior spaces occupied by the facility and shall be reviewed on a monthly basis.

(6) Hours of operations shall be limited to those hours between 6:00 a.m. and 8:00 p.m.

(7) Signage must conform to the zoning district.

(8) Off-street parking space is provided for drop-off and picking up of clients. A designated parking space is provided for each employee. A residential driveway is acceptable for this purpose so long as it does not interfere with temporary parking for client drop-off or pick-up.

(9) Outside play/activity areas shall be fenced in with appropriate fence, similar to chain link or picket, with a minimum height of four feet. Appropriate fencing shall be used where needed to shield neighboring property from sight and noise.

(10) Proof of notifications to all abutting property owners of the plan by the applicant to operate A child/adult day care center.

(Ord. passed 1-3-2013)

§ 154.075 EARTH-MOVING ACTIVITY.

(A) *Permit required.* With the exception of the Shoreland Zone, in all districts, the removal in one year of topsoil, rock, minerals, sand, gravel, and similar earth materials, from or to a location, requires a permit as shown in § 154.046(E), schedule of land uses. However, such permit for earth-moving activity is not necessary if the removal of earth is incidental to construction, alteration, or repair of a building, or the removal, transfer or filling of earth material is incidental to construction, alteration, or repair of any public way, private way, or essential services. Examples of incidental activity include, but are not limited to, digging a foundation, grading for a driveway, and stockpiling of topsoil. See §§ 154.125 through 154.140 for earth-moving in the Shoreland Zone.

(B) *Standards.* Upon being shown plans for such activity, the Planning Board shall issue a permit, where required, provided that the proposed activity meets the following standards:

(1) Specific plans are established to avoid hazards from excessive slopes or standing water. Where an embankment must be left upon completion of operations, it shall be at a slope not steeper than one unit vertical to two units horizontal.

(2) Screening and other landscaping methods are used so as to protect surrounding property from dust, air pollutants, noise and other disturbances.

(3) No below-grade excavation except for drainage ways shall be allowed within 100 feet of any lot line or public way.

(4) A temporary ground cover (mulch) shall be used and a permanent ground cover (e.g. grass) shall be sowed as soon as practical.

(C) *Bond or other security.* The Planning Board shall request a bond or other security to insure that the property is left in a safe and environmentally sound condition and to insure compliance with any conditions imposed in issuing the permit. The Planning Board shall require a bond for earth moving activities in, on or over the town's sand and gravel aquifers, as identified in the town comprehensive plan, 2010, which lie along the Souadabscook Stream. In determining the amount of such bond or security, the Planning Board shall consider the amount necessary to rehabilitate the property upon breach of condition or other default by the operator of the earth-moving activity.

(D) *Permit expiration.* A permit shall be valid for a period of three years from the date of issuance. Such permit may be renewed for additional periods in the same manner.

(E) *Existing operations.* Any earth-moving activity in lawful operation at the time this chapter becomes effective, may operate for a period of three years from the effective date. Continuation of such existing operation for more than three years shall require a permit. Discontinuance of any existing operation for a period of more than one year shall require application for and issuance of a new permit.

(Ord. passed 1-3-2013)

§ 154.076 ELDER LIVING QUARTERS (ELQ).

(A) *General.* Elder Living Quarters (ELQ) shall be established in conformance with the provisions of this chapter and the building code for the town, as amended.

(B) *Plan review required.* ELQ shall only be constructed/located with a plan review permit approved by the CEO, as follows:

(1) A plan review permit for an ELQ shall be issued in the name of the owner(s) of the property.

(2) A plan review permit for ELQ shall be valid for a period of one year.

(3) A plan review permit shall be automatically renewed for an additional one-year period upon presentation of an inspection report from the CEO documenting that the use continues to be in conformance with the terms, conditions and restrictions of the original plan approval.

(4) A plan review permit for ELQ shall automatically expire upon the death of the

parent(s)/grandparent(s) or elderly kin or if they are not occupying the unit for 12 months.

(C) *Plan review criteria.* Any application for ELQ shall include a plan showing the following:

- (1) Lot boundaries and dimensions at scale;
- (2) Zoning district;
- (3) Date of plan;
- (4) Property owner(s) with deed reference;
- (5) Lot area;
- (6) Location and setback of all buildings;
- (7) Rights of way, public and private;
- (8) All easements;
- (9) Street names;
- (10) Sewerage facilities (including design of existing subsurface wastewater disposal system, if applicable);
- (11) Off-street parking spaces.

(D) *Building plan.* Any application for ELQ shall include a building plan showing the following:

- (1) Separate floor layout of all finished levels;
- (2) All plumbing facilities, kind and location;
- (3) Use of all rooms;
- (4) All entrances/exits;
- (5) All partitions, temporary or permanent;
- (6) Location and type of all appliances; and
- (7) Parking area.

(E) *Sanitary provisions.* Any request for ELQ shall conform to all provisions of the Maine State Plumbing Code, and no dwelling that is served by an on-site subsurface wastewater disposal system shall be modified to create ELQ until a site evaluation has been conducted by a licensed site evaluator which demonstrates that a new system can be installed to meet the disposal needs of both dwelling units.

(F) *Floor area.* There shall be no minimum gross floor area for ELQ contained in the main dwelling unit. The minimum size of an ELQ which is not a mobile home shall be 750 square feet, but shall not exceed 50% of the floor area of the main dwelling unit. Floor area measurements shall not include an unfinished attic, basement or cellar spaces.

(G) *Mobile homes.* Placement of a Mobile Home for ELQ needs plan approval from Planning Board in the RB, RC, VC Districts. ELQ which are mobile homes shall be removed from the lot upon expiration of plan approval.

(H) *Rental prohibition.* ELQ shall not be rented, leased or otherwise occupied by anyone other than the parent(s)/grandparent(s) or elderly kin of the owner(s). Exception: ELQ may be occupied by one adult, handicapped child of the owner(s) and one personal attendant of the handicapped individual.

(I) *Space within dwelling.* ELQ within the existing principal dwelling shall be converted to additional living space or to another use in accordance with the provisions of this chapter upon expiration of plan approval.

(J) *Space within accessory building.* ELQ within an accessory structure may be converted to another use in accordance with the provisions of this chapter and the building code.

(Ord. passed 1-3-2013)

§ 154.077 EROSION AND SEDIMENTATION CONTROL.

All site alterations must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Natural vegetation must be preserved and protected wherever possible. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the best management practices of the *Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices* by the Cumberland County Soil and Water Conservation District, most recent edition.

(Ord. passed 1-3-2013)

§ 154.078 HAZARDOUS, SPECIAL, AND RADIOACTIVE MATERIALS.

The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be done in accordance with the standards of these agencies. No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least 75 feet from any lot line, or 40 feet in the case of underground storage. All materials must be stored in a manner and location which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

(Ord. passed 1-3-2013)

§ 154.079 HEIGHT REGULATIONS.

The following uses are exempt from height regulations, providing that the excess height will not

present a hazard to air traffic or otherwise violate state or federal regulations of air space: farm buildings, outdoor movie screens, television or radio towers (except as provided in § 154.072), small wind energy systems, church spires, belfries, monuments, water and fire towers, stage towers and scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks and flagpoles, structures necessary for essential services. If any of the listed structures is to be located on a roof at a height in excess of that permitted in the applicable district, it shall be authorized only if the structure is not more than 10% of the total roof area, and is set back from the nearest lot line or right of way line, at least one foot for each foot of excess height.

(Ord. passed 1-3-2013)

§ 154.080 HOME OCCUPATIONS.

(A) *Accessory nature.* Home occupations shall be accessory and incidental to a dwelling and shall include, but are not limited to, art studios, beauty shops, dressmaking, teaching, or professional offices such as that of a physician, dentist, lawyer, engineer, architect, or accountant, or small home businesses, which may involve the sale, crafting, or other creation of goods or products on the premises, or home vocations which involve the application of a trade or skill, such as a mechanic. Home occupations which exceed the limitations of this section shall be considered retail or service businesses, and shall be subject to the permit requirements for those types of land uses.

(B) *Home occupation 1: within residence or accessory structure.*

(1) The home occupation shall be carried on wholly within the dwelling or garage.

(2) The home occupation shall be carried on only by a member or members of the family residing in the dwelling unit, provided that an office in the home may employ persons who are not members of the family residing in the dwelling, provided the maximum number of employees, including all family members employed in the business, does not exceed five.

(3) There shall be no exterior display, no exterior sign except as expressly permitted by district regulations of this chapter or as required by state law (such as a motor vehicle inspection sign), no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.

(4) Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, light, or activity outside the hours of 7:00 a.m. through 9:00 p.m., shall not be permitted.

(5) In addition to the off-street parking required to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of users which the home occupation may attract during peak operating hours, provided that such parking areas shall be located a minimum of 25 feet from the property lines.

(6) There shall be no trans-shipment of goods or products to or from the premises. Mail order businesses employing off-site drop shipment are permitted as home occupations within a residence.

(7) The home occupation shall not utilize more than 40% of the gross floor area of the dwelling unit itself. An unfinished basement floor area shall not be included in the calculation of the gross floor

area.

(C) *Home occupation 2: outside residence (except for residence-based service business).* The provisions of this division shall apply to home occupations outside the residence other than residence-based service businesses and to home occupations within a residence that do not otherwise meet the provisions of divisions (B) or (E).

(1) The home occupation shall be carried on only by a member or members of the family residing in the dwelling unit and up to five employees who are not members of the family residing in the dwelling unit.

(2) There shall be no exterior display or sign except those expressly permitted by district regulations of this chapter or as required by state law.

(3) Exterior storage of materials shall occupy no larger than 10,000 square feet of land area and such land area shall be at least 100 feet from any residential dwelling unit other than that of the owner of the facility.

(4) Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, lights, or activity outside the hours of 7:00 a.m. to 9:00 p.m., shall not be permitted. The operation or testing of machinery and engines in other than enclosed buildings, including but not limited to saws, splitters, snowmobiles, all-terrain vehicles and other motor vehicles, shall be at least 500 feet from any residential dwelling unit other than that of the owner of the facility, and shall take place between the hours of 7:00 a.m. and 9:00 p.m.

(5) In addition to the off-street parking required to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of users which the home occupation may attract during peak operating hours, provided that such parking areas shall be located a minimum of 25 feet from the property lines.

(6) Home occupations outside the residence shall occur wholly within accessory structures located on the premises. Such accessory structure shall not exceed 100% of the gross floor area of the dwelling unit itself.

(D) *Waiver of employment limitation.* The Planning Board may waive the employment limitations contained in divisions (B) and (C) when it determines that a home occupation is temporary and seasonal in nature, based on the following standards and provisions:

(1) The proposed home occupation meets the provisions of this section exclusive of the employment limitation.

(2) The proposed home occupation is a seasonally-determined activity which is conducted no more than thirty consecutive calendar days in any one year. The seasons shall be commonly recognized periods based on natural or cultural recurrences.

(3) The proposed home occupation would not employ more than ten persons.

(4) The proposed home occupation does not entail over-the counter or customer pick-up sales conducted on the premises.

(E) *Home occupation 3: residence-based service business.*

(1) *Definitions.* **RESIDENCE-BASED SERVICE BUSINESSES** shall be certain limited business uses of residential premises which do not significantly detract from the residential character and tranquility of the surrounding area, provided they are regulated. This section addresses service businesses based at a residence, where the services are performed off the premises, and instances where the resident is employed by a service business and wishes to keep certain business vehicles or equipment at his personal residence for convenience. The business use is clearly secondary and incidental to the primarily residential use of the property.

(2) *Examples.* Examples of the types of service businesses covered by this section are as follows:

- (a) Excavation services;
- (b) Well drilling services;
- (c) Painting and other contractors;
- (d) Oil burner services;
- (e) Oil or propane delivery services;
- (f) Independent truckers;
- (g) Snowplowing services;
- (h) Boom truck and crane services;
- (i) Automotive towing/wrecker services;
- (j) Paving services; and
- (k) Service businesses similar in operation to those listed above.

(3) *Standards.* Such residence-based service businesses are subject to the following conditions and limitations:

(a) *Primary occupation.* The business serves as the primary occupation of the resident or a member of the resident's household.

(b) *Resident-based.* The business is owned and/or operated by a town resident out of the property on which he or she resides.

(c) *Inspection sticker.* All business vehicles must have a current inspection sticker and be registered, if required.

(d) *Allowable vehicles.* The number of business vehicles permitted on a lot shall be determined as follows:

Lot Size Maximum # of Vehicles

1 Acre or less - 2 vehicles

2 Acres - 6 vehicles

More than 2 Acres - 3 vehicles per acre

(e) *Off-street parking.* A provision for off-street parking must be made for personal vehicles of employees of the business which complies with this section.

(f) *Screening.* The parking areas for business vehicles must be screened from the view of all side and rear abutting properties, and must meet the setback otherwise required of structures. Screening shall consist of opaque vegetation (evergreens, shrubs, etc.) or fencing, to a height of at least eight feet, and must be on the property of the applicant.

(g) *Sale prohibitions.* The business activity may not include sale at wholesale or retail to customers on the premises, delivery on the premises to customers of items sold or leased, or drop-off or pick-up of any items or goods by customers at the premises.

(h) *Outside storage.* The outside storage of materials is not permitted where it would be visible to abutters' homes or traveled roads.

(i) *Allowable sign.* One business sign may be maintained on the premises, not larger than would be allowed otherwise in the zone.

(j) *Review authority oversight.* The reviewing authority shall determine whether a particular business use conforms to this section. It may impose in individual cases additional reasonable conditions, limitations, protective measures and prohibitions regarding hours of operation, screening, traffic, noise, smells, smoke, presence or use of hazardous, toxic, flammable or explosive substances, number or type of business vehicles, or other business activity, and other matters directly relating to the business use of the residential premises or its impact upon the surrounding area (which are impossible to predict, quantify and catalogue exhaustively in this chapter), as it may deem necessary to preserve the residential character of the immediate area and to avoid negative impact of, or risk from, the business operations upon neighboring properties and residents.

(4) *Non-conformance.* Any uses falling within division (E) which were in active existence on the effective date of this chapter shall be considered preexisting nonconforming uses, but only to the extent of the actual active pursuit of the use (in numbers of employees, vehicles, types of use, etc.). Any subsequent change or diminution of such use will result in the partial or total loss of such "grandfathered" status, and such use may not thereafter be revived without approval under this section. In addition, the provisions relating to nonconforming uses which are no less stringent than those set forth in this section shall apply to such uses.

(Ord. passed 1-3-2013)

§ 154.081 LANDSCAPING.

(A) *General landscaping.* Property zoned Commercial, Village Commercial, or industrial and all uses subject to site plan review shall provide for a variety and mixture of landscaping.

Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties. The variety shall be based on a consideration of susceptibility to disease, hardiness for specific site location, colors, seasons, textures, shapes, sizes, blossoms and foliage. Planted vegetation shall take the form of shade trees, deciduous shrubs, evergreen, ground cover, perennial and/or annual flower beds and well kept grassed areas and be approved by the Planning Board. The landscape plan must include a description of how the landscaping will be maintained and preserved in good condition.

(B) *Vegetation standards.*

(1) At least one shade tree at least five feet in height and at least one inch in diameter, shall be planted in each 1,000 square feet of required landscaped area; and at least one deciduous shrub or evergreen at least 18 inches above finished grade level, shall be planted for each 500 square feet of required landscaped area.

(2) A total of 25% of non-impervious surfaces must be landscaped with trees, shrubs, ground covers (including grasses) and/or flowers. All non-impervious surfaces must be covered with living plant material.

(3) Primarily wooded property shall be required to landscape 25% of any cleared non-impervious surfaces.

(4) Landscaping may be waived by the Planning Board for fire, security or safety reasons upon a showing by the applicant of the need for such waivers.

(Ord. passed 1-3-2013)

§ 154.082 MANUFACTURED HOUSING/MOBILE HOMES ON INDIVIDUAL UNITS.

(A) *Older mobile homes.*

(1) *Nonconforming structures.* Older mobile homes, defined as mobile homes built prior to 6-15-1976, which were legally existing in the town as of 8-4-1988, shall be considered nonconforming structures and may continue and may be maintained, repaired, improved, and expanded. Legally nonconforming older mobile homes may also be relocated from one lot to another within a mobile home park, from one mobile home park in the town to another mobile home park in the town, from an individual lot in the town to a mobile home park.

(2) *Importation of older mobile homes.* Older mobile homes shall not be relocated into the town.

(3) *Permit required.* A building permit shall be obtained prior to moving an older mobile home from one individual lot to another individual lot or from a mobile home park to an individual lot.

(4) *Alteration of older mobile homes.* No person shall remove any structural component from under the older mobile home, such that it might weaken its structural integrity unless the older mobile home is to be set on a permanent foundation that shall adequately support the older mobile home in such a way as to maintain its structural integrity.

(B) *Manufactured housing/newer mobile homes; placement on individual lots.* A manufactured housing unit meeting the following standards may be placed on any residential lot in the AF, RA, RB and RC Districts:

- (1) Minimum horizontal dimension: 14 feet (24 feet in RA zone);
- (2) Living space: at least 750 square feet;
- (3) Roof: a pitched, shingled roof as defined in 30-A M.R.S.A. § 4358.1.E;
- (4) Construction: meets standards of the U.S. Department of Housing and Urban Development;
- (5) Siding: residential in appearance;
- (6) Foundation: Any foundation system allowed by the state's *Manufactured Housing Installation Standards*, 1991, as amended, with properly attached and residential appearing skirting, or a full basement.

(C) *Construction sites.* The Code Enforcement Officer may issue a special permit for use of a mobile home for a temporary office for the length of the project period in districts where offices are permitted or on construction sites anywhere in the town.

(D) *Placement in a mobile home park.* The following types of manufactured housing may be placed in an approved mobile home park:

- (1) Newer mobile homes;
- (2) Modular homes;
- (3) Older mobile homes which meet the safety standards as set forth in division (F) below and the following:
 - (a) Are at least 12 feet in width;
 - (b) Have a minimum of 720 square feet of living area;
 - (c) Have a roof which sheds snow (minimum pitch 4/12); and
 - (d) Have residential siding.

(E) *Travel trailers.* A travel trailer shall in no case be used as a mobile home and any travel trailer in use as a temporary dwelling (i.e. not more than three months) shall have adequate health and sanitation facilities provided. A travel trailer while not in use may be stored on the premises of the owner.

(F) *Safety standards for older mobile homes.* A mobile home which was constructed prior to 6-15-1976, or which was not built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 shall not be relocated to a mobile home park or individual lot in the town unless the CEO certifies that the unit complies with safety standards contained in Rule 02-385, Department of Professional and Financial Regulation, Manufactured Housing Board.

(Ord. passed 1-3-2013)

§ 154.083 MEDICAL MARIJUANA CULTIVATION AND PROCESSING FACILITY

- (A) All medical marijuana cultivation and/or processing must be conducted in a non-transparent secured building.
- (B) The security measures to be employed at the premises shall include, but are not limited to: lighting; alarms; camera; armed security personnel on premises 24 hours a day, seven days a week; and automatic law enforcement notification.
- (C) Security surveillance shall, at a minimum, include security surveillance cameras installed and operated 24 hours seven days a week to monitor all entrances, along with interior and exterior of the premises to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises. All security recordings shall be preserved for at least one week by the management of the facility.
- (D) Applicants shall describe how the cultivated and /or processed medical marijuana will be safely and securely transported to the distribution facility and or qualified patients.
- (E) On-site display or sale of paraphernalia employed in the consumption of medical marijunan shall not be allowed at the cultivation and/or processing facility.
- (F)-All medical marijuana cultivation and/or processing facility shall maintain a setback of 150' from the side and rear property lines of the industrial district where they are permitted.
- G) All signage and advertising for a medical marijuana cultivation and/or processing facility shall comply with §§ 154.225 through 1554.231, signage;
- (H) A medical marijuana cultivation and/or processing facility must be served by municipal water and sewer and facility shall not rely on non-municipal water supply or wasterwater;
- (I) Planning Board may place restrictions on outside storage of material and equipment.

[\(Ord passed...\)](#)

§154-184 MOBILE HOME PARKS.

The following provisions shall apply to all development proposals for new construction of mobile home parks and to any expansion of existing mobile home parks.

(A) *Site plan required.*

(1) An approved mobile home park plan shall be necessary under the site plan review provisions of this chapter, prior to the establishment or expansion of a mobile home park.

(2) An approved mobile home park plan shall not exempt an applicant from meeting other applicable local, state, or federal requirements.

(3) Mobile home park construction shall be completed within 48 months from the approval date of the plan. If construction is incomplete after 48 months and the mobile home park operator desires

to continue construction, the applicant must re-submit a plan for Planning Board approval.

(B) *General.*

(1) A mobile home park shall consist of a single parcel of land.

(2) At least three mobile home lots shall be established and provided with utilities before mobile home park occupancy is allowed.

(C) *Access.* A mobile home park shall have safe and convenient vehicular access to and from public streets.

(D) *Lot size.*

(1) Notwithstanding other requirements of this chapter, lots shall meet the following requirements:

	<i>Minimum Lot Size (Sq. Ft.)</i>	<i>Minimum Frontage (Feet)</i>
Lots served by public sewer	6,500	50
Lots served by individual subsurface wastewater disposal systems	20,000	100
Lots served by one or more centralized subsurface waste disposal systems serving two or more dwelling units and approved by the Maine Department of Human Services	12,000	75

(2) *Shoreland area.* Mobile home park lots located within any designated shoreland area shall meet the lot area, lot width, and shore frontage requirements of the district in which it is located.

(E) *Overall density.* The overall density of any park served by any on-site wastewater disposal system shall not exceed one dwelling unit for each 20,000 square feet of total park area. The total area of a mobile home park shall not be less than the sum of the following:

(1) The combined area of the mobile home park lots which shall each meet the minimum lot requirements;

(2) The area required for road rights-of-way;

(3) The area required for buffer strips;

(4) For parks served by public sewer, a minimum of open space area equal to 10% of the combined area of the lots; and

(5) The area within the shoreland setback.

(F) *Setbacks.*

(1) Minimum setback distances for structures shall be as follows:

<i>Location</i>	<i>Setback</i>
Street right-of-way	25 feet (7.62 meters)
Side lot line	10 feet (3.05 meters)
Rear lot line	10 feet (3.05 meters)

(2) Structures shall be setback a minimum of 40 feet (14.02 meters) from mobile home park boundary lines.

(G) *Placement of units on lots.*

(1) *Mobile home lots.* All mobile homes shall be placed upon mobile home park lots. The bounds of each lot shall be clearly marked with permanent corner pins for each lot, and the lot shall be well surfaced or seeded to provide adequate drainage beneath and adjacent to any manufactured housing units parked thereon.

(2) *Mobile home pad.* Each mobile home shall be set upon a mobile home pad consisting of at least a 12-inch (30.48 centimeters) thickness of gravel base material. Concrete or other durable pads approved by the Planning Board may be used. The width and length of the mobile home pad shall conform to those dimensions of the mobile home placed upon it.

(3) *Skirting.* The vertical space from the mobile home pad to the mobile home frame shall be enclosed with a durable material, installed in a neat workmanship like manner within 30 days after the mobile home is set in place. The material requires approval of the mobile home park operator and the Code Enforcement Officer of the town.

(4) *Utility building.* Each occupied home lot shall be provided with a utility building within 30 days after the mobile home is set in place. The minimum size of the utility building shall be eight feet (2.44 meters) square. The utility building shall be stable and attractive. This utility building requires the approval of the mobile home park operator and the Code Enforcement Officer of the town.

(5) *Refuse.* Each occupied mobile home lot shall have access to a water-tight, insect-proof and animal-proof enclosure for storage of refuse. Unless otherwise provided in division (G)(5)(a) below, this refuse storage enclosure shall be a separate structure from the utility building designed in division (N)(4) below. The responsibility of providing the refuse storage enclosure shall be that of the mobile home park operator prior to the installation of a mobile home.

(a) A single structure, if built by the operator of the mobile home park, shall satisfy the

requirements of this section, provided it is of sufficient size and design to meet the purposes of those provisions.

(b) The refuse storage enclosure required herein, unless it is combined with the utility building as provided in division (N)(4) below, need not be on the same lot as the mobile home.

(6) *Grading and drainage.* Every lot used in a mobile home park shall be properly graded and drained for disposal of surface and storm water.

(H) *Landscaping.*

(1) Mobile home pads shall be oriented in regard to natural features where practical.

(2) Wooded areas and individual trees shall be preserved where practical.

(3) Vegetative cover such as grass shall be provided for land area not paved, graveled, or occupied by a structure.

(4) Other planting shall be established to create an attractive setting for mobile homes, promote privacy, minimize glare, and provide shade.

(I) *Ground water.*

(1) *Impact assessment.* All mobile home parks utilizing on-site waste water disposal systems shall provide an assessment of the impacts of the park's development on ground water quality. The assessment shall be prepared by a certified geologist or registered professional engineer skilled in ground water assessment and shall include the following:

(a) A map showing the basic soil types.

(b) The depth to the water table at representative points throughout the mobile home park.

(c) Current drainage patterns and conditions throughout the proposed mobile home park.

(d) Proposed drainage patterns and conditions throughout the mobile home park after development.

(e) Data on the existing ground water quality, either from test wells on-site or from existing wells on abutting properties. (The need for test wells on-site shall be determined by the Planning Board prior to acceptance of the preliminary plan.)

(f) An analysis and evaluation of the effect of the proposed mobile home park on available ground water resources. The evaluation shall, at a minimum, include a projection of post-development nitrate-nitrite-nitrogen concentrations at all wells within the mobile home park, at the mobile home park boundaries and at a distance of 1,000 feet from potential contamination sources. For mobile home parks within the watershed of a lake, projections of the development's impact on ground water phosphate concentrations shall also be provided.

(g) In addition, a map shall be provided showing the location of any subsurface waste water disposal systems and drinking water wells within the mobile home park and within 200 feet of the mobile home park boundaries.

(2) *Standards.*

(a) Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

(b) No mobile home park shall increase any contaminant concentration in the ground water to more than one half of the primary drinking water standards.

(c) No mobile home park may be approved for which the ground water assessment plan shows the potential for an increase of any contaminant concentration in the ground water to more than the secondary drinking water standards.

(d) All mobile home parks which utilize on-site ground water supplies for all or part of the domestic portable water supply shall be provided demonstrable evidence of satisfactory treatment of the ground water if:

1. The ground water contains contaminants in excess of the primary standards; or
2. The ground water contains contaminants in excess of the secondary standards, the mobile home park shall not cause the concentration of the parameters in question to exceed the ambient concentration.

(3) *Subsurface waste disposal and wells.* Subsurface waste water disposal systems and drinking wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a condition of approval upon the final plan.

(J) *Street illumination.*

(1) Streets shall be illuminated with a minimum illumination level of 0.1 foot candle per square foot.

(2) Street intersections shall be illuminated.

(K) *Mobile home park roads.*

(1) *Roads for public acceptance.* Mobile home park roads which the developer intends to offer to the municipality for acceptance as town ways shall be constructed to the standard found in the subdivision ordinance using the specifications for “residential streets” excepting through streets which join public roads, which shall be constructed to “commercial/industrial street” specifications.

(2) *Private roads.* Mobile home park roads which the developer intends to retain in private ownership shall be designed in accordance with accepted engineering standards by a licensed professional engineer and stamped with a professional engineer’s seal in accordance with the requirements of the Manufactured Housing Board, and shall be constructed to the standards in the following table.

Mobile Home Park Private Road Standards

Minimum right-of-way width	23 feet
Minimum pavement width	20 feet
Minimum sidewalk width, if installed	5 feet
Minimum grade	0.5%
Maximum grade within 100 feet of the intersection of a public way measured from the center line of the public way	1.0%
Maximum grade	8.0%
Minimum center line radius	100 feet
Minimum tangent between curves of reverse radius	50 feet
Roadway crown, minimum	1/8 inch per foot
Roadway crown, maximum	1/2 inch per foot
Minimum angle of street intersections	75 degrees
Minimum curb radii at street intersections	20 feet
Minimum right-of-way radii at intersections	10 feet
Minimum width of shoulders w/out sidewalks (each side)	3 feet
Cul-de-sac and turn around radii	
a. Property line	65 feet
b. Outer edge of pavement	50 feet
c. Inner edge of pavement	30 feet
d. Other standard for culs-de-sac are found in the subdivision ordinance	

(3) *Off-street parking.* At least two off-street parking spaces shall be provided for each mobile home lot at a distance less than 100 feet (30.48 meters) from the mobile home it serves. Off-street parking spaces shall be constructed with a minimum thickness of six inches (15.24 centimeters) gravel base material. Such parking space shall have a minimum dimension of ten feet width by 20 feet length.

(4) *Street maintenance.* Streets within the mobile park not to be offered to the town for acceptance as town ways shall be constructed, maintained, and serviced by the mobile home park operator.

(L) *Continuous buffer strip.* A continuous landscaped buffer strip at least 25 feet wide shall be provided along any mobile home park boundary abutting a residential zone where the density in the mobile home park is at least two times greater than the allowable density allowed in the adjacent residential zone. This landscaped strip shall contain evergreen shrubs, trees, fences, walls, or any combination of the above which forms an effective, year-round visual barrier from abutting properties.

(M) *Conversion of park.* No lot in a mobile home park may be sold or otherwise conveyed without prior written approval of the Planning Board. Any such lot sold or conveyed shall meet the lot size requirements of the district in which it is located.

(N) *Utilities.*

(1) *Water supply.*

(a) Each mobile home shall be provided with an adequate, safe, potable water supply.

(b) The water supply shall provide a minimum of 150 gallons (568.1 liters) of water per day per mobile home.

(c) Water supply systems shall be installed and maintained in accordance with the State of Maine Plumbing Code, 10-144A C.M.R. 238 and all revisions thereof.

(2) *Sanitary sewage system.*

(a) Sanitary sewer systems shall comply with the State of Maine Plumbing Code, 10-144A C.M.R. 241 subsurface waste water disposal rules and all revisions thereof.

(b) Where public sewer is not available, a sanitary sewer system and treatment facility shall be designed and installed under supervision of an engineer registered in the State of Maine.

(c) A mobile home park located within 1,500 feet (457.2 meters) of a public sewer system shall provide an internal sewer system connected into the public system. The internal sewer system shall be designed and installed under the direction of an engineer registered in the State of Maine.

(d) Septic systems for individual lots are permitted. Privies shall not be permitted in a mobile home park.

(e) The sanitary sewer system within the mobile home park shall be constructed and maintained under the responsibility of the mobile home park management.

(f) A portion of a sanitary sewer system located outside a mobile home park and not maintained by a public utility shall require maintenance under the responsibility of the mobile home park management.

(3) *Electric supply.*

(a) A mobile home park shall contain an electrical system designed, installed, and maintained in accordance with the National Fire Protection Association's NFIPA-70-1990 National Electric Code and applicable State of Maine and local regulations.

(b) The electrical system shall be designed and installed under the supervision of an electrical engineer registered in the State of Maine.

(c) Electrical distribution lines within the mobile home park may be installed overhead or underground. All underground lines shall be protected by a rigid conduit or encased in concrete.

(4) *Refuse.*

(a) Storage of refuse shall be accomplished in such manner to minimize health hazards, rodent harborage, insect breeding areas, accidents, wild fire, obnoxious odors, or air pollution. Refuse shall be in such a manner that domestic or wild animals may not gain access to waste material.

(b) Collection of refuse shall be conducted at regular intervals and shall be performed in a neat workmanship manner. Collection and disposal of refuse shall be the responsibility of the mobile home park operator and shall be accomplished according to State of Maine and local regulations.

(O) *Fire protection.* A mobile home park located within 2,000 feet of an adequate public water supply system shall provide an internal fire protection water supply system connected to the public system. The internal fire protection water system shall be designed and installed under direction of an engineer registered in the State of Maine. Mobile home parks beyond 2,000 feet from a public water supply or fire pond shall install a fire pond which meets the requirements of the Town Fire Chief.

(P) *Exterior lighting.* Exterior lighting installed on a mobile home or mobile home lot shall be installed such that it is not directed toward surrounding property, street, or other mobile home lots.

(Q) *Signs.*

(1) A sign identifying a mobile home park shall not be flashing, revolving, or neon type.

(2) A sign used to identify a mobile home park shall have a surface area not in excess of 36 square feet.

(3) A sign relating the sale, rental, or lease of a mobile home park shall not exceed a surface area of eight square feet (0.74 square meters).

(4) A sign relating the sale, rental, or lease of a mobile home lot shall not exceed a surface area of three square feet (0.28 square meters).

(5) More than two signs upon each mobile home lot is prohibited. For clarification of these regulations, one sign is considered to be a message conveyed upon one surface.

(6) A name sign upon a mobile home or mobile home lot is permitted provided the sign surface

area is not larger than two square feet (0.19 meters).

(R) *Lot identification.*

(1) Each mobile home lot shall have a number applied by the operator of the mobile home park, and the lots shall be numbered in an orderly consecutive fashion. Even numbers shall be on one side of a street and odd numbers shall be on the opposite side of a street.

(2) Each mobile home shall be numbered in a manner consistent with the number assigned to the lot.

(3) The mobile home lot number shall be prominently displayed upon the mobile home on a surface facing the street. Mobile home lot numbers shall be uniformly located on each mobile home if possible.

(S) *Recreational areas.* Not less than 10% of the gross site area shall be devoted to recreational facilities, with no single recreation area being less than 10,000 square feet. Such areas shall be located in one or more convenient, central location(s) with easy and safe access for all park residents.

(T) *Miscellaneous.*

(1) *General requirements.*

(a) A mobile home park shall conform to these regulations and to the *State of Maine Rules and Regulations of the Professional and Financial Regulation, Manufactured Housing Board to Mobile Homes.*

(b) The mobile home park operator shall inform occupants of these regulations and indicate the responsibilities of the occupants under regulations.

(c) Mobile home park management shall maintain a register containing names and lot numbers of mobile home park occupants. The register shall be available for inspection by federal, state, and local authorities upon request during normal business hours.

(d) Mobile home park management shall be responsible for connection of utilities for set up of a mobile home.

(e) A permit is required prior to mobile home installation in a mobile home park.

(f) A mobile home shall not be removed from a lot until a written certificate is obtained from the tax collector of the town, identifying the mobile home and stating that all property taxes applicable to the mobile home, including those for the current tax year, have been paid or that the mobile home is exempt from such taxation.

(2) *General prohibitions.*

(a) Mobile home parks and emergency mobile home parks are not allowed within the Shoreland Zoning District; such parks are allowed only in those districts where specific provision is made for them in this chapter.

(b) Emergency mobile home parks shall not be converted into permanent mobile home parks unless provisions of these regulations are met.

(c) Mobile homes and accessory structures shall not be established upon a mobile home lot without a building permit as specified in the town building code.

(d) Ruins caused by fire or other causes are not allowed within a mobile home park. If ruins are created, such ruins shall be removed within 60 consecutive calendar days from the time of their creation.

(e) Fuel tanks and bottled gas shall not be placed such that they face a street or road.

(Ord. passed 1-3-2013)

§154-085 OFF-STREET PARKING AND LOADING REQUIREMENTS.

(A) *Required parking spaces.* No land use shall be commenced or enlarged, and no building or structure shall be constructed or enlarged, unless adequate off-street parking is provided within 300 feet of the principal building or structure, or use of the premises in accordance with the schedule for parking requirements in division (B) below. All parking areas shall have a minimum parking space size of nine feet by 18 feet and shall have a minimum of a 24-foot corridor width for access maneuvering. No off-street parking facility shall have more than two entrances and exits on the same street, and no entrance or exit shall exceed 30 feet in width. Parking areas with more than two parking spaces shall be so arranged that vehicles can maneuver within such areas and exit on to the street in a forward motion.

(B) *Schedule of minimum off-street parking requirements.*

<i>Use</i>	<i>Parking Space Required</i>
Church	One space for every three seats of assembly
Clubs	One space for every four members
Dwelling	Two spaces per dwelling unit
Hospital, nursing home or other institution devoted to board, care and treatment of people	One space per every three beds
House, overnight cabin	One space per each sleeping room
Manufacturing and other industrial uses laboratories, and administrative buildings	One space for each person employed at largest shift
Motel, hotel lodging	One space per each sleeping room

Restaurants, theaters and places of public patron use, amusement

One space for every three seats

Retail, wholesale, service establishments and/or professional offices, or buildings and community service organizations

One space for every 350 square feet of floor area

Off-street parking spaces shall be provided for all other uses, including but not limited to, automotive service stations, drive-in establishments, and open-air businesses, such that traffic congestion and hazards are avoided.

(C) *Non-residential loading and unloading facilities.* In any district where permitted, commercial, agricultural, institutional, or industrial uses shall provide adequate off-street loading facilities located entirely on the same lot as the structure, building or use to be served so that trucks, trailers and containers shall not be located for loading, unloading, or storage upon any public way.

(Ord. passed 1-3-2013)

§154-086 OUTDOOR WOOD BOILERS.

Installation and operation of all outdoor wood boilers with a rated thermal output of less than three MMBtu/hr. must conform to the provisions of Maine Department of Environmental Regulations, Chapter 150. Operation of such outdoor wood boilers is prohibited between May first and October fifteenth of each calendar year. Installation standards maybe found on the Department of Environmental Protection's web site or copies of the guidelines are available at the town office.

(Ord. passed 1-3-2013)

§154-087 PLANNED UNIT DEVELOPMENT.

(A) *General.* Planned Unit Development (PUD) is a means of residential land development which sets aside traditional, present land use controls in favor of administrative discretion in the Planning Board. It permits a mixture of land uses, residential, commercial, institutional, and recreational. A PUD may include condominiums. The PUD allows for creativity in design including the clustering and mixing of the land use types; and finally, the provision for open space. The tract of land is developed according to a plan agreed upon by the developer and the Planning Board.

(B) *Purpose.* The purpose of a (PUD) shall be to encourage a development which will result in:

- (1) A broader choice in the type of environment and living units available to the public.
- (2) High quality in both nonresidential and residential land uses so that development will be a permanent and long-term asset to the town.

(3) Provisions for open space and recreation areas.

(4) More flexible land development which will respect and conserve natural resources such as streams, lakes, floodplains, groundwater, wooded areas, steeply sloped areas, and areas of unusual beauty or importance to the natural ecosystem.

(5) An efficient use of land resulting in smaller networks of utilities and streets.

(6) An environment in harmony with surrounding development.

(7) Development that is generally consistent with the comprehensive plan for the town.

(C) *General requirements.*

(1) The applicant shall either own or have an option on the property in question and shall provide documentation of such.

(2) The Planned Unit Development shall meet all the requirements of a residential subdivision other than those changes listed within this sub chapter.

(3) The PUD shall be at least ten acres in size with at least 30% of the development in open space. Further, no more than 50% of the required 30% open space shall be wetlands. (See also §§ 154.205 through 154.214, § 154.210(Q).)

(4) The proposed PUD shall be designed by a professional engineer or architect.

(5) The development shall comply with all State standards and requirements regarding water supply and sewerage disposal systems. Such systems may be an extension of an existing system owned and operated by the Town/City of Bangor or may be a separate and autonomous system built by the developer and servicing the development. All engineered sewerage systems must be designed by and bear the seal of a Maine registered professional engineer.

(6) The maximum allowed residential density shall be six units per buildable acre.

(7) If the proposed units within the PUD exceed the net residential density of the district a geologist assessment shall be prepared to verify that there is ample water to service the PUD.

(8) All open space common land, facilities and property shall be owned by:

(a) The owners of the lots or dwelling units by means of a lot owner's association; or

(b) An association which has as its principal purposes the conservation or preservation of land in essentially its natural condition.

(9) The frontage shall be that required in the applicable district for each ten-acre development. When the proposed area lies within a split district the required frontage shall be determined by the portion of the lot which has frontage on a town or state approved road.

(10) Streets within the development shall be built to the standards set forth in § 154.211(D) unless they are to remain as private ways. If streets are to remain as private ways they shall be built to the standards set forth in § 154.091 and shall be paved.

(11) Each dwelling unit shall provide at least a minimum of 1,000 square feet of living space, and shall be comprised of at least a kitchen area, living room, two bedrooms, and one and one-half baths.

(D) *Standards.* The Planned Unit Development shall comply with the following standards:

(1) *Land uses.* A PUD may include any use permitted in the district in which it is being built. In addition, the Planning Board may allow multifamily dwellings and, to the extent that they are designed and intended primarily to serve the residents of the PUD, recreational, commercial and institutional uses may also be allowed.

(2) *Site design requirements.*

(a) All buildings shall be designed with regards to the topography and natural features of the site.

(b) All housing shall be sited so as to enhance privacy and insure natural light for principal rooms.

(c) A buffer strip of vegetative plantings must be provided to the exterior side and rear lot lines of the proposed PUD. The landscaped strip shall contain evergreen shrubs, trees, fences, or any combination of the above which forms an effective, year-round visual barrier from the abutting properties and shall be shown on the plan.

(d) The development shall be designed and programmed so as to minimize earth moving activity, erosion, tree clearance, and destruction of natural amenities. Existing trees shall be preserved wherever possible.

(e) The primary power lines may be underground or overhead, the secondary power lines shall be underground.

(f) There shall be at least two and one-half parking spaces for each residential dwelling unit; all other uses shall comply § 154.084.

(g) A safe and efficient traffic circulation plan, including consideration for pedestrians and bicycles shall be provided.

(h) The PUD shall meet the requirements of the town fire protection ordinance as determined by the Town Fire Chief.

(i) See §§ 154.180 through 154.190, site plan review, and/or §§ 154.205 through 154.214, subdivisions, for other applicable requirements.

(E) *Future residential development.* After approval of a proposed PUD there shall be no further residential units allowed on the lot or lots containing the PUD.

(F) *Termination.* The PUD approval shall automatically expire two years from the date of the final approval if the applicant has not commenced substantial construction and is not proceeding to completion. Upon written request stating reasons therefore, the Planning Board may extend the approval for one more year.

(G) *Performance guarantee.*

(1) *Performance guarantee.* As a condition of final approval for a PUD, a performance guarantee shall be filed with the town by the applicant in accordance with the conditions of the final approval.

(2) *Certified check or performance bond.* Upon approval of the final PUD development plan the applicant shall deliver either a certified check payable to the town or a performance bond running to the town, in an amount and form acceptable to the Town Manager with the advice and consent of the Town Engineer and the legal counsel. The check or bond must equal at least the total cost of furnishing, installing, connecting and completing all construction items as agreed upon by the Planning Board within two years of its date. The surety shall not expire without the written approval of the Town Manager.

(Ord. passed 1-3-2013)

§1524-088 MULTI-FAMILY DEVELOPMENTS.

(A) *Definition.* A **MULTI-FAMILY DEVELOPMENT** is a subdivision which contains three or more dwelling units on land in common ownership, such as multi-family dwellings and apartment buildings. **MULTI-FAMILY DEVELOPMENTS** shall only consist of units which are rented month by month or leased long term.

(B) *Standards.* Multi-family developments shall comply with the following standards:

(1) Multi-family developments shall be at least ten acres in size with at least 30% of the development in open space. Further, no more than 50% of the required 30% open space shall be wetlands. (See also, §§ 154.205 through 154.214, and § 154.210(Q).)

(2) The Planning Board may increase the exterior side and rear yard setbacks of the development if it determines that a larger setback is needed to buffer adjacent residential uses and/or adjacent RA or AF Districts.

(3) The following site designs shall govern:

(a) All buildings shall be designed with regards to the topography and natural features of the site.

(b) All housing shall be sited so as to enhance privacy and insure natural light for principal rooms.

(c) A buffer strip of vegetative plantings must be provided to the exterior side and rear lot lines of the proposed development. The landscaped strip shall contain evergreen shrubs, trees, fences, or any combination of the above which forms an effective, year-round visual barrier from the abutting properties and shall be shown on the plan.

(d) The development shall be designed and programmed so as to minimize earth moving activity, erosion, tree clearance, and destruction of natural amenities. Existing trees shall be preserved wherever possible.

(e) The primary power lines may be underground or overhead, the secondary power lines shall be underground.

(f) In a multi-family development two and one-half parking spaces shall be provided for each dwelling unit.

(g) The multi-family development shall meet the requirements of the town fire protection ordinance as determined by the Town Fire Chief.

(h) The development shall comply with the requirements in §§ 154.180 through 154.190, site plan, and §§ 154.205 through 154.214, subdivision of this chapter.

(Ord. passed 1-3-2013)

§154-089 PROHIBITED USES.

Prohibited in all districts in the town are occupied utility trailers, billboards, uses and structures prohibited by federal, state or municipal law, and all uses or structures which unreasonably endanger health, welfare, safety or cause environmental deterioration such as deposit sites for nuclear waste materials or other dangerous sources of radioactivity.

(Ord. passed 1-3-2013)

§154-090 PROPOSED STREETS.

After a line of a future street is placed on the official map of the town, buildings and structures shall be set back from such line as though it were a right of way line.

(Ord. passed 1-3-2013)

§154-091 REAR LOT DEVELOPMENT.

(AMENDED 1/23/03- EFFECTIVE DATE 2/23/03)

Rear lot development shall be subject to the following conditions:

(A) No rear lots or access strips to rear lots shall be allowed in subdivisions.

(B) No rear lot shall have, as its point of access, a “T” turnaround.

(C) Rear lots shall have, as a minimum lot area, twice the dimensional requirements of the zone in which it is located. Each rear lot shall have a continuous buildable area (non wetland or floodplain) equal to the minimum lot size for the zone in question; the principal structure must be located within that area.

(D) Rear lots shall be served by a 60-foot access strip (private way) with a minimum of a 20-foot traveled way with a minimum of 16 inches of gravel. The access strip (private way) may be either a

permanent easement or may be owned fee simple. The area of the access strip (private way) shall not count towards the minimum required lot area.

(E) The minimum frontage required shall be shown parallel to the private way.

(F) The applicant must demonstrate the suitability of the proposed rear lot for on-site sewage disposal.

(G) No more than two rear lots shall share a single access way.

(H) No rear lot shall be allowed to the rear of another rear lot.

(I) Each rear lot shall have, as a buildable area, a rectangle with its minimum dimensions as follows: The minimum frontage allowed in the zone by twice the minimum frontage allowed in the zone. The principal structure shall be located within that area.

(J) Minimum setbacks allowed in the rear lot development are 40 feet from the line parallel to the private way, 80 feet from the abutter's rear lot line, 40 feet from the remaining lot lines.

(K) The maintenance of the access strip (private way) shall be the responsibility of the developer or owner and not the town. An agreement to that effect shall be stated in the deed recorded at the Penobscot County Registry of Deeds.

(L) All access strips (private way) leading to rear lots under the provisions of this chapter shall connect to public roads.

(M) The CEO shall approve all rear lots, using the above criteria.

(Ord. passed 1-3-2013)

§ 154-092 SEPTAGE STANDARDS.

(A) Septage Treatment Facilities must comply with the following requirements:

(1) The facility may not be located over a significant sand and gravel aquifer.

(2) A minimum of 15 inches must be maintained between the seasonal high-water table and the base of the facility. A minimum of 24 inches must be maintained between bedrock and the base of the facility.

(3) The facility must be located on soils deemed suitable for such use, as determined by a Maine registered geologist or a Maine certified soil scientist.

(4) The boundary of the septage handling and containment area of the facility must comply with DEP setback requirements. A variance or waiver granted by the DEP for any dimensional requirement or any other requirement equivalent to a standard listed in this section must be -acknowledged by the planning board before it may be implemented.

(5) The facility must be screened from view from any public street and residential property. A vegetated buffer may be required by the Planning Board in accordance with the requirement in §154.081 Landscaping of the Town of Hermon Code of Ordinances.

(6) An access gate must be installed at the entrance to the facility. Legible signs must be posted at the gate. Signs must read as follows: "Notice – Septage Storage Area – Access Prohibited" or similar wording. Lettering on signs must be a minimum of 2 inches in height. The top of the signs must be

between 4 feet and 8 feet above the ground surface. All access points to the facility must be locked to prevent unauthorized entry when the facility is not in use.

(7) The facility may not include open –air sludge drying or land spreading of any type.

(8) The facility must be located within fully-enclosed structures.

(9) Septage containment structures must be constructed of impermeable materials suitable for the intended use and adequate to prevent any leakage. The facility must be designed to contain any septage spills caused by a failure of any above-ground containment structure, contain any leachate generated from the facility, and contain any leakage from septage conveyances. The facility must provide for detection of any subsurface septage leaks which may occur.

(B) *Enforcement.* The CEO shall be responsible for enforcing the terms and conditions of any permit issued by the Planning Board or Zoning Board of Appeals under this subsection and is expressly authorized pursuant to Title 30-A MRSA Section 4452 (6), to enforce the terms and conditions of a septage land disposal or storage site permit issued by the Department of Environmental Protection. The CEO shall inspect every septage land disposal site and storage site at least every six (6) months. A copy of any written report produced in conjunction with the inspection shall be provided to the permittee within 30 days of preparation of the inspection report.

(C) *Availability of records.* The permittee of a storage facility, handling facility or an agricultural landspreading site shall make available, upon written request from the CEO, copies of all soil test results, annual inspections and reports, water quality monitoring reports, annual septage volume reports and other submissions required by the Septage Management Rules (and Conditions of Approval of facilities subject to the Maine Site Location of Development Law).

(Ord. Passed 1-3-2013) (**Amended 10-22-2015**)

§154-093 SMALL WIND ENERGY SYSTEMS.

(A) *Purpose.* The requirements of this section are established for the purpose of allowing town residents and businesses to use small wind energy systems to harness wind energy for individual properties in order to reduce on-site energy consumption while protecting the public health, safety and general welfare of the town. The requirements of this section shall apply to small wind energy systems when they are allowed as a permitted use in a zoning district.

(B) *Authority.* The town has the authority to regulate and restrict the location and use of structures.

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

BUILDING DENSITY. The number of buildings in a given area.

FAA. The Federal Aviation Administration of the United States Department of Transportation.

GUY CABLE. Any cable or wire that extends from a small wind energy system for the purpose of supporting the system structure.

SMALL WIND ENERGY SYSTEM. A wind energy system conversion system consisting of a

single wind turbine, single tower, and associated control or conversion electronics that generates power for an individual property for the purpose of producing on-site energy, and shall not exceed 3.5Kw for residential and 6Kw for small commercial.

SYSTEM. A small wind energy system.

SYSTEM HEIGHT. The height above grade of the highest point of the arc of the blades.

TOWER. The upright portion of a small wind energy system to which the primary generator devices are attached.

(D) *Conditions of permitting.*

(1) The system height is no greater than 120 feet.

(2) The parcel on which the system is to be located shall be no smaller than one and one-half acres and shall contain an existing residence or business.

(3) The parcel on which the system is to be located is zoned for such use.

(E) *Application for permit.*

(1) *Purpose.* The only allowable purpose of a small wind energy system is to provide energy on-site.

(2) *Setbacks.* All parts of the structure of a small wind energy system, including the tower, base, footings and turbine but excluding the guy cables and their anchors, shall be set back a distance equal to 105% of the system height from all adjacent property lines and a distance equal to 150% of the system height from any inhabited structure, road right-of-way, railroad right-of-way and right-of-way for overhead electrical transmission or distribution lines. Guy cables and their anchors shall meet the setback requirements of permitted structures in the district in which they are located.

(3) *Noise.* The small wind energy system shall not exceed a noise level of 60 decibels as measured at the closest property line. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.

(4) *Building Code compliance.* Site plan application for small wind energy systems shall be accompanied by a standard drawing of the system structure, including the tower, base, footing, and guy cables. An engineering analysis of the tower certified by a licensed professional engineer also shall be submitted. The analysis may be supplied by the manufacturer.

(5) *Electric Code compliance.* Site plan applications for a small wind energy system shall be accompanied by a line drawing of the electrical components of the system showing compliance with the National Electrical Code and certified by a professional engineer. This information may be supplied by the manufacturer.

(6) *Notification regarding aircraft.* Small wind energy systems shall comply with all applicable regulations of the FFA, including any necessary approvals for installations close to airports. The applicant has the responsibility of determining the applicable FAA regulations and securing the necessary approvals. Copy of approval must be included with the site plan application.

(7) *Minimum distances.* The distance between any protruding blades utilized on a small wind energy system and the ground shall be a minimum of 15 feet as measured at the lowest point of the arc of the blades.

(8) *Radio and television signals.* The small wind energy system shall not cause any radio, television, microwave, or navigation interference. If a signal disturbance problem is identified, the applicant shall correct the problem with 30 days of being notified of the problem.

(9) *Appearance.* The small wind energy system shall maintain a galvanized or neutral finish or be painted to conform the system color to the surrounding environment to minimize adverse visual effects. No small wind energy system shall have any signage, writing, pictures, or decorations placed on it at any time other than warning, equipment, and ownership information. No small wind energy system shall have flags, streamers, banners, and other decorative items that extend from any part of the system placed on it at any time.

(10) *Repair.* A small wind energy system that is not functional shall be repaired by the owner or removed. In the event that the Town becomes aware of any system that is not operated for continuous period of six months, the town shall notify the landowner by registered mail and provide 30 days for a written response. The written response shall include reasons for the operational difficulty, the corrective action to be preformed, and a reasonable timetable for completing the corrective action. If the town deems the corrective action and/or the timetable for completing corrective action as unfeasible and/or unreasonable, the town shall notify the landowner and such landowner shall remove the turbine within 120 days of receiving notice.

(11) *Removal upon end of useful life.* When a system reaches the end of its useful life and can no longer function, the owner of the system shall remove the system within 120 days of the day on which the system last functioned. The owner is solely responsible for removal of the system and costs, financially or otherwise.

(12) *Fencing.* The tower shall be enclosed with a fence of a least six feet in height or the base of the tower shall not be climbable for a distance of 12 feet measured from the ground.

(13) *Height.* The applicant shall provide evidence in the form of a sign off letter from the installer that the small wind energy system was installed per manufacturer's instruction.

(14) *Required safety features.* The small wind energy system shall have an automatic over speed control to render system inoperable when winds are blowing in excess of speeds for which the system is designed and a manually operable method to render the system inoperable in the event of a structural or mechanical failure of any part of the system.

(F) *Enforcement.* The erection or operation of any small wind energy system in violation of this section shall subject the owner and/or the operator of the system to civil penalty. The civil remedies available to the court shall include the removal of the system. If such removal is ordered all expenses shall be paid by the owner and/or operator of the system.

(Ord. passed 1-3-2013)

§154-094 STORM WATER CONTROL.

All new site alterations shall be designed to minimize storm water runoff from the site in excess of the natural pre-development conditions. Adequate provisions must be made for the collection and disposal of all storm water that runs off proposed driveways, parking areas, roofs, and other surfaces to prevent adverse impacts on abutting or downstream properties. Existing runoff control features, such as berms, swales, terraces and wooded areas shall be retained where they reduce runoff and encourage infiltration of storm water. Storm water runoff control systems shall be maintained to ensure proper functioning.

(Ord. passed 1-3-2013)

§154-095 STRUCTURES.

(A) *Accessory structures.*

(1) A residential garage or other accessory structure or building shall be set back from the right of way line the same distance as required for principal structures in the applicable district.

(2) When the accessory structure or building is located to the side or rear of the principal structure, such accessory structure or building shall be at least 20 feet from the respective side or rear lot line.

(3) Accessory structures shall not be included in the calculation of ground coverage for a particular lot.

(4) No structure shall be considered an accessory structure unless it is on the same lot as the principal structure to which it is accessory.

(B) *Mobile home.* Mobile homes not in a mobile home park shall comply with all provisions of the chapter regulating dwellings, the regulations of the district in which it is located, all other applicable provisions of this chapter, and the mobile home regulations of the building code of the town.

(C) *Private swimming pool.* A private swimming pool shall be set back from the right of way line the same distance as required for the principal structure in the applicable district. Nor shall such swimming pool be located within 20 feet of any side or rear lot line. Any non-conforming private swimming pool at the time of adoption of this chapter shall comply with the fencing requirements of this division within 90 days of adoption.

(D) *Temporary structures.* Temporary structures used in conjunction with construction work shall be permitted during that period when construction is in progress. Such temporary structures shall be promptly removed upon completion of construction. Temporary structures to be used for residential or dwelling purposes are expressly prohibited.

(E) *Means of egress devices for handicap access.* Structural elements such as ramps, enclosures, balconies, devices and appliances such as wheelchair platform lifts and similar accommodations necessary for providing access to a means of egress to existing buildings for the handicapped are exempt from the setback requirements for structures provided the encroachment in the setback is the minimum necessary to meet the provisions for handicap access when required by state or federal law or regulation.

(Ord. passed 1-3-2013)

§154-096 WASTE CONTROL.

All devices for the control of waste and sewerage shall comply with the State of Maine Subsurface Wastewater Disposal Rules and with the building code of the town.

(Ord. passed 1-3-2013)

§154-097 WILDLIFE/NATURAL AREA PRESERVATION.

(A) *Mitigation.* Any project requiring site plan review (§§ 154.180 through 154.190) or subdivision review (§§ 154.205 through 154.214) involving significant wildlife or fisheries habitat, as identified in the 2010 comprehensive plan, shall include mitigation measures that minimize the adverse impacts of development on these resources, such as modification of the proposed site design, construction timing, and/or extent of excavation. Such mitigation shall include, at a minimum:

(1) The clustering of the project to protect to the greatest extent the wildlife habitat pursuant to the standards of the this chapter;

(2) Setting back of any construction at least 100 feet from the upland edge of any wetland area over 20,000 contiguous square feet;

(3) The setting back of any construction at least 100 feet from any stream or waterway;

(4) Efforts to preserve the existing vegetation in such a manner that the only vegetation cut or removed shall be necessary for the actual construction involved. Specific vegetation to be retained and to be removed shall be indicated on the development plan;

(5) Provisions to eliminate noise disturbance in the area. This shall include the construction of sound barrier fencing; the planting of additional vegetation such as trees, etc.

(B) *Development plan required.* All significant wildlife and/or fisheries habitat, and other significant natural areas identified in the 2010 comprehensive plan shall be displayed on the development plan. Mitigation measures shall be indicated clearly on the development plan prior to final approval.

(Ord. Passed 1-3-2013)

§ 154.098 OLDER ADULT/DISABILITY HOUSING AND OLDER ADULT/DISABILITY CARE FACILITY

(A) *Definitions.*

(1) Older Adult/Disability Housing - A housing project that provides housing in dwelling

units or other accommodations such as suites or individual rooms for senior households in which a head of household is at least fifty-five (55) years old or for disabled persons regardless of age. The project may include facilities for outside agencies to provide services to residents and may provide a regular program of supportive services and/or meals to some or all residents. This project may offer limited nursing and 24-hour care. In addition to the residential facilities, the project may include common facilities to provide services to residents. This use may include facilities commonly referred to as retirement housing, congregate housing, or independent living centers that provide limited support services. The housing project shall not average more than 2 bedrooms per dwelling unit and/or a maximum of 6 bedrooms per suite. For purposes of this use, the term “disabilities” shall have the same meaning assigned by federal law and regulations pursuant to the Fair Housing Act Amendments of 1988.

(2) Older Adult/Disability Care Facility - A care facility that provides housing together with a program of supportive services and meals to some or all of its residents including 24-hour a day care and medical oversight. In addition to the residential facilities, the project includes common facilities, including common kitchen and dining facilities, to provide services to residents. This use may include facilities commonly referred to as nursing homes, hospices, rehabilitation centers, Alzheimer’s facilities, or assisted living facilities that provide a complete package of care and support services. For purposes of this use, the term “disabilities” shall have the same meaning assigned by federal law and regulations pursuant to the Fair Housing Act Amendments of 1988.

(B) *Standards.* Older Adult/Disability Housing and Older Adult/Disability Care Facility developments shall comply with the following standards:

(1) The development shall be at least ~~5-~~ 2 acres in size.

(2) The development must meet the minimum setbacks in § 154.047 Schedule of Dimensional Requirements. The Planning Board may increase the exterior side and rear yard setbacks of the project if it determines that a larger setback is needed to buffer adjacent residential uses and/or adjacent residential uses.

(3) Site Design Standards. The following site designs shall govern:

(a) All buildings shall be designed with regards to the topography and natural features of the site.

(b) The development shall be sited so as to enhance privacy and insure natural light for principal rooms.

(c) A buffer strip of vegetative plantings must be provided to the exterior side and rear lot lines of the proposed development. The landscaped strip shall contain evergreen shrubs, trees, fences, or any combination of the above which forms an

effective, year-round visual barrier from the abutting properties and shall be shown on the plan.

(d) The development shall be designed and programmed so as to minimize earth moving activity, erosion, tree clearance, and destruction of natural amenities. Existing trees shall be preserved wherever possible.

(e) The primary power lines may be underground or overhead; the secondary power lines shall be underground.

(f) In an Older Adult/Disability Housing development a minimum of 1.5 parking spaces shall be provided for each dwelling unit, and a minimum of one (1) parking space shall be provided per three (3) beds for accommodations other than single family units.

(g) In an Older Adult/Disability Care Facility a minimum of one (1) parking space shall be provided per three (3) beds within the facility.

(h) The development shall meet the requirements of Title 5 Chapter 55 of the Hermon Code of Ordinances (Fire Protection).

(4) The development shall comply with the requirements in §§ 154.180 through 154.190 site plan and §§ 154.205 through 214, subdivision of this chapter.

(Passed 10-22-2015)

NON-CONFORMANCE

§ 154.110 GENERAL.

(A) *Continuation.* The use of land, buildings or structures, lawful at the time of adoption or subsequent amendment of this chapter, may continue although such use does not conform to the provisions of this chapter.

(B) *Transfer of ownership.* Ownership of land and structures which remain lawful but become non-conforming by adoption or amendment of this chapter may be transferred and the new owner may continue the non-conforming use subject to the provisions of this chapter.

(C) *Repair and maintenance.* This chapter allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require. Nothing in this chapter shall prevent strengthening or restoring to a safe condition any part of any structure

declared unsafe by the Code Enforcement Officer.

(D) *Permits issued prior to adoption.* Nothing in this chapter shall require a change in plans, construction, or use of structure, or part thereof for which a complete application for permit has been made or for which a permit has been issued prior to adoption or amendment of this chapter, provided construction is underway within 60 days after issuance of such permit.

(Ord. passed 1-3-2013)

§ 154.111 NON-CONFORMING STRUCTURES.

(A) *Expansions.* A non-conforming structure may be expanded after obtaining a permit from the Code Enforcement Officer if such addition or expansion does not increase the non-conformity of the structure.

(B) *Shoreland areas.* In shoreland areas, additions to structures other-wise requiring site plan approval, as set forth in §§ 154.040 through 154.047, shall first be submitted to the Planning Board for site plan approval. After 1-1-1989, if any portion of a structure is less than the required setback from the normal high-water line of a water-body or upland edge of a wetland, that portion of the structure shall not be expanded as measured in floor area or volume by 30% or more during the lifetime of the structure.

(C) *Foundations.* Construction or enlargement of a foundation in shoreland areas shall not be considered an expansion provided:

(1) The structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in division (E), relocation, below.

(2) (a) The completed foundation does not extend beyond the exterior dimensions of the structure; and

(b) The foundation does not cause the structure to be elevated by more than three additional feet.

(D) *Foundations in non-shoreland areas.* Construction or enlargement of a foundation in non-shoreland areas shall not be considered an expansion provided that the foundation does not infringe on any required setback any more, and in any location, than the existing structure. A structure may be raised up to three feet without violating this provision.

(E) *Relocation in shoreland zones.*

(1) A non-conforming structure may be relocated within the boundaries of the parcel provided that the site of relocation conforms to all setback or other dimensional requirements to the greatest practical extent as determined by the Planning Board.

(2) In determining “greatest practical extent,” the Planning Board shall base its decision on the size of the lot, the slope of the land, the potential for soil erosion, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to

accomplish the relocation.

(F) *Reconstruction or replacement.*

(1) Any non-conforming structure which is damaged or destroyed may be reconstructed or replaced provided that a permit is obtained from the Planning Board within one year of the date of said damage or destruction and provided that such reconstruction or replacement is in compliance with the dimensional requirements to the greatest practical extent as determined by the Planning Board.

(2) In determining “greatest practical extent,” the Planning Board shall consider the criteria in division (E) above.

(3) The Planning Board may allow, by site plan review, the rebuilding of any non-conforming structure on the same footprint which it occupied prior to its removal provided that the structure was removed voluntarily and that the application is made within two years of its removal.

(G) *Change of use of a non-conforming structure.*

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

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

(H) *Mobile home.* A mobile home which is a non-conforming structure at the time of adoption or amendment of this chapter, may thereafter be replaced by a different mobile home only if the replacement mobile home conforms to the provisions of this chapter.

(Ord. passed 1-3-2013)

§ 154.112 NON-CONFORMING USES.

(A) *Expansion.* Expansion of a non-conforming use shall require a site plan review permit issued by the Planning Board. In addition to site plan review requirements, such expansion shall be subject to the discretionary conditions listed in § 154.007(D) above. Where § 154.007(D) reads “Town Council” substitute “Planning Board” for this section. In addition, expansions are subject to the following:

(1) An addition to a structure located within the required setback from the normal high water mark which contains a non-conforming use shall not be expanded.

(2) An addition to a structure located beyond the required setback from the normal high water

mark which contains a non-conforming use shall not increase the area, or volume, or footprint of the primary non conforming structure existing on the date the use became non-conforming by more than 50%;

(3) An addition to a non-conforming use which is not within a structure shall not increase the original area of the non-conforming use existing on the effective date that the use became non-conforming by more than 50%.

(4) When reviewing a proposed expansion to a structure the Board shall consider the materials, colors, and fenestration of the addition. Materials, colors, and fenestration of the addition shall match that of the original structure as closely as possible.

(5) New structures housing non-conforming uses shall not be permitted.

(6) Exception: in the Shorland Zone, expansions of non-conforming uses are prohibited, except that legally non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within such expansions of structures as permitted in § 154.111(A) above.

(B) *Discontinuance.* A non-conforming use which is discontinued for a continuous period of one year shall not be resumed. The uses of land, buildings or structures shall thereafter conform to the provisions of this chapter.

Exception: A nonconforming residential use may be resumed without consideration of any time limitations, provided the previously existing interior dwelling features of the structure to be reoccupied have not been removed. Dwelling shall be issued a Certificate of Occupancy upon occupancy.

(C) *Presumption prohibited.* If a non-conforming use is superseded by a permitted use of land, structure, or structure and land in combination, such land, structure, or combination of land and structure shall thereafter conform to the provisions of this chapter and the non-conforming use may not be resumed.

(D) *Change of use.*

(1) Non-conforming use may be changed to another non-conforming use provided that the Planning Board finds, after receiving a written application, that the proposed use is equally or more appropriate to the district, and that it will have no greater adverse impact on adjacent properties than the former use.

(2) The determination of appropriateness shall be based on the probable impact on ground water resources, and the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use. The performance standards of this chapter shall apply to such requests to establish new non-conforming uses.

(3) In determining whether or not greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on ground water, public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management,

archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

(Ord. passed 1-3-2013)

§ 154.113 NON-CONFORMING LOTS.

(A) *Single lot of record.* Any use allowed in the applicable district may be constructed on a single lot of record at the date of adoption or amendment of this chapter even though such lot does not conform to the minimum standards for the area or width as established in this chapter, provided such lot is in the separate ownership and is not of continuous frontage with another lot in the same ownership. Variance of yard and other requirements besides area and width, if applicable, must be obtained by appeal to the Board of Appeals. Nothing in this division shall relieve the owner or builder of the necessity of complying with Plumbing laws and other state laws.

(B) *Adjacent, developed lots.*

(1) If two or more adjacent lots are in the same ownership of record at the time of adoption or amendment of this chapter, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that lots of at least 20,000 square feet are created and that all such lots meet the requirements of the state subsurface wastewater disposal rules.

(2) If two or more principal uses or structures existed on a single lot of record on the effective date of this chapter each may be sold on a separate lot provided that the above referenced minimum 20,000 square feet per lot is complied with. In addition, when such lots are divided, each lot thus created must be as conforming as possible to the dimensional requirements of this chapter.

(C) *Adjacent lots - vacant or partially built.* If two or more adjacent lots are in the same ownership of record at the time of or since adoption or amendment of this chapter, if any of these lots do not individually meet the dimensional requirements of this chapter, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional requirements. No division of the parcel shall be made which creates a dimension or area less than this chapter requires.

(D) *Non-conforming lots in approved subdivision.* The provisions of this section regarding the merging of non-conforming lots of continuous frontage which are in single ownership, into a single parcel or lot for the purpose of this chapter, shall not apply to any lot or parcel rendered non-conforming by the adoption of this chapter if such lot or parcel is in a subdivision which has been duly approved by the Planning Board prior to the adoption of this chapter, provided substantial construction in such subdivision has commenced within three years from the adoption of this chapter.

(Ord. passed 1-3-2013)

§ 154.114 PUBLIC HEARING REQUIRED.

Any action by the Planning Board or Zoning Board under this section shall require a public hearing. The public hearing shall be advertised in the Bangor Daily News at least seven days in advance of the

hearing, and abutting property owners shall be notified.

(Ord. passed 1-3-2013)

SHORELAND ZONING

§ 154.125 PURPOSES.

The purposes of this subchapter are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

(Ord. passed 1-3-2013)

§ 154.126 AUTHORITY.

This subchapter has been prepared in accordance with the provisions of 38 M.R.S.A. §§ 435 through 449.

(Ord. passed 1-3-2013)

§ 154.127 APPLICABILITY.

This subchapter applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond, or river; within 250 feet, horizontal distance, of the upland edge of a freshwater wetland rated moderate to high value by the Maine Department of Inland Fisheries and Wildlife (IFW), or within 75 feet of a freshwater wetland that has not been rated by IFW as having moderate to high value; and within 75 feet, horizontal distance, of the normal high-water line of a stream, including outlet streams from freshwater wetlands. This subchapter also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending beyond the normal high-water line of a water body or within a wetland.

(Ord. passed 1-3-2013)

§ 154.128 EFFECTIVE DATE AND REPEAL OF FORMERLY ADOPTED ARTICLE.

(A) *Effective.* This chapter, which was adopted by the municipal legislative body on 11-12-2009,

shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the article codified herein, or article amendment codified herein, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on the article codified herein or article amendment codified herein, within 45 days of his or her receipt of the article codified herein or article amendment codified herein, it shall be automatically be approved. Any application for a permit submitted to the municipality within the 45-day period shall be governed by the terms of the article codified herein, or article amendment codified herein, if the article codified herein or article amendment codified herein, is approved by the Commissioner.

(B) *Repeal of the municipal timber harvesting regulation.* The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. § 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the Shoreland Zone. On the date established under 38 M.R.S.A. § 438-A(5), the following provisions of this chapter are repealed:

(1) Section 154.139 - Table of land use uses # 4 timber harvesting.

(2) Section 154.139, division (O) - land use standards - timber harvesting.

(3) Section 154.009, definitions, the definitions of **FOREST MANAGEMENT ACTIVITIES** and **RESIDUAL BASAL AREA**.

(Ord. passed 1-3-2013)

§ 154.129 AVAILABILITY.

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

(Ord. passed 1-3-2013)

§ 154.130 SEVERABILITY.

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

(Ord. passed 1-3-2013)

§ 154.131 CONFLICTS WITH OTHER SUBCHAPTERS.

Whenever a provision of this subchapter conflicts with or is inconsistent with another provision of this chapter or of any other ordinance, regulation or statute, the more restrictive provision shall control.

(Ord. passed 1-3-2013)

§ 154.132 AMENDMENTS.

This subchapter may be amended by majority vote of the Town Council. Copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the Town Council and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within 45 days of his or her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the 45-day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

(Ord. passed 1-3-2013)

§ 154.133 DISTRICTS AND ZONING MAP.

(A) *Official shoreland zoning map.* The areas to which this subchapter is applicable are hereby divided into the following districts as shown on the official shoreland zoning base map and supplemental shoreland zone maps which are made a part of this subchapter:

- (1) Seventy-five-foot stream protection zone.
- (2) Resource protection zone.
- (3) Limited residential - shoreland.
- (4) High and moderate wetlands.
- (5) Non-forested wetlands.
- (6) Wetlands - other.

(B) *Scale of map.*

(1) The official shoreland zoning base map shall be drawn at a scale of not less than: one inch equals 2,000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

(2) Supplemental shoreland zoning maps shall be drawn at a scale of not less than one inch equals 500 feet to aid in determining the extent of each district and its relationship to parcels of property as currently delineated on the town tax maps.

(C) *Certification of official shoreland zoning base map.* The official shoreland zoning base map shall be certified by the attested signature of the Town Clerk and shall be located in the town office.

(D) *Changes to the official shoreland zoning maps.*

- (1) If amendments, in accordance with § 154.132, are made in the district boundaries or other

matters portrayed on the official shoreland zoning base map, such changes shall be made on the official shoreland zoning base map within 30 days after the amendment has been approved by the Commissioner of the Department of Environmental Protection. Supplemental shoreland zoning maps shall be amended within 30 days of receipt of updated tax maps for the year the amendments are effective.

(2) Change the area identified upland from Resource Protected Wetland #126 from all 250 feet being Resource Protection District to 150-foot Resource Protection District and 100-foot Limited Residential District, per the description below and the attached map amendment sheet.

“... Being a portion of the lot or parcel owned by Daniel T. Curran and “The Red Barn Entertainment, Inc. “ described in deeds recorded in Volumes 4776 Page 9 and in Volume 5000, Page 270, said portion lying in the area identified as “Wetland 126” and beginning on the Easterly shore of Tracy Pond at the point identified as the Northeasterly corner of a parcel of land described in a deed from Jay Calkins, et. ux. to Jay Raymond Calkins, dated August 26, 1985 recorded in the Penobscot County Registry of Deeds in Volume 3708, Page 355, thence Northeasterly by and along the East shore 1000 feet to a point, thence 165 feet Easterly to a point thence Southeasterly 210” more or less, to a point, said point being the Northwesterly corner of a lot identified as Lot 9 in the subdivision plan recorded at the Penobscot County Registry of Deeds Map File D-296-89, thence by and along the Northerly line of said Lot 9 200 feet to a point in the Westerly sideline of Ridge Road, so-called, as depicted on the subdivision plan aforementioned, thence in a Southwesterly direction by and along the Westerly line of Ridge Road a distance of 1050 feet, more or less, to a point identified as the Southeast corner of Lot 6 in afore-mentioned subdivision plan, thence in a Westerly direction 334.43 feet to a point identified as the Southwest corner of Lot 6, thence in a North Northwesterly direction 410 feet to the point of beginning.”

(Ord. passed 1-3-2013)

§ 154.134 INTERPRETATION OF DISTRICT BOUNDARIES.

The depiction of the shoreland zoning districts on the shoreland zoning map of the town are merely illustrative of their general location. The boundaries of these districts shall be determined by measurement of the distance indicated on the maps from the normal high-water mark of the body of water or the upland edge of wetland vegetation, regardless of the boundary shown on the map. Unless otherwise set forth on the official shoreland zoning base map, district boundary lines are property lines, the centerline of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Town Zoning Board of Appeals shall be the final authority as to location.

(Ord. passed 1-3-2013)

§ 154.135 LAND USE REQUIREMENTS.

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein

specified for the district in which it is located, unless a variance is granted.

(Ord. passed 1-3-2013)

§ 154.136 NON-CONFORMANCE.

See §§ 154.110 through 154.114.

(Ord. passed 1-3-2013)

§ 154.137 ESTABLISHMENT OF DISTRICTS.

(A) *Resource Protection District.* The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the Shoreland Zone, exclusive of the Stream Protection District.

(1) (a) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associated with great ponds and rivers, which are rated “moderate” or “high” value by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) as of 1-1-1973.

(b) Exception is made in the case of Wetland Number 126, previously rated as moderate value by the Inland Fisheries and Wildlife and presently not rated (“indeterminate”) by MDIFW which shall have a Resource Protection District for a distance of 250 feet, horizontal distance, from the upland edge of the wetland.

(2) Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100-year flood plain as designated on the Federal Emergency Management Agency’s (FEMA) flood insurance rate maps or flood hazard boundary maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

(3) Areas of two or more contiguous acres with sustained slopes of 20% or greater.

(4) Areas of two or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a fresh water wetland as defined, and which are surficially connected to a water body during normal spring high water.

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

(B) *Limited residential district.* The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the General Development District. This district shall also include the land area within 75 feet of a freshwater wetland that has not been rated by the Maine Department of Inland Fisheries and Wildlife as having “moderate” or “high” value.

(C) *General Development District.* The General Development District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not

be developed intensively. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

(D) *Stream Protection District.* The Stream Protection District includes all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream, including outlet streams from freshwater wetlands, exclusive of those areas within 250 feet, horizontal distance, of the normal high-water line of a great pond, river, or within 250 feet, horizontal distance, of the upland edge of a freshwater wetland which is rated “moderate” or “high” value by the Maine Department of Inland Fisheries and Wildlife. Where a stream and its associated shoreland area is located within 250 feet, or 75 feet, horizontal distance, of the above water bodies or wetlands, as applicable, that land area shall be regulated under the terms of the Shoreland District associated with that water body or wetland.

(Ord. passed 1-3-2013)

§ 154.138 TABLE OF LAND USES.

(A) All land use activities, as indicated in Table 1, land uses in the Shoreland Zone, shall conform with all of the applicable land use standards in § 154.139. The district designation for a particular site shall be determined from the official shoreland zoning base map and its supplements.

(B) Key to Table 1:

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

(2) No: Prohibited.

(3) PB: Requires permit issued by the Town Planning Board.

(4) CEO: Requires permit issued by the Codes Enforcement Officer.

(5) LPI: Requires permit issued by the Local Plumbing Inspector.

(6) Abbreviations:

(a) RP: Resource protection.

(b) LR: Limited residential.

(c) GD: General development.

(d) SP: Stream protection.

Table 1: Land Uses in the Shoreland Zone

<i>Land Uses</i>	<i>SP</i>	<i>RP</i>	<i>LR</i>	<i>GD</i>
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1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	Yes	Yes	Yes	Yes
2. Motorized vehicular traffic on existing roads and trails	Yes	Yes	Yes	Yes
3. Forest management activities except for timber harvesting	Yes	Yes	Yes	Yes
4. Timber harvesting	Yes	Yes	Yes	Yes
5. Clearing of vegetation for approved construction and other allowed uses	CEO	CEO 1	Yes	Yes
6. Fire prevention activities	Yes	Yes	Yes	Yes
7. Wildlife management practices	Yes	Yes	Yes	Yes
8. Soil and water conservation practices	Yes	Yes	Yes	Yes
9. Mineral exploration	No	Yes 2	Yes 2	Yes 2
10. Mineral extraction including sand and gravel extraction	No	PB 3	PB	PB
11. Surveying and resource analysis	Yes	Yes	Yes	Yes
12. Emergency operations	Yes	Yes	Yes	Yes
13. Agriculture	Yes	PB	Yes	Yes
14. Aquaculture	PB	PB	PB	PB
15. Principle structures and uses				
a. One- and two-family residential	PB 4	No	CEO	CEO
b. Multi-unit residential	No	No	PB	PB
c. Commercial	No	No	No	PB
d. Industrial	No	No	No	No
e. Governmental and institutional	No	No	No	No

f. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB 4	PB	CEO	CEO
16. Structures accessory to allowed uses	PB 4	PB	CEO	CEO
17. Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland				
a. Temporary	CEO	CEO	CEO	CEO
b. Permanent	PB	PB	PB	PB
18. Conversions of seasonal residences to year round residences	LPI	LPI	LPI	LPI
19. Home occupations	PB	No	PB	CEO
20. Private sewage disposal systems for allowed uses	LPI	No	LPI	LPI
21. Essential services	PB 6	PB 6	PB	PB
22. Service drops, as defined, to allow uses	Yes	Yes	Yes	Yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO
24. Individual, private campsites	CEO	CEO	CEO	CEO
25. Campgrounds	No	No 7	PB	PB
26. Road and driveway construction	PB	No 8	PB	PB
27. Parking facilities	No	No 7	PB	PB
28. Marinas	PB	No	PB	PB
29. Filling and earthmoving of <10 cubic yards	CEO	CEO	Yes	Yes
30. Filling and earthmoving of >10 cubic yards	PB	PB	CEO	CEO
31. Signs	Yes	Yes	Yes	Yes
32. Uses similar to allowed uses	CEO	CEO	CEO	CEO

33. Uses similar to use requiring a CEO permit	CEO	CEO	CEO	CEO
34. Uses similar to requiring a PB permit	PB	PB	PB	PB

Notes:

1. In RP not permitted within 75 feet of the normal high-water line of great ponds, except to remove safely.
2. Requires permit from Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.
3. In RP not permitted in areas so designed because of wildlife value.
4. Provided that a variance from setback requirement is obtained from the Board of Appeals.
5. (Reserved for future use.)
6. See further restrictions in § 154.139
7. Except when the area is zoned for resource protection due to flood plain criteria in which case a permit is required from the PB.
8. Except to provide access to permitted uses within the district, or when no reasonable alternative route or location is available outside the RP area in which case a permit is required from the PB.

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

- (1) Dredging, bulldozing, removing or displacing soil, sand, vegetation or other material;
- (2) Draining or otherwise dewatering;
- (3) Filling, including adding sand or other material to a sand dune; or
- (4) Any construction or alteration of any permanent structure.

(Ord. passed 1-3-2013)

§ 154.139 LAND USE STANDARDS.

All land use activities within the Shoreland Zone shall conform with the following provisions, if applicable.

(A) *Minimum lot standards.*

(1) The following are minimum lot standards:

	<i>Minimum Lot Area (Sq. Ft.)</i>	<i>Minimum Shore Frontage (Ft.)</i>
Residential per dwelling unit within the Shoreland Zone	40,000	200
Governmental, industrial commercial or industrial per principal structure in the Shoreland Zone	60,000	300
Public and private recreational facilities within the Shoreland Zone	40,000	200

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

(3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after 9-22-1971.

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

(5) If more than one residential dwelling unit or more than one principal commercial structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.

(B) *Principal and accessory structures.*

(1) (a) All new principal and accessory structures shall be set back at least 100 feet from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and 75 feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wet land.

(b) The water body or wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

(2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, General Development and Stream Protection Districts,

shall not exceed 35 feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

(3) The first floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.

(4) The total area of all structures, parking lots and other non-vegetated surfaces, within the Shoreland Zone shall not exceed 20% of the lot or a portion thereof, located within the Shoreland Zone, including land area previously developed.

(5) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Codes Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided:

(a) The structure is limited to a maximum of four feet in width;

(b) The structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A § 480-C; and

(c) The applicant demonstrates that no reasonable access alternative exists on the property.

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

(1) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

(2) The location shall not interfere with existing developed or natural beach areas.

(3) The facility shall be located so as to minimize adverse effects on fisheries.

(4) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.

(5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.

(6) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

(7) Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed 20 feet in height above the pier, wharf, dock or other structure.

(8) Note: Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C.

(D) *Campgrounds.* Campgrounds shall conform to the minimum requirements imposed under state licensing procedures and the following:

(1) Campgrounds shall contain a minimum of 5,000 square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.

(2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of 100 feet from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and 75 feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

(E) *Individual private campsites.* Individual private campsites not associated with campgrounds are permitted provided the following conditions are met:

(1) One campsite per lot existing on the effective date of this subchapter, or 30,000 square feet of lot area within the Shoreland Zone, whichever is less, may be permitted.

(2) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back 100 feet from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and 75 feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

(3) Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.

(4) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to 1,000 square feet.

(5) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization for the receiving facility or land owner is required.

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

(F) *Commercial and industrial uses.* The following new commercial and industrial uses are prohibited within the Shoreland Zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

(1) Auto washing facilities;

(2) Auto or other vehicle service and/or repair operations, including body shops;

(3) Chemical and bacteriological laboratories;

(4) Storage of chemicals, including herbicides, pesticides, and fertilizers other than amounts normally associated with individual households or farms;

- (5) Commercial painting, wood preserving, and furniture stripping;
- (6) Dry cleaning establishments;
- (7) Electronic circuit assembly;
- (8) Laundromats, unless connected to a sanitary sewer;
- (9) Metal plating, finishing, or polishing;
- (10) Petroleum or petroleum product storage and/or sale except storage on the same property as use occurs and except for storage and sales associated with marinas;
- (11) Photographic processing; and
- (12) Printing.

(G) *Parking areas.*

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

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

- (1) (a) Roads and driveways shall be set back at least 100 feet from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and 75 feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, unless no reasonable alternative exists as determined by the Town Planning Board. If no other reasonable alternative exists, the Town Planning Board may reduce the road and/or driveway setback requirement to no less than 50 feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.
- (b) On slopes of greater than 20% the road and/or driveway setback shall be increased by ten feet for each 5% increase in slope above 20%.
- (c) Division (H)(1) shall neither apply to approaches to water crossings nor to roads or

driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity.

(2) Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.

(3) Reserved.

(4) New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Town Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

(5) Road banks shall be no steeper than a slope of two horizontal to one vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in division (Q) below.

(6) Road grades shall be no greater than 10% except for short segments of less than 200 feet.

(7) In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip as least 50 feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

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

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

<i>Road Grade (Percent)</i>	<i>Spacing (Feet)</i>
0 - 2	250
3 - 5	200 - 135
6 - 10	100 - 80
11 - 15	80 - 60
16 - 20	60 - 45

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

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

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

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

(I) *Signs.* The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Limited Residential and General Development Districts:

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

(2) Name sign shall be permitted, provided such signs shall not exceed two (2) signs per premises.

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

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

(5) Signs relating to public safety shall be permitted to be located without restriction.

(6) No sign shall extend higher than 20 feet above the ground.

(7) Signs may be illuminated only by shielded, non-flashing lights.

(J) *Storm water runoff.*

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

(2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

(K) *Septic waste disposal.*

(1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine subsurface wastewater disposal rules (rules). Note: The rules, among other requirements, include:

(a) The minimum setback for new subsurface sewage disposal systems shall be no less than 100 horizontal feet from the normal high-water line of a perennial water body. The minimum setback distances from water bodies for new subsurface sewage disposal systems shall not be reduced by variance.

(b) Replacement systems shall meet the standards for replacement systems as contained in the rules.

(L) *Essential services.*

(1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

(2) The installation of essential services is not permitted in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

(M) *Mineral exploration and extraction.*

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

(2) Mineral extraction may be permitted under the following conditions:

(a) A reclamation plan shall be filed with, and approved by, the Town Planning Board before a permit is granted. Such plan shall describe in detail the procedures to be undertaken to fulfill the requirements of division (M)(2)(c) below.

(b) Unless authorized pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C, no part of any extraction operation, including drainage and runoff control features, shall be permitted within 100 feet of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within 75 feet of the high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within 75 feet of any property line, without written permission of the owner of such adjacent property.

(c) Developers of new gravel pits along significant river segments shall demonstrate that no reasonable mining site outside the Shoreland Zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than 75 feet and screened from the river by existing vegetation.

(d) Within 12 months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than 100 cubic yards of materials are removed in any consecutive 12-month period, ground levels and grades shall be established in accordance with the following:

1. All debris, stumps, and similar material shall be removed for disposal in an approved location or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
2. Note: The State of Maine solid waste laws, 38 M.R.S.A. § 1310 and Ch. 404 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.
3. The final graded slope shall be a two to one slope or flatter.
4. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

(e) In keeping with the purposes of this subchapter, the Town Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

(N) *Agriculture.*

(1) All spreading or disposal of manure shall be accomplished in conformance with the *Maine Guidelines for Manure and Manure Sludge Disposal on Land* published by the University of Maine Soil and Water Conservation Commission in July, 1972.

(2) Manure shall not be stored or stockpiled within 100 feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA; or within 75 feet, horizontal distance, of other water bodies, tributary streams, or wetlands. Within five years of the effective date of this subchapter all manure storage areas within the Shoreland Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

(3) Agriculture activities involving tillage of soil greater than 40,000 square feet in surface area, or the spreading, disposal or storage of manure within the Shoreland Zone, shall require a soil and water conservation plan to be filed with the Town Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this subchapter. Note: Assistance in preparing a soil and water conservation plan may be available through the local Soil and Water Conservation District Office.

(4) There shall be no new tilling of soil within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance, from other water bodies; nor within 25 feet, horizontal distance, of tributary streams and wetlands. Operations in existence on the effective date of this subchapter and not in conformance with this provision may be maintained.

(5) After the effective date of this subchapter, newly established livestock grazing areas shall not be permitted within 100 feet, horizontal distance, or the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance, of other water bodies, nor; within 25 feet,

horizontal distance of tributary streams and wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a soil and water conservation plan.

(O) *Timber harvesting.*

(1) Within the strip of land extending 75 feet inland from the normal high-water line in a Shoreland Area zoned for resource protection abutting a great pond there shall be no timber harvesting, except to remove safety hazards.

(2) Except in areas as described in division (O)(1) above, timber harvesting shall conform with the following provisions:

(a) Selective cutting of no more than 40% of the total volume of trees four inches or more in diameter measured at four and one-half feet above ground level or any lot in any ten-year period is permitted. In addition:

1. Within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA; and within 75 feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

2. At distances greater than 100 feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA; and greater than 75 feet, horizontal distance, of the normal high-water line of other water bodies, or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet they shall be at least 100 feet apart. Such clearcut openings shall be included in the calculation of total volume removal. For the purposes of these standards, volume may be considered to be equivalent to basal area.

(b) Timber harvesting operations exceeding the 40% limitation in division (O)(2)(a)1. above, may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this subchapter. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within 14 days of the Planning Board's decision.

(c) No accumulation of slash shall be left within 50 feet of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.

(d) Timber harvesting equipment shall not use stream channels as travel routes except when:

1. Surface waters are frozen; and
2. The activity will not result in any ground disturbance.

(e) All crossings of flowing water shall require a bridge or culvert, except in areas with low

banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

(f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil shall be revegetated.

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

(P) Clearing of vegetation for development.

(1) (a) Within a Shoreland Area zoned for resource protection abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

(b) Elsewhere, in any Resource Protection District, the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

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

(a) There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted, provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond classified GPA, or stream or river flowing to a great pond classified GPA, the width of the foot path shall be limited to six feet.

(b) 1. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of this section, a **WELL-DISTRIBUTED STAND OF TREES AND OTHER VEGETATION** adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 12 or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system:

<i>Diameter of tree and four and one-half feet above ground level (inches)</i>	<i>Points</i>
--	---------------

2 - 4 inches	1
> 4 - 12 inches	2
> 12 inches	4

2. Adjacent to other water bodies, tributary streams, and wetlands, a ***WELL-DISTRIBUTED STAND OF TREES AND OTHER VEGETATION*** is defined as maintaining a minimum rating score of eight per 25-foot square area.

3. Note: As an example, adjacent to a great pond, if a 25-foot by 25-foot plot contains three trees between two and four inches in diameter, three trees between four and 12 inches in diameter, and three trees over 12 inches in diameter, the rating score is:

$(3 \times 1) + (3 \times 2) + (3 \times 4) = 21$ points, thus, the 25-foot by 25-foot plot contains trees worth 21 points. Trees totaling nine points ($21 - 12 = 9$) may be removed from the plot provided that no cleared openings are created.

4. Notwithstanding the above provisions, no more than 40% of the total volume of trees four inches or more in diameter, measured at four and one-half feet above ground level, may be removed in any ten-year period.

(c) In order to protect water quality and wildlife habitat adjacent to great ponds classified GPA, and streams and rivers which flow to great ponds classified GPA; existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in divisions (P)(2) and (P)(2)(a) above.

(d) Pruning of tree branches on the bottom one-third of the tree is permitted.

(e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

(f) The provisions contained in division (P)(2) above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

(3) (a) At distances greater than 100 feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA; and 75 feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, except to allow the development of permitted uses, there shall be permitted on any lot, in any ten-year period, selective cutting of not more than 40% of the volume of trees four inches or more in diameter measured four and one-half feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40% calculation.

(b) For the purposes of these standards, volume may be considered to be equivalent to basal area.

(c) In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate 25% of the lot area or 10,000 square feet, whichever is greater, including land previously developed. This provision shall not apply to the General Development District.

(4) Cleared openings legally in existence on the effective date of this subchapter may be maintained, but shall not be enlarged except as permitted by subchapter.

(5) Fields which have reverted to primarily shrubs, trees, or other woody vegetation, shall be regulated under the provisions of this section.

(Q) *Erosion and sedimentation control.*

(1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

- (a) Mulching and revegetation of disturbed soil;
- (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches; and
- (c) Permanent stabilization structures such as retaining walls or rip-rap.

(2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

(3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance and shall be in operation during all stages of activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

(4) Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked, by use of riprap, sod, seed and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine months of the initial date of exposure. In addition:

(a) Where mulch is used, it shall be applied at a rate of at least one bale per 500 square feet and shall be maintained until a catch of vegetation is established.

(b) Anchoring the mulch with netting, peg and twine, or other suitable methods, may be required to maintain the mulch cover.

(c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

(5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a 25-year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

(R) *Soils.* All land uses shall be located on soils in or upon which the proposed uses or structures

can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine certified soil scientists, Maine registered professional engineers, Maine state certified geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

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

(T) *Archaeological sites.*

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

(2) Note: The areas along Blackstream, Soudabscook Stream, Tracy Pond and Hermon Pond have been identified as archaeologically sensitive by the Maine Historic Preservation Commission on 4-30-1991. No other historic or archeological sites have been identified to date.

(Ord. passed 1-3-2013)

§ 154.140 ADMINISTRATION.

(A) *Administering bodies and agents.*

(1) Codes Enforcement Officer: A Codes Enforcement Officer shall be appointed or reappointed annually by July first.

(2) Town Zoning Board of Appeals: A Town Zoning Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. § 2691.

(3) Town Planning Board: A Town Planning Board shall be created in accordance with the provisions of state law.

(B) *Permits required.*

(1) After the effective date of this suchapter no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a

discontinued non-conforming use.

(2) A permit is not required for the replacement of an existing road culvert as long as the replacement culvert is:

- (a) Not more than one standard culvert size wider in diameter than the culvert being replaced.
- (b) Not more than 25% longer than the culvert being replaced; and
- (c) Not longer than 75 feet.

(d) Provided that adequate erosion control measures are taken to prevent sedimentation of the water, and that the crossing does not block fish passage in the water course.

(C) *Permit application.*

(1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in § 154.138.

(2) All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.

(3) All applications shall be dated, and the Codes Enforcement Officer or Town Planning Board, as appropriate, shall note upon each application the date and time of its receipt.

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

(D) *Procedure for administering permits.*

(1) Within 35 days of the date of receiving a written application, the Town Planning Board or Codes Enforcement Officer, as indicated in § 154.138, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete.

(2) The Town Planning Board or the Codes Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application.

(3) However, if the Town Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Town Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purpose and provisions of this subchapter. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this subchapter.

(4) After the submission of a complete application to the Town Planning Board, the Board shall

approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- (a) Will maintain safe and healthful conditions;
- (b) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (c) Will adequately provide for the disposal of all wastewater;
- (d) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (e) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (f) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (g) Will avoid problems associated with flood plain development and use; and
- (h) Is in conformance with the provisions of § 154.139, land use standards.

(5) If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local subchapter or regulation or any state law which the municipality is responsible for enforcing.

(E) *Single-family dwelling - resource protection district.* In addition to the criteria in division (D) above, the Planning Board may approve a permit for a single-family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- (1) There is no location on the property, other than the location within the Resource Protection District, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the Penobscot County Registry of Deeds before the adoption of the Resource Protection District.
- (3) The proposed location of all buildings, sewage disposal systems and other improvements are:
 - (a) Located on natural ground slopes of less than 20%; and
 - (b) Located outside the floodway of the 100-year floodplain along rivers, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and floodway maps and flood insurance rate maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with §§ 154.155 through 154.166. If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be one-half the width of the 100-year floodplain, with the center of the floodway centered on the center of the river or stream.
- (4) The total ground-floor area of all principal and accessory structures is limited to a maximum of 1,500 square feet.

(5) All structures, except functionally water-dependent structures, are set back from the normal high water mark or upland edge of a wetland to the greatest practical extent, but not less than 75 feet. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value or high-value wetlands.

(F) *Expiration of permit.* Following the issuance of a permit, if no substantial start is made in construction or in the use of the property within one year of the date of the permit, the permit shall lapse and become void.

(G) *Installation of public utility service.* No public utility, water district, sanitary district or any utility company of any kind, may install services to any new structure located in the Shoreland Zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous subchapter, has been issued by the appropriate municipal officials, or other written arrangements have been made between the municipal officials and the utility.

(H) *Appeals.* See §§ 154.275 through 154.285.

(I) *Enforcement.* See §§ 154.020 through 154.027 and 154.999.

(Ord. passed 1-3-2013)

§ 154.141 DEFINITIONS.

See § 154.009.

(Ord. passed 1-3-2013)

FLOODPLAIN MANAGEMENT

§ 154.155 PURPOSE AND ESTABLISHMENT.

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

(B) Therefore, the town has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this subchapter.

(C) It is the intent of the town to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

(D) This body has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to 30-A M.R.S.A. §§ 3001 through 3007, 4352 and 4401 through 4407 and 38

M.R.S.A. § 440.

(E) The town elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

(F) The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the town having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This subchapter establishes a flood hazard development permit system and review procedure for development activities in the designated flood hazard areas of the town.

(G) The areas of special flood hazard, identified by the Federal Emergency Management Agency in a map entitled "Flood Insurance Rate Map - Town of Hermon, Maine, Penobscot County," dated 9-27-1985 which is hereby adopted by reference and declared to be a part of this subchapter.

(Ord. passed 1-3-2013)

§ 154.156 PERMIT REQUIRED.

Before any construction or other development (as defined in the definition section of this subchapter), including the placement of manufactured homes, begins within any areas of special flood hazard established in § 154.155, a flood hazard development permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the town.

(Ord. passed 1-3-2013)

§ 154.157 APPLICATION FOR PERMIT.

The application for a flood hazard development permit shall be submitted to the Code Enforcement Officer and shall include:

- (A) The name, address and phone number of the applicant, owner, and contractor;
- (B) An address and a map indicating the location of the construction site;
- (C) A site plan showing location of existing and/or proposed structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- (D) A statement of the intended use of the structure and/or development;
- (E) A statement of the cost of the development including all materials and labor;
- (F) A statement as to the type of sewage system proposed;
- (G) Specification of dimensions of the proposed structure and/or development; (Divisions (H) through (K) apply only to new construction and substantial improvements.)

(H) The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum, of the:

(1) From any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to §§ 154.160(J) and § 154.162(D);

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

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

(I) A description of an elevation reference point established on the site of all new or substantially improved structures;

(J) A written certification by a professional land surveyor that the elevations shown on the application are accurate;

(K) Certification by a registered professional engineer or architect that floodproofing methods for any non-residential structures will meet the floodproofing criteria of division (H); § 154.160(G); and other applicable standards in § 154.160.

(L) A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and

(M) A statement on construction plans describing in detail how each applicable development standard in § 154.160 will be met.

(Ord. passed 1-3-2013)

§ 154.158 APPLICATION FEE AND EXPERT'S FEE.

(A) A non-refundable application fee \$50 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

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

(Ord. passed 1-3-2013)

§ 154.159 REVIEW OF FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS.

The Code Enforcement Officer shall:

(A) Review all applications for the flood hazard development permit to assure that proposed building sites are reasonably safe from flooding and to determine that all pertinent requirements of § 154.160 (development standards) have, or will be met;

(B) Utilize, in the review of all flood hazard development permit applications.

(1) The base flood data contained in the “Flood Insurance Rate Map - Town of Hermon, Maine,” as described in § 154.155.

(2) In special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other sources, including information obtained pursuant to § 154.157(H)(1), § 154.160(I), and § 154.160 of this subchapter;

(C) Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in § 154.155 below;

(D) In the review of flood hazard development permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334;

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

(F) Issue one of the following flood hazard development permits based on the type of development:

(1) Issue a two-part flood hazard development permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an elevation certificate completed by a professional land surveyor based on the Part I permit construction, as built, for verifying compliance with the elevation requirements of § 154.160(F), (G) or (H). Following review of the elevation certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the flood hazard development permit. Part II shall authorize the applicant to complete the construction project; or

(2) Issue a flood hazard development permit for floodproofing of non-residential structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of § 154.160(G)(1) through (G)(3). The application for this permit shall include a floodproofing certificate signed by a registered professional engineer or architect; or

(3) Issue a flood hazard development permit for minor development for all development that is

not new construction or a substantial improvement, such as repairs, maintenance, or renovations, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in § 154.160(I), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, towers, fencing, and pipelines.

(G) Maintain, as a permanent record, copies of all flood hazard development permit applications, corresponding permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of § 154.163 below, and copies of elevation certificates, floodproofing certificates, certificates of compliance and certifications of design standards required under the provisions of §§ 154.157, 154.155 and 154.161.

(Ord. passed 1-3-2013)

§ 154.160 DEVELOPMENT STANDARDS.

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

(A) New construction or substantial improvement of any structure and all other development shall:

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

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

(C) All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

(D) On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

(E) All development shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of any watercourse.

(F) New construction or substantial improvement of any residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to §§ 154.157(H)(1), 154.159(B) or 154.162.

(G) New construction or substantial improvement of any non-residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to §§ 154.157(H)(1), 154.159(B) or 154.162, together with attendant utility and sanitary facilities shall:

(1) Be floodproofed to at least one foot above the base flood elevation utilizing information obtained pursuant to §§ 154.157(H)(1), 154.159(B) or 154.162, so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

(3) Be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by § 154.157(K), and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

(H) New or substantially improved manufactured homes located within Zone A shall:

(1) Be elevated on a permanent foundation such that the lowest floor (including basement) is at least one foot above the base flood elevation utilizing information obtained pursuant to §§ 154.157(H)(1), 154.159(B) or 154.162;

(2) Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and

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

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

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

(c) All components of the anchoring system described in division (H)(3)(a) and (b), shall be capable of carrying a force of 4,800 pounds.

(I) Recreational vehicles in Zone A shall either:

(a) Be on a site for fewer than 180 consecutive days;

(b) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(c) Be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in division (H)(1).

(J) Accessory structures: Accessory structures, as defined in § 154.165, located within Zone A, shall be exempt from the elevation criteria required in divisions (F) and (G) above, if all other requirements of this section and all the following requirements are met. Accessory structures shall:

- (1) Be 500 square feet or less and have a value less than \$3,000;
- (2) Have unfinished interiors and not be used for human habitation;
- (3) Have hydraulic openings, as specified in division (K)(2), in at least two different walls of the accessory structure;
- (4) Be located outside the floodway;
- (5) When possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and
- (6) Have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the special flood hazard area.

(K) Floodways: Encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in a floodway which, in Zone A riverine areas, is the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

- (1) Will not increase the water surface elevation of the base flood more than one foot at any point within the community; and
- (2) Is consistent with the technical criteria contained in Chapter 5 of the document entitled *Hydraulic Analyses, Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/January 1995, as amended).

(L) Enclosed areas below the lowest floor: New construction or substantial improvement of any structure in Zone A that meets the development standards of this section, including the elevation requirements of divisions (F), (G) and (H), and is elevated on posts, columns, piers, piles, “stilts,” or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

- (1) Enclosed areas are not “basements” as defined in § 154.165; (see **BASEMENT** definitions in this subchapter) and
- (2) Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - (a) Be certified by a registered professional engineer or architect; or
 - (b) Meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
2. The bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and
3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means; and

(3) The enclosed area shall not be used for human habitation; and

(4) The enclosed area may be used for building maintenance, access, parking vehicles, or storing of articles and equipment used for maintenance of the building.

(M) Bridges: New construction or substantial improvement of any bridge in Zone A shall be designed such that:

(1) When possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to §§ 154.157(H)(1), 154.159(B), or 154.162(D); and

(2) A registered professional engineer shall certify that:

(a) The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of division (J) above; and

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

(N) Containment walls: New construction or substantial improvement of any containment wall located within Zone A shall:

(1) Have the containment wall elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to §§ 154.157(H)(1), § 154.159(B) or 154.162(D).

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

(3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by § 154.157(K).

(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.

(Ord. passed 1-3-2013)

§ 154.161 CERTIFICATE OF COMPLIANCE.

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially 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 structure the applicant shall submit to the Code Enforcement Officer, an elevation certificate completed by a professional land surveyor, registered professional engineer, or architect, for compliance with § 154.160(F) through (H).

(B) The applicant shall submit written certification to the Code Enforcement Officer that the development is complete and complies with the provisions of this subchapter.

(C) Within ten working days, the Code Enforcement Officer shall:

(1) Review the elevation certificate and the applicant's written notification; and

(2) Upon determination that the development conforms with the provisions of this subchapter, shall issue a certificate of compliance.

(Ord. passed 1-3-2013)

§ 154.162 REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS.

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

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

(B) All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage.

(C) Adequate drainage is provided so as to reduce exposure to flood hazards.

(D) All proposals include base flood elevations, flood boundaries, and in a riverine floodplain, floodway data.

(E) Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard

Area, are to be constructed in accordance with § 154.160 above. Such requirements will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including, but not limited to a time-share interest. The conditions shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

(Ord. passed 1-3-2013)

§ 154.163 APPEALS AND VARIANCES.

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

(A) *Granting variances.* The Board of Appeals may grant a variance from the requirements of this subchapter consistent with state law and the following criteria:

(1) Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances shall be granted only upon:

(a) A showing of good and sufficient cause; and

(b) A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and

(c) A showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and

(d) A determination that failure to grant the variance would result in **UNDUE HARDSHIP**, which in this division means:

1. That the land in question cannot yield a reasonable return unless a variance is granted; and
2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and
3. That the granting of a variance will not alter the essential character of the locality; and
4. That the hardship is not the result of action taken by the applicant or a prior owner.

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

(4) Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

1. Other criteria of division (B) below and § 154.160(J) are met; and
2. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(5) Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of historic structures upon determination that:

1. The development meets the criteria of division (A)(1) through (5) above; and
2. The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(6) Any applicant who meets the criteria of division (A)(1) through (5) shall be notified by the Board of Appeals in writing over the signature of the Chairperson of the Board of Appeals that:

(a) The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 insurance coverage;

(b) Such construction below the base flood level increases risks to life and property; and

(c) The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

(B) *Appeal procedure for administrative and variance appeals.*

(1) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within 30 days after the receipt of a written decision of the Code Enforcement Officer or Planning Board.

(2) Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

(3) The Board of Appeals shall hold a public hearing on the appeal within 35 days of its receipt of an appeal request.

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

(5) The Board of Appeals shall decide all appeals within 35 days after the close of the hearing, and shall issue a written decision on all appeals.

(6) The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance

actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a flood hazard development permit, which includes any conditions to be attached to said permit.

(7) Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with state laws within 45 days from the date of any decision of the Board of Appeals.

(C) *Enforcement and penalties.*

(1) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this subchapter pursuant to 30-A M.R.S.A. § 4452.

(2) The penalties contained in 30-A M.R.S.A. § 4452 shall apply to any violation of this subchapter.

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

(a) The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

(b) A clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance;

(c) A clear statement that the public body making the declaration has authority to do so and a citation to that authority;

(d) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and

(e) A clear statement that eth declaration is being submitted pursuant to § 1316 of the National Flood Insurance Act of 1968, as amended.

(Ord. passed 1-3-2013)

§ 154.164 CONFLICT WITH OTHER ORDINANCES.

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

(Ord. passed 1-3-2013)

§ 154.165 DEFINITIONS.

(A) *Rules of interpretation.* Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word “may” is permissive; “shall” is mandatory and not discretionary.

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

100-YEAR FLOOD. See **BASE FLOOD**.

ACCESSORY STRUCTURE. A small detached structure that is incidental and subordinate to the principle structure.

ADJACENT GRADE. The natural elevation of the ground surface prior to construction next to the proposed walls of the structure.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain having a 1% or greater chance of flooding in any given year, as specifically identified in the flood insurance study cited in § 154.155.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

BUILDING. See **STRUCTURE**.

CERTIFICATE OF COMPLIANCE. A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this subchapter.

CODE ENFORCEMENT OFFICER. Any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

DEVELOPMENT. Any changes caused by individuals or entities to improve or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structure; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of material, public or private sewage disposal systems or water supply facilities.

ELEVATED BUILDING. A non-basement building:

(a) Built, in the case of a building in Zone A to have the top of the elevated floor elevated above ground level by means of pilings, column, post, piers, or stilts; and

(b) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zone A, **ELEVATED BUILDING** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilities the unimpeded movement of flood waters, as required in § 154.160(K).

ELEVATION CERTIFICATE. An official form (FEMA Form 81-31, 02/06, as amended) that:

(a) Is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and

(b) Is required for purchasing flood insurance.

FLOOD or FLOODING. Means:

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accomplished by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in division (a)1. of this definition.

FLOOD ELEVATION STUDY. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

FLOODPLAIN or FLOOD-PRONE AREA. Any land area susceptible to being inundated by water from any source (see **FLOODING**).

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS. A zoning ordinance, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance/article, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevent and reduction.

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

FLOODWAY. See **REGULATORY FLOODWAY**.

FLOODWAY ENCROACHMENT LINES. The lines marking the limits of floodway on federal, state and local floodplain maps.

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

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

HISTORIC STRUCTURE. Any structure that is:

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

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior or;
2. Directly by the Secretary of the Interior in states without approved programs.

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

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or food resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a buildings' lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in § 154.160(K) above.

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

MANUFACTURED HOME PARK or SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MINOR DEVELOPMENT. All development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in § 154.160(J) above, mining, dredging, filling, grading, paving, excavation of material, drilling operations, storage of equipment or materials, deposition or extraction of material, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

NATIONAL GEODETIC VERTICAL DATUM (NGVD). The national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program(NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 mean Sea Level (MSL)".

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

RECREATIONAL VEHICLE. A vehicle which is:

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

REGULATORY FLOODWAY.

- (a) The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- (b) In Zone A riverine areas and when not designed on the community's Floodway Boundary Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

SPECIAL FLOOD HAZARD AREA. See **AREA OF SPECIAL FLOOD HAZARD**.

START OF CONSTRUCTION. The date the building permit was issued, provided that actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial

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

STRUCTURE. For floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a **STRUCTURE**.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure to it before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(b) Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

VARIANCE. A grant of relief by a community from the terms of a floodplain management regulation.

VIOLATION. The failure of a structure or development to comply with a community's floodplain management regulations.

(Ord. passed 1-3-2013)

§ 154.166 ABROGATION.

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

(Ord. passed 1-3-2013)

SITE PLAN

§ 154.180 ADMINISTRATION AND APPLICABILITY.

(A) The Town Planning Board, hereinafter called the Board, shall administer the provisions of this subchapter, unless the Planning Board delegates review authority to the CEO in accordance with § 154.020(B). Whenever such delegation occurs, the term **PLANNING BOARD** shall also refer to the Code Enforcement Officer.

(B) The Town Code Enforcement Officer (CEO) and the Town Manager shall assist the Board in administering these standards as specified herein.

(C) The provisions of this subchapter shall pertain to all land and buildings requiring site plan review within the boundaries of the town.

(D) Approval by the Planning Board in conformity with the criteria and standards of this section shall be required for all developments requiring site plan review as set forth in §§ 154.040 through 154.047 of this chapter (see § 154.046(R), schedule of uses, and § 154.047, dimensional requirements).

(Ord. passed 1-3-2013)

§ 154.181 OPTIONAL PREAPPLICATION MEETING, SKETCH PLAN AND SITE INSPECTIONS.

(A) *General.* Applicants may schedule a meeting with the CEO or Planning Board, prior to submission of an application for review. The preapplication meeting allows the applicant to present general information regarding the proposal to the Board and gain an understanding of the review procedures, requirements and standards. The Planning Board may use the preapplication meeting to discuss, and if applicable, waive specific application submission requirements when an applicant can show that such requirements are not relevant to the proposed project.

(B) *Plan information.*

(1) *Streets, and other development.* The preapplication sketch plan should show, in simple sketch form, the proposed layout of streets, buildings, parking areas and other features in relation to existing conditions. The sketch plan, which is optional and may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the assessor's map(s) on which the land is located. Developers choosing to utilize the pre-application process should submit eight sets of documents.

(2) *Site conditions.* The developer and the Board will find it most helpful for site conditions such as steep slopes, wet areas and vegetative cover to be identified in a general manner. The sketch plan may also show:

(a) The location of that portion which is to be developed in relation to the entire tract, and the distance to the nearest existing street intersection.

(b) Significant physical features (e.g. streams, woods, etc.) within the portion to be developed

or within 200 feet thereof.

(c) Name of the owner and of all adjoining property owners.

(d) Utilities available, and all streets which are either proposed, mapped or built.

(e) All existing restrictions on the use of the land, including easements, covenants or zoning restrictions, to the best knowledge of the developer.

(f) If the development will be served by a new road, whether a private way or proposed public way, a suggested name for the new road shall be provided which conforms to the naming conventions of the addressing ordinance of the town.

(g) A copy of the county soil survey covering the parcel proposed for development showing the outline of the parcel or area to be developed, should be submitted with the sketch plan.

(h) A copy of the U.S.G.S. Quadrangle map (7.5-minute series) with an outline of the development drawn on would be a useful tool for discussing issues of slopes, drainage, wetlands, etc with the Board.

(i) Such other information which the developer feels would aid the Planning Board in determining the classification and aid this preliminary discussion.

(C) *Contour interval and on-site inspection.*

(1) Within 30 days of the preapplication meeting, if held, the Board may hold an on-site inspection of the property and inform the applicant in writing of the contour interval to be used on the Site Plan application. Unless otherwise specified by the Board, the contour interval shall be two feet. The Board may require up to a ten-foot contour level when it determines that a more detailed contour interval would serve no practical purpose, and may require one-foot contours where drainage patterns are not readily apparent.

(2) Prior to the on-site inspection, the applicant should place “flagging” to indicate the centerline of any proposed streets and at the intersections of the street centerlines, entrance centerlines and corners of the parcel proposed for development.

(3) The Board shall not conduct on-site inspections during inclement weather or when there is more than one foot of snow on the ground.

(D) *Rights not vested.* Neither the preapplication meeting, the submittal or review of the sketch plan, nor the on-site inspection shall be considered the initiation of the review process for the purposes of bringing the plan under the protection of 1 M.R.S.A. § 302.

(Ord. passed 1-3-2013)

§ 154.182 SITE PLANS.

(A) *General.* All applications for approval of a Site Plan shall be made in writing to the CEO on the forms provided for this purpose.

(B) *Procedure.*

(1) *Submission of application, timeframes.* The applicant for approval of a site plan shall submit an application for approval at least 14 days prior to a regularly scheduled meeting of the Board to the CEO. Applications shall be submitted by mail or delivered by hand to the CEO in the Town Municipal Building, and shall include payment for the application fees in order for the submission to be considered “complete”. The site plan shall approximate the layout shown on the Sketch Plan (if prepared) incorporating any recommendations made by the Board at an on-site or pre-application meeting.

(2) *Application fee.* All applications for approval for a site plan shall be accompanied by a non-refundable application fee of \$200.

(3) *Consultants draw account.* In addition to the application fee, all applicants for approval of a site plan shall pay a fee of \$500, to be deposited into a special account designated for that site plan, to be used by the Planning Board for hiring independent consulting services to assist in the review of the application. The balance shall be maintained at \$500 during the review process. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant.

(C) *Attendance required.* The applicant, or a duly authorized representative, shall attend the meetings of the Board to present the Site Plan and respond to questions in public hearing.

(D) *Review process.* Upon receipt of an application for approval of a Site Plan, the CEO shall:

(1) Notify in writing all owners of abutting property that an application for a site plan has been submitted, specifying the location of the proposed development and including a general description of the project.

(2) Notify the Clerk and the review authority of the neighboring municipalities if any portion of the development includes or crosses the municipal boundary.

(3) Within seven days of the receipt of the application, the CEO shall determine whether the application is quantitatively complete. The CEO shall notify the applicant and the Planning Board of the determination in writing. If the application is not complete, the CEO shall notify the applicant of the specific additional information needed to complete the application.

(4) At the same time as a determination that a quantitatively complete application has been received, the CEO shall notify the applicant and all abutting property owners of the date, time and location of the public hearing on the application. The hearing shall be held within 30 days of the determination of application completeness, and a notice shall be published at least seven days prior to the hearing.

(5) Within 30 days from the public hearing or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make written findings of fact and conclusions relative to the review criteria contained in this chapter, the performance and design standards of §§ 154.065 through 154.096 and §§ 154.205 through 154.214, and within this subchapter, as applicable. If the Board finds that all criteria of this chapter and other applicable standards have been met, they shall approve the site plan. If the Board finds that any criteria of this chapter or the standards of this subchapter have not been met, the Board shall either deny the

application or approve the application with conditions to ensure that all of the criteria and standards will be met by the development. The Board may reconsider its decision at the next regularly scheduled meeting if it finds or is presented with new information which directly relates to compliance with one or more of the requirements of this subchapter.

(6) *Written order.* The Board may issue a written final order with the findings and conclusions for its decision. Any conditions which the Board found necessary to impose to assure the development will meet the criteria and standards shall be enumerated in the written order.

(7) *Reconsideration.* The Board may reconsider its action at the next regularly scheduled meeting if it becomes aware of new evidence which would affect its review under the review criteria of this chapter.

(E) *Submissions.*

(1) *Submission quantities.* The applicant shall provide eight sets of all plans and documents for review.

(2) *Written agency approvals required.* Prior to approval of the final plan application, the following approvals shall be obtained in writing, where applicable:

(a) Maine Department of Environmental Protection, under the Site Location of Development Act, Natural Resources Protection Act, stormwater permit, or if a waste water discharge license is needed.

(b) Maine Department of Human Services, if the applicant proposes to provide a public water system.

(c) Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.

(d) U.S. Army Corps of Engineers, if a permit under § 404 of the Clean Water Act is required.

(e) Any other required state or federal permit, as appropriate.

(3) As a guide, the following information may be submitted. The applicant is responsible for demonstrating that the site plan complies with the review criteria found in §§ 154.065 through 154.096 and §§ 154.205 through 154.214 of this chapter.

(a) *Application form.* (Mandatory.)

(b) *Location map.* Location map, drawn at a size adequate to show the relationship of the proposed development to the adjacent properties, and to allow the Board to locate the project site within the municipality, showing:

1. Existing development in the proximity of the proposed development.
2. Locations and names of existing and proposed streets.
3. Boundaries and designations of zoning districts.
4. An outline of the proposed project and any remaining portion of the owner's property if

the plan submitted covers only a portion of the owner's entire contiguous holding.

(c) *Site plan format.* The plan shall be submitted on one reproducible, stable-based, archival quality transparency (so-called "Mylar"). If the applicant proposes to record the plan in the Penobscot County Registry of Deeds, or if the applicant wishes to retain a Mylar transparency, a second set of Mylars shall be submitted. The plan shall be reproducible transparencies, indelibly signed and embossed with the seal of the licensed design professional responsible for the plan's preparation. Plans for projects containing more than one hundred acres may be drawn on two sheets.

1. Plans shall be no larger than 24 by 36 inches in size (i.e. the maximum plan size which may be submitted is a "D" size sheet).

2. An approval block shall be provided for the use of the Planning Board. The block shall include five lines spaced for signing by Board members, a line to indicate the date of approval and the following statement shall appear above the signature lines:

"This is to certify that, after reviewing the development shown by this Plan and considering each of the criteria set forth in the "Land Use Ordinance of the Town of Hermon, Maine", the undersigned having made findings of fact establishing that the proposed development and amendments thereto, if any, meet all of the criteria set forth therein, this development is approved, subject to any conditions set by the Hermon Planning Board."

3. All plans shall include a block which provides space for the following information: the county, date, and time.

4. All plans shall include a title block which contains the following information: the plan name, the record owner's name and address, the location by street and town and date of the plan.

5. Plans shall be drawn at a scale no larger than 50 feet to the inch unless otherwise specified by the Planning Board. The Planning Board may allow a scale no larger than 100 feet to the inch where the site is not serviced by public water and sewer.

(d) *Standard boundary survey.* A standard boundary survey of the parcel being developed, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.

(e) *Recently recorded deed.* A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property shall be submitted if only referenced in the current deed.

(f) *Type of sewage disposal system.* An indication of the type of sewage disposal system proposed to serve the project.

1. When sewage disposal is to be accomplished by connection to the public sewer, an estimate of the proposed use of the public sewer, together with a written statement from the Town Manager stating that the proposed use can be accommodated within the town's allocated capacity in the Bangor Wastewater Treatment Plant.

2. When sewage disposal is to be accomplished by subsurface wastewater disposal systems,

test pit analyses, prepared by a licensed site evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted. Such analyses shall indicate all pits and subsurface excavations dug, even those which fail to meet the minimum qualifications for on-site wastewater.

(g) *Type of water supply system.* An indication of the type of water supply system(s) proposed to serve the project.

1. When water is to be supplied by public water supply, and an extension is required, a written statement from the Bangor Water District approving the design of the extension shall be submitted.

2. When water is to be supplied by private wells, written evidence of adequate ground water supply and quality shall be submitted from a well driller or hydrogeologist familiar with the immediate area of the project.

3. When public water is not available to serve the project for fire fighting purposes, a written statement from the Town Fire Chief, stating the surface water sources in the vicinity of the project are sufficient to provide for the foreseeable firefighting needs of the project, shall be submitted.

(h) *Date plan prepared, direction, declination and scale.* The date the plan was prepared, north point indicating true north, magnetic north and declination, and graphic map scale shall be shown on all maps and plans submitted.

(i) *Names and address.* The names and addresses of the record owner, applicant, the individual or company who prepared the plan, and the adjoining property owners.

(j) *Soil survey.* A high intensity soil survey by a certified soil scientist, unless a different intensity is specified by the Board. Wetland areas shall be identified on the soil survey, regardless of size.

(k) *Acres.* The total number of acres of the parcel, the number of acres within the proposed project, the number of acres devoted to development, roads, non-revegetated areas and structures. The location of property lines, existing buildings and structures, vegetative cover type, and other essential existing physical features shall be shown. The location of any trees larger than 24 inches in diameter at breast height (DBH) shall be shown on the plan. On heavily wooded sites, the plan shall indicate the area where clearing for landscaping, buildings, structures and other site additions is planned to occur. Exception: on heavily wooded sites having more than 12 stems per acre with 24-inch DBH, only depiction of all trees located in areas to be cleared which meet the minimum diameter shall be indicated.

(l) *Waterways adjacent to proposed development.* The location of all rivers, brooks and streams within or adjacent to the proposed development. If any portion of the project is located within the direct watershed of a great pond, the application shall indicate which great pond.

(m) *Contour lines.* Contour lines at an interval of two feet, unless a different interval is specified by the Board, showing elevations in relation to mean sea level. A permanent elevation reference point shall be established on the project site in an area where development activities will not result in disturbance. The location and elevation of the permanent elevation reference point, expressed in reference to NGVD '29, shall be indicated on the plan.

(n) *Zoning districts.* The zoning district(s) in which the proposed development is located and the location of any district boundaries affecting the project shall be indicated on the plan.

(o) *Location of sewers, drainage ways and the like.* The location and size of existing and proposed sanitary sewers, storm drains and drainage ways, water mains, culverts, and utilities on or adjacent to the property to be developed.

(p) *Streets, location and width.* The location, names, and present widths of existing streets and highways, and existing and proposed easements, building lines, parks and other open spaces on or adjacent to the development. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line and boundary line to be readily determined and be reproduced upon the ground.

(q) *Public improvements, location and width.* The width and location of any streets, public improvements or open spaces shown upon the official map and the comprehensive plan, if any, within the development.

(r) *Open space, location.* The location of any open space to be preserved and a description of proposed improvements and its management.

(s) *Public use, parcels to be dedicated.* All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public open spaces shown on the plan, and copies of all agreements or other documents showing the manner in which open spaces to be retained by the applicant or lot owners shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the municipal attorney and Town Council are satisfied with the legal sufficiency of the written offer to convey title shall be included.

(t) *Flood-prone areas, evaluation.* If any portion of the development is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's flood insurance rate map, shall be delineated on the plan. The applicant shall be responsible for calculating the elevation of all "un-numbered A zones" located within the development.

(u) *Hydrogeologic assessment.* To achieve the purposes set forth in § 154.210((M)), a hydrogeologic assessment prepared by a certified geologist or registered professional engineer, experienced in hydrogeology, when the development is not served by public sewer, and any part of the development is located over the sand and gravel aquifer along the Souadabscook Stream, as shown on the most current maps by the Maine Geological Survey, as applicable.

(v) *Vehicular traffic, amount and type to be generated.* An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from the most recent edition of *Trip Generation Manual* published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.

(w) *Traffic impact annalysis.* For projects which are projected to generate more than 400 vehicle trips per day, a traffic impact analysis, prepared by a registered professional engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average

daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.

(x) *Storm water management plan.* A storm water management plan, prepared by a registered professional engineer. The Board may not waive submission of the stormwater management plan unless the development is not in the watershed of a great pond.

(y) *Erosion and sedimentation control plan.* An erosion and sedimentation control plan prepared in accordance with the most current *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection. The Board may not waive submissions of the erosion and sedimentation control plan unless the development is not within the watershed of a great pond.

(z) *High or moderate value wildlife habitat.*

1. Areas within or adjacent to the proposed development which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the comprehensive plan. If any portion of the project is located within an area designated as a critical natural area by the comprehensive plan or the Maine Natural Areas Program; and

2. Applicant shall provide a wetland delineation map and report, both stamped by a Maine certified soil scientist, which describes the site, states the date(s) of the delineation field work, describes the methodology used to identify the wetlands and how their boundaries were located (ie; GPS, standard survey, etc.) and characterizes the wetland types found (ie; forested, scrub shrub, emergent marsh, etc.). Any wetlands of special significance or significant wildlife habitat, as defined by the current Maine Natural Resources Protection Act (NRPA), including "Significant Vernal Pools" (NRPA - Chapter 335) must also be clearly shown on the map.

(aa) *Phosphorous control plan.*

1. If the proposed development is in the direct watershed of a great pond, a phosphorous control plan is required.

2. For projects which qualify for the simplified review procedure as described in § 154.211(L), phosphorus export, the following shall be submitted.

- a. A phosphorous impact analysis and control plan conducted using the procedures set forth in *Phosphorous Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, September, 1992 revision or most current publication.

- b. A long-term maintenance plan for all phosphorous control measures.

- c. The contour lines shown on the plan shall be at an interval of no less than the interval set by the Town Planning Board after the on-site visit.

- d. Areas with sustained slopes greater than 25% covering more than one acre shall be

delineated.

(bb) *Land clearing and construction, disposal.* The location and method of disposal for land clearing and construction debris.

(Ord. passed 1-3-2013)

§ 154.183 FINAL APPROVAL AND FILING.

(A) *Plan signing; disposition.* Upon findings of fact and determination that all standards in this chapter have been met, and upon voting to approve the development, the members of the Planning Board (Board) voting affirmatively shall sign the plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. This specification may take the form of the minutes of the meeting.

(B) *Staged development.* At the time the Board grants final site plan approval, it may permit the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the plan.

(C) *Significant changes require approval.* No changes, erasures, modifications, or revisions shall be made in any site plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised plan is first submitted and the Board approves any modifications, except in accordance with § 154.184. The Board shall make findings that the revised plan meets the criteria of this chapter.

(D) *Plan approval not street acceptance.* The approval by the Board of a site plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area has been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

(E) *Project completion deadlines.* Except in the case of a phased development plan, failure to complete substantial construction of the development within three years of the date of approval and signing of the plan shall render the plan null and void. In the case of phased development, the Board shall establish an applicable completion date. Extensions may be obtained from the Planning Board. The request for an extension of the completion deadline must be made in writing to the CEO 60 days before the expiration. The Planning Board will respond within 30 days of the receipt of the extension request.

(Ord. passed 1-3-2013)

§ 154.184 REVISIONS TO APPROVED PLANS.

(A) *Submissions.*

(1) The applicant shall submit a copy of the approved plan as well as a Mylar and eight paper copies of the proposed revisions (note: one Mylar shall be submitted if this is an amendment to a previously recorded plan).

(2) The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of this chapter.

(3) The revised plan shall indicate that it is the revision of a previously approved plan by including the name, year and town filing number of the prior plan.

(B) *Scope of review.* The Planning Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

(Ord. passed 1-3-2013)

§ 154.185 INSPECTIONS AND ENFORCEMENT.

(A) *Inspection of required improvements.*

(1) At least five days prior to commencing construction of required improvements, the developer or builder shall:

(a) Notify the CEO in writing of the time when he or she proposes to commence construction of such improvements, so that the municipal officers can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.

(b) Deposit with the municipal officers a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the developer or builder as appropriate. If the inspection account shall be drawn down by 90%, the developer or builder shall deposit an additional 1% of the estimated costs of the required improvements.

IMPROVEMENTS shall mean drainage improvements, erosion and sedimentation control, improvements proposed to be taken over by the town, and private roads serving residences.

(2) If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the developer, he shall so report in writing to the municipal officers, Board, and the developer and builder. The municipal officers shall take any steps necessary to assure compliance with the approved plans.

(3) If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, major

changes of grade, etc., the developer shall obtain permission from the Board to modify the plans.

(4) At the close of each summer construction season the town shall, at the expense of the developer or builder, have the site inspected by a qualified individual. By October 15 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.

(5) Upon completion of street construction and prior to a vote by the municipal officers to accept a proposed public way, a written certification signed by a professional engineer shall be submitted to the municipal officers at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of § 154.211. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the municipal officers.

(6) The developer shall be required to maintain all improvements and provide for snow removal and/or sanding on streets and sidewalks until acceptance of the improvements by the municipality.

(B) Violations and enforcement.

(1) No site plan within the municipality shall be recorded in the Registry of Deeds until a plan has been approved by the Board in accordance with this subchapter.

(2) Development of a project without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land, or construction of buildings which require a plan approved as provided in this subchapter.

(3) Violations may be resolved through negotiation of the terms of a "consent order" signed by a judge of the Maine Superior Court. Such "consent orders" shall provide for penalties as specified above and shall provide for recovery of all costs of enforcement of this chapter, including reasonable attorney's fees, expert witness fees and costs.

(4) If prosecution of a violation in court becomes necessary, the Town may seek complete abatement of the violation, penalties in the maximum amount allowed by statute including loss of up to two times the economic benefit resulting from the violation, if any, and recovery of all costs incurred in bringing action to correct the violation.

(5) No unit in a multifamily dwelling or multifamily development shall be occupied before the street upon which the unit is accessed is completed in accordance with § 154.211.

(6) Penalties for violations shall be not less than \$100 nor more than \$2,500 for each violation, except as provided for in 30-A M.R.S.A. § 4452, subsection F. Penalties may be assessed on a per day basis commencing from the first day of violation and may continue until the violation is abated.

(Ord. passed 1-3-2013)

§ 154.186 PERFORMANCE STANDARDS.

All site plans shall meet the performance standards contained in §§ 154.065 through 154.096 and § 154.210 of this chapter. References to subdivision projects contained in § 154.210 shall be deemed to apply to site plans.

(Ord. passed 1-3-2013)

§ 154.187 DESIGN GUIDELINES.

All site plans shall meet the design guidelines contained in §§ 154.205 through 154.214, subdivisions, § 154.211, design guidelines, of this chapter, as applicable. References to subdivision projects contained in § 154.211 shall be deemed to apply to site plans, as applicable. In addition, the following standards shall apply to site plans.

(A) *Parking lot requirements.*

(1) *Terraced.* Parking lots on sloped sites shall be terraced to avoid undue cuts and fills, and the need for retaining walls.

(2) *Vegetation preserved.* Natural vegetation will be preserved and protected wherever possible.

(3) *Landscaping.* The development plan shall provide for landscaping to define street edges, break up parking areas, soften the appearance of the proposed development and protect abutting properties from adverse impact of the development.

(4) *Ratio of trees to paved parking areas.* The minimum ratio of paved parking areas, including necessary access ways and travel aisles, to deciduous shade trees shall be one tree to 20 parking spaces.

(5) *Snow storage areas.* Parking lots shall be provided with snow storage area(s) adequate to accommodate the potential accumulation of a 25-year frequency snow storm, with an existing ground cover of 12 inches of snow already stored on-site. Snow storage area(s) shall be located and arranged so no reduction in visibility or sight distance results for traffic entering or leaving the site.

(6) *Design.* Parking lots for other than single and two-family dwellings shall be designed so that vehicles do not back out into a street.

(7) *Separated from front of buildings.* Parking areas shall be separated from the front of all buildings by a landscaped area at least five feet wide.

(8) *Wheel stops and curbs.* Wheel stops/curbs shall be placed where needed to prevent encroachment into walkways, landscaped areas, circulation aisles, streets and structures.

(9) *Drainage control.* All parking areas shall be designed to adequately control drainage. In furtherance of this standard, drainage calculations used shall reflect a paved condition and all parking areas shall be constructed with base material which can withstand normally expected vehicle loading and winter maintenance.

(10) *Handicapped spaces.* In lots with ten or more parking spaces, handicapped parking spaces shall be designed and installed in accordance with the requirements of the Americans with Disabilities

Act and any state or federal guidelines issued pursuant to the Act. These spaces shall be located in close proximity to the entrances of the building.

(11) *Spaces to be clearly delineated.* Where possible, parking spaces and travel aisles shall be clearly delineated.

(B) *Private roads.*

(1) Where the development streets are to remain private roads, the following words shall appear on the plan and on any deeds conveying property therein:

“All roads in this development shall remain private roads to be maintained by the developer or the lot owners and shall not be considered for acceptance or maintained by the Town, until they meet the municipal street design and construction standards, and this provision shall be included on any deeds conveying property therein.”

(2) All proposed private roads shall, as a minimum, meet the standards for minor roads as listed in Table 3 of § 154.211(D)(2)(e).

(Ord. passed 1-3-2013)

§ 154.188 PERFORMANCE GUARANTEES.

Applicants for a site plan shall provide a performance guarantee for an amount adequate to cover the total construction costs of all required improvements. **IMPROVEMENTS** shall mean drainage improvements, erosion and sedimentation control, improvements proposed to be taken over by the town, and private roads serving residences.

(Ord. passed 1-3-2013)

§ 154.189 WAIVERS AUTHORIZED.

Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be developed, it may waive portions of the procedural or submission requirements, unless otherwise indicated in this subchapter, provided the applicant has demonstrated that the performance standards and design guidelines of this chapter have been or will be met.

(Ord. passed 1-3-2013)

§ 154.190 APPEALS.

An aggrieved party may appeal any decision of the Board under this subchapter to the Town Board of Appeals in accordance with the provisions of §§ 154.275 through 154.285 of this chapter.

(Ord. passed 1-3-2013)

SUBDIVISION REVIEW

§ 154.205 ADMINISTRATION AND APPLICABILITY.

(A) The Town Planning Board, hereinafter called the Board, shall serve as the “municipal reviewing authority” cited in 30-A M.R.S.A. §§ 4401 *et. seq.* The Town Code Enforcement Officer and the Town Manager shall assist the Board in administering these standards as specified herein.

(B) The provisions of this subchapter shall pertain to all land and buildings proposed for subdivision within the boundaries of the town.

(C) Approval by the Planning Board in conformity with the criteria and standards of this section shall be required for all subdivisions.

(D) A lot of 40 acres or more shall not be counted a lot, except when the lot or parcel from which it was divided is located entirely or partially within shoreland area as defined in 38 M.R.S.A. § 435, or as identified in the town's shoreland zoning regulations.

(Ord. passed 1-3-2013)

§ 154.206 OPTIONAL PREAPPLICATION MEETING, SKETCH PLAN AND SITE INSPECTION.

Applicants may schedule a meeting with the Planning Board, prior to submission of an application for review. The preapplication meeting allows the applicant to present general information regarding the proposal to the Board and gain an understanding of the review procedures, requirements and standards. The Planning Board may use the preapplication meeting to discuss, and if applicable, waive specific application submission requirements when an applicant can show that such requirements are not relevant to the proposed project. Applicants must demonstrate Title, Right or Interest in the property proposed for development to make application. For complex projects, including phased development proposals, a Preapplication Sketch Plan may be provided to the Town prior to the meeting so the Board or Code Enforcement Officer can determine if additional technical support may be helpful at the preapplication meeting.

(A) *Plan information.*

(1) (a) *Lots, streets, and other development.* The preapplication sketch plan should show the proposed layout of streets, lots, buildings, parking areas and other features in relation to existing conditions. The sketch plan, which does not have to be engineered and may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed subdivision. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the assessor's map(s) on which the land is located. Developer's choosing to utilize the pre-application process should submit nine (9) sets of printed documents and a PDF version of available information.

(b) *Map and lot numbering.* See Assessor for map and lot numbering. Addressing Officer will

do the street addressing.

(2) *Site conditions.* The developer and the Board will find it most helpful for site conditions such as steep slopes, (greater than 15%) wet areas and vegetative cover to be identified in a general manner. The sketch plan should also show:

(a) The location of that portion which is to be developed in relation to the entire tract, and the distance to the nearest existing street intersection.

(b) Significant physical features (e.g. streams, woods, etc.) within the portion to be developed or within 200 feet thereof.

(c) Name of the owner and of all adjoining property owners.

(d) Utilities available, and all streets which are either proposed, mapped or built.

(e) All existing restrictions on the use of the land, including easements, covenants or zoning restrictions, to the best knowledge of the developer.

(f) If two or more lots or commercial uses will be served by a new road, a suggested name for the new road shall be provided.

(g) A copy of the Penobscot County Soil Survey covering the parcel proposed for subdivision showing the outline of the parcel or area to be developed.

(h) Such other information that the developer feels would aid this preliminary discussion.

(B) *Contour interval and on-site inspection.*

(1) Within 30 days of the preapplication meeting, the Board may hold an on-site inspection of the property (see division (B)(4) below for exception) and inform the applicant of the contour interval to be used on the plan. Unless otherwise specified by the board, the contour interval shall be two feet. The Board may require a one (1) foot contour interval where necessary to determine drainage patterns.

(2) Prior to the on-site inspection, subdivision applicants should place “flagging” to indicate the approximate location of each lot.

(3) Prior to the on-site inspection, the applicant should place “flagging” to indicate the centerline of any proposed streets and at the intersections of the street centerlines, entrance centerlines and corners of the parcel proposed for subdivision.

(4) The Board shall not conduct on-site inspections during inclement weather or when there is more than one foot of snow on the ground.

(C) *Rights not vested.* Neither the pre-application meeting, the submittal or review of the sketch plan nor the on-site inspection shall be considered the initiation of the review process for the purposes of bringing the plan under the protection of 1 M.R.S.A. § 302.

(Ord. passed 1-3-2013) (**Amended 10-22-2015**)

§ 154.207 FINAL SUBDIVISION PLANS.

All applications for approval of a subdivision shall be made in writing to the Code Enforcement Officer on the forms provided for this purpose.

(A) Procedure.

(1) *Timeframes for application.* The applicant for approval of a subdivision shall submit an application for approval of a final plan at least 14 days prior to a regularly scheduled meeting of the Board to the Code Enforcement Officer. Applications shall be submitted by mail or delivered by hand to the Code Enforcement Office in the Town Municipal Building, and shall include payment of the application fees in order for the submission to be considered “complete”. The final plan shall approximate the layout shown on the sketch plan incorporating any recommendations made by the Board at an on-site or pre-application meeting, if applicable.

(2) *Application fee.* All applications for final plan approval for a subdivision shall be accompanied by a non-refundable application fee of \$250 plus \$100 per lot, dwelling unit, or commercial division unit.

(3) *Consultants draw account.* In addition to the application fee, all applicants for final plan approval of a subdivision may be required by the Board to establish a “consultants draw account” with the town. The Board shall only require such an account when it finds, in writing, that specific submission elements are necessary due to the unique nature of the area proposed for subdivision. If required, the applicant shall pay a fee of \$100 per lot to be deposited into a special account designated for that subdivision, to be used by the Planning Board for hiring independent consulting services to assist in the review of the application. The balance in the account shall be maintained at \$100 per lot throughout the review process. Once a decision is made, the minimum balance may be reduced to \$25.00 per lot to fund inspections during construction. Any balance in the account remaining after completion of construction and receipt of a recommendation to accept any public improvements shall be returned to the applicant.

(B) *Attendance required.* The applicant, or a duly authorized representative, shall attend the meetings of the Board to present the final plan. Failure to attend a public hearing shall result in cancellation of the hearing. The applicant will be required to pay all costs associated with a cancelled hearing.

(C) *Review process.* Upon receipt of an application for final plan approval of a subdivision, the Code Enforcement Officer (CEO) shall:

(1) Issue a dated receipt to the applicant.

(2) Notify in writing all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project. The notices shall be postmarked at least nine days prior to the public hearing.

(3) Notify the Clerk and the review authority of the neighboring municipalities if any portion of the subdivision includes or crosses the municipal boundary.

(4) Within seven days of the receipt of the final plan application, the Code Enforcement Officer

shall determine whether the application is quantitatively complete. If the application is not complete, the Code Enforcement Officer shall notify the applicant of the specific additional information needed to complete the application.

(5) At the same time as a determination that a quantitatively complete application has been received, the Code Enforcement Officer shall notify the applicant and all abutting property owners of the date, time and location of the public hearing on the application. The hearing shall be held within 30 days of the determination of application completeness, and a notice shall be published in the Bangor Daily News at least seven days prior to the hearing.

(6) Within 30 days from the public hearing or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make written findings of fact and conclusions relative to the review criteria contained in Title 30-A M.R.S.A., other subchapters contained in this chapter and within this subchapter, as applicable. If the Board finds that all criteria of the statute, this chapter and other applicable standards have been met, they shall approve the final plan. If the Board finds that any criteria of the statute, this chapter, or the standards of this subchapter have not been met, the Board shall either deny the application or approve the application with conditions which include a specific time requirement to ensure that all of the criteria and standards will be met by the subdivision. The Board may reconsider its decision for a period of 30 days from the date of the decision if it finds or is presented with new information which directly relates to compliance with one or more requirements of this subchapter.

(D) *Submissions.*

(1) *Submission quantities.* In addition to the final recording plan discussed below, the applicant shall provide three full sets of plans including storm water calculations and six summaries for review.

(2) *Application.* The application may consist of the following items:

(a) *Application form.* Mandatory

(b) *Location map.* Location map, showing existing subdivisions in the proximity of the proposed subdivision, locations and names of existing and proposed streets, boundaries and designations of zoning districts, and an outline of the proposed project and any remaining portion of the owner's property if the final plan submitted covers only a portion of the owner's entire contiguous holding.

(c) *Final recording plan.* The plan for a subdivision shall be submitted on two reproducible, stable-based, archival quality transparencies (so-called "Mylars"). Two sets of Mylars shall be submitted, one to be recorded at the Penobscot Registry of Deeds or returned to the applicant, and one to be filed at the Code Enforcement Office of the municipality. One reduced copy of the final plan as approved for recording purposes for the addressing officer. The recording plan shall be reproducible transparencies, indelibly signed and embossed with the seal of the licensed design professional responsible for the plan's preparation. Plans shall be drawn at a scale no larger than 50 feet to the inch unless otherwise specified by the Planning Board. The Planning Board may allow a scale no larger than 100 feet to the inch where the site is not serviced by public water and sewer.

1. Plans shall be no larger than 24 by 36 inches in size (i.e. the maximum plan size which may be submitted is a "D" size sheet).

2. An approval block shall be provided for the use of the Planning Board. The block shall include five lines spaced for signing by Board members, a line to indicate the date of approval and the following statement shall appear above the signature lines:

“This is to certify that, after reviewing the subdivision shown by this Plan and considering each of the criteria set forth in Title 30-A MRSA Section 4404 and in the “Land Use Ordinances of the Town of Hermon, Maine”, the undersigned having made findings of fact establishing that the proposed subdivision and amendments thereto, if any, meet all of the criteria set forth therein, this subdivision is approved, subject to any conditions noted on the map.”

3. All final plans to be recorded shall include a recording block which provides space for the following information: the county, date, time, plan book and page or map file number, with a signature line for the register's attest.

4. All final plans to be recorded shall include a title block which contains the following information: the plan name, the record owner's name and address, the location by street and town and date of the plan.

5. All final plan documents shall be submitted in hard copy and electronic format PDF files. An electronic copy of the approved drawings in .DXF shall be provided.

(3) *Application requirements.* The application for approval of a subdivision may include the following information. The Board may require additional information to be submitted, where it finds it necessary in order to determine whether the criteria of 30-A M.R.S.A. § 4404 and this subchapter are met. It is the responsibility of the applicant to provide sufficient information proving that the review criteria and standards of this chapter are met.

(a) *Proposed name.* Proposed name of the project or identifying title, and the name of the municipality in which it is located, the assessor's map and lot numbers, plus the docket or file number assigned to the application by the Planning Board.

(b) *Legal, title, ownership, etc.* Verification of legal right, title, or interest in the property of the applicant.

(c) *Boundary survey.* A standard boundary survey of the entire parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.

(d) *Sewage system.* An indication of the type of sewage disposal system proposed to serve the project.

1. When sewage disposal is to be accomplished by connection to the public sewer, an estimate of the average daily volume of wastewater to be generated by the development shall be provided.

2. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, and a statement that all lots are suitable for on-site wastewater disposal, prepared by a licensed site evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted. Such analyses shall indicate all pits and subsurface excavations dug, even those

which fail to meet the minimum qualifications for onsite wastewater.

(e) *Water supply system.* An indication of the type of water supply system(s) proposed to serve the project. The projected average annual and average daily consumption shall be indicated. The projected peak daily consumption shall be indicated. Volume flows necessary to supply onsite fire suppression systems shall be shown.

1. When water is to be supplied by public water supply, and the district's supply line is to be extended, a written statement from the district approving the design of the extension shall be submitted.

2. When water is to be supplied by private wells, written evidence of adequate ground water supply and quality from a well driller or hydrogeologist familiar with the immediate area of the project may be required.

3. A written statement from the Hermon Fire Chief indicating that proposed water supplies and facilities will meet the foreseeable firefighting needs of the development and will be in accordance with Title 5, Chapter 55 of the Hermon Town Code Fire Protection) Ordinance.

(f) *Date plan prepared, direction, declination.* The date the plan was prepared, north point indicating true north, magnetic north and declination, and graphic map scale shall be shown on all maps and plans submitted.

(g) *Names and addresses.* The names and addresses of the record owner, applicant, the individual or company who prepared the plan, and the adjoining property owners.

(h) *Soil survey.* A high intensity soil survey by a certified soil scientist may be required. Wetland areas shall be identified on all subdivisions, regardless of size.

(i) *Acres.* The total number of acres of the parcel, the number of acres within the proposed project, the number of acres devoted to subdivision, roads, non-revegetated areas and structures. The location of property lines, existing buildings and structures, vegetative cover type, and other essential existing physical features shall be shown. The location of any trees larger than 24 inches in diameter at breast height (DBH) shall be shown on the plan. Planning Board may require road or lot realignment to protect any or all natural resources. On heavily wooded sites, the plan shall indicate the area where clearing for landscaping, buildings, structures and other site additions is planned to occur. Exception: On heavily wooded sites having more than 12 stems per acre with 24-inch DBH, only depiction of all trees located in areas to be cleared which meet the minimum diameter shall be indicated.

(j) *Waterways adjacent to proposed development.* The location of all rivers, brooks and streams within or adjacent to the proposed subdivision. If any portion of the project is located within the direct watershed of a great pond, the application shall indicate which great pond.

(k) *Contour lines.* Contour lines at an interval of two feet, unless a different interval is specified by the Board, showing elevations in relation to mean sea level. A permanent elevation reference point shall be established on the project site in an area where subdivision activities will not result in disturbance. The location and elevation of the permanent elevation reference point, expressed in reference to NAVD-88, shall be indicated on the plan. The horizontal location of the reference point shall be described in NAD-83

(l) *Zoning district.* The zoning district(s) in which the proposed subdivision is located and the location of any district boundaries affecting the project shall be indicated on the plan. These shall be clearly labeled on plans.

(m) *Location of sewers, drainage ways and the like* The location and size of existing and proposed sanitary sewers, storm drains and drainage ways, water mains, culverts, and utilities on or adjacent to the property to be developed.

(n) *Streets, location and width.* The location, names, and present right-of-way widths of existing streets and highways, and existing and proposed easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line and boundary line to be readily determined and be reproduced upon the ground.

(o) *Public improvements, location and width.* The width and location of any streets, public improvements or open spaces shown upon the official map and the comprehensive plan, if any, within the subdivision.

(p) *Flood-prone area.* If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's flood insurance rate map, shall be delineated on the plan. The applicant shall be responsible for calculating the elevation of all "un-numbered A zones" located within the subdivision.

(q) *Hydrogeologic assessment.* A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and: any part of the subdivision is located over a sand and gravel aquifer, along the Souadabscook, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1981, Maps No. 28 or 29, as applicable; and the subdivision has an average density of more than one dwelling unit or commercial unit per 100,000 square feet. A hydrogeologic assessment shall also be required in cases where a community septic system is used.

(r) *Vehicular traffic, amount and type to be generated.*

1. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at AM and PM peak hours. Trip generation rates used shall be taken from the most recent available edition of the Institute of Transportation Engineers' Trip Generation Manual. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions. If a Maine Department of Transportation Permit is required, a complete copy of the application and all accompanying materials shall be submitted.

2. For subdivisions with more than 14 lots or dwelling units, the Board may require a traffic impact analysis, prepared by a registered professional engineer with experience in traffic engineering, be submitted. The analysis shall indicate the expected average daily vehicular trips, AM and PM peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.

(s) *Storm water management plan.* A storm water management plan prepared by a registered professional engineer. The Board may not waive submission of the stormwater management plan. The stormwater management plan must include a schedule for post – construction inspection and maintenance of any on- or off-site Best Management Practices intended to control water quantity and quality.

(t) *Erosion and sedimentation control plan.* An erosion and sedimentation control plan is required.

(u) *High or moderate value wildlife habitat.* Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the comprehensive plan. If any portion of the project is located within an area designated as a critical natural area by the comprehensive plan or the Maine natural areas program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation. If any areas within the subdivision are found to have high or moderate wildlife habitat or critical natural areas a letter from the Maine Department of Inland Fisheries and Wildlife outlining their comments and concerns shall also accompany the plan.

(v) *Watershed, great pond or phosphorus control plan.*

1. If the proposed subdivision project is in the direct watershed of a great pond a phosphorous control plan.

2. For projects which qualify for the simplified review procedure the following shall be submitted.

a. A phosphorous impact analysis and control plan conducted using the procedures set forth in *Phosphorous Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, most current regulations.

b. A long-term maintenance plan for all phosphorous control measures.

c. The contour lines shown on the plan shall be at an interval of no less than the interval set by the Town Planning Board after the on-site visit.

d. Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.

(w) *Disposal, land clearing and debris.* The location and method of disposal for land clearing and construction debris including a letter of acceptance from the receiving facility or landowner.

(x) *Proposed lot lines and lot areas.* Proposed lot lines, setback lines and lot areas.

(y) *Proposed streets.* The plan and profile of proposed streets.

(z) *Wells.* Wells within 100 feet of the lot boundary.

(aa) *Septic systems.* Septic systems within 100 feet of the lot boundary.

(4) *Written agency approvals required.* Prior to the signing of the final plan the following

approvals shall be obtained in writing, where applicable:

(a) Maine Department of Environmental Protection, under the Site Location of Development Act, Natural Resources Protection Act, Stormwater Management Law, or if a waste water discharge license is needed.

(b) Maine Department of Health and Human Services, if the applicant proposes to provide a public water system.

(c) Maine Department of Health and Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.

(d) U.S. Army Corps of Engineers, if a permit under § 404 of the Clean Water Act is required.

(e) Maine Department of Transportation Traffic Movement Permit, and/or Highway Entrance /Driveway Access Management Permit.

(f) Any other conditions required by the Planning Board at the time of final review.

(5) *Performance guarantee required.* Before the Board grants approval of the final plan, the applicant shall meet the performance guarantee requirements contained in § 154.212.

(6) *Board actions; time limit.* Within 30 days from the public hearing or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in 30-A M.R.S.A. § 4404, this chapter and the standards of this subchapter. If the Board finds that all the criteria of the statute, this chapter and the standards of this subchapter have been met, they shall approve the final plan. If the Board finds that any of the criteria of the statute or the standards of this chapter have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision.

(E) *Final approval and filing.*

(1) *Plan signing; disposition.* Upon findings of fact and determination that all standards in 30-A M.R.S.A. § 4404, other subchapters of this chapter and this subchapter have been met, and upon voting to approve the subdivision, the members of the Board voting affirmatively shall sign the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the tax assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Penobscot County Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.

(2) *Phased development.* At the time the Board grants final approval, it may permit the plan to be divided into two or more phases subject to any conditions the Board deems necessary in order to ensure the orderly subdivision of the plan.

(3) *Significant changes require approval; recording.* No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any

modifications, except in accordance with § 154.214. The Board shall make findings that the revised plan meets the criteria of 30-A M.R.S.A. § 4404, other sub~~h~~chapters of this chapter and the standards of this subchapter. In the event that a plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Penobscot County Registry of Deeds.

(4) *Plan approval not street acceptance.* The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan.

(5) *Project completion deadlines.* Except in the case of a phased subdivision plan, failure to complete substantial construction of the subdivision within three years of the date of approval and signing of the plan shall render the plan null and void. In the case of phased development the Board shall set a completion date. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Penobscot County Registry of Deeds to that effect.

(6) *Digital copy.* The developer shall provide the town with a digital copy of the final plan approved prior to the signed plan being released from the Code Enforcement Office. Note: the town would prefer DXF format.

(7) Upon completion of construction, the developer shall provide the town with a digital copy (.DXF format) of the "As-Built" drawing and certification from the surveyor or engineer preparing the drawing that the drawing accurately represents conditions as found at the site.

(Ord. Passed 1-3-2013) (**Amended 10-22-2015**)

§ 154.208 REVISIONS TO APPROVED PLANS.

Revisions to approved plans shall follow the same process and criteria as for new plans, with the scope of review confined to the portion of the subdivision being revised. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Penobscot County Registry of Deeds.

(Ord. passed 1-3-2013) (**Amended 10-22-2015**)

§ 154.209 INSPECTIONS AND ENFORCEMENT.

(A) *Inspection of required improvements.* At least five (**5**) days prior to commencing construction of required improvements, the subdivider or builder shall:

(1) Notify the Municipal Road Commissioner or his/her designees of the time when he or she proposes to commence construction of such improvements, so that the municipal officers can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval

are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.

(2) Deposit with the Town Manager a check for the amount of 3% of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction, cleanup and receipt of "As -Built" drawings, there are funds remaining, the surplus shall be refunded to the subdivider or builder as appropriate. If the inspection account shall be drawn down by 90%, the subdivider or builder shall deposit an additional 1% of the estimated costs of the required improvements.

(B) *Inspecting official; minor modifications.* Before or during the construction of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission from the Board to modify the plans prior to performing the work.

(C) *Letter from professional land surveyor.* Prior to the sale of any lot, the subdivider shall provide the CEO with a letter from a professional land surveyor, stating that all monumentation shown on the plan has been installed.

(D) *Certification by professional engineer.* Upon completion of street construction and prior to a vote by the municipal officers to accept a proposed public way, a written certification signed by a professional engineer shall be submitted to the municipal officers, certifying that the proposed public way meets or exceeds the design and construction requirements of this subchapter. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the municipal officers.

(E) *Maintain all improvements, remove snow, etc.* The subdivider shall be required to maintain all improvements and provide for snow removal and/or sanding on streets and sidewalks until acceptance of the improvements by the municipality.

(F) *Violations and enforcement.*

(1) No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Penobscot County Registry of Deeds until a final plan has been approved by the Board in accordance with this subchapter.

(2) A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Penobscot County Registry of Deeds.

(3) A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.

(4) No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.

(5) Development of a project without Board approval shall be a violation of law. Subdivision includes grading or construction of roads, grading of land or lots, or construction of buildings which

require a plan approved as provided in this subchapter and recorded in the Penobscot County Registry of Deeds.

(6) No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with this subchapter up to and including the entire frontage of the lot. No unit in a multi-family or multi-unit commercial subdivision shall be occupied before the street upon which the unit is accessed is completed in accordance with this subchapter and is accepted by the Town Council as a town way. The developer shall provide the town with a prepared description and deed at time of acceptance.

(7) Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of 30-A M.R.S.A. § 4452.

(8) Penalties for violations shall be not less than \$100 nor more than \$2,500 for each violation, except as provided for in Title 30-A M.R.S.A. § 4452, subsection F. Penalties may be assessed on a per day basis commencing from the first day of violation and may continue until the violation is abated.

(9) Violations may be resolved through negotiation of the terms of a “consent order” signed by a judge of the Maine Superior Court.

(10) If prosecution of a violation in court becomes necessary, the town may seek complete abatement of the violation, penalties in the maximum amount allowed by statute and recovery of all costs incurred in bringing action to correct the violation.

(Ord. passed 1-3-2013)(**Amended 10-22-2015**)

§ 154.210 PERFORMANCE STANDARDS.

(A) *General.* The performance standards in this subchapter are intended to clarify and expand upon the criteria for approval found within the subdivision statute (30-A M.R.S.A. § 4404), §§ 154.040 to 154.047 and §§ 154.065 through 154.096 of above, and related ordinances and subchapter as they may apply to subdivision projects. In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance standards and make findings that each has been met prior to the approval of a final plan. Compliance with the design guidelines of §§ 154.205 through 154.214 shall be considered to be evidence of meeting the appropriate performance standards. Proposed subdivisions not in compliance with the design guidelines of §§ 154.205 through 154.214 may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met. Full compliance with development and performance standards of this chapter and other town ordinances will result in subdivision approval.

(B) *Pollution.* The proposed subdivision shall not discharge waste water to a water body without a valid wastewater discharge license from the Maine Department of Environmental Protection, if applicable.

(1) If the proposed subdivision is required to obtain a permit under Chapter 500 rules of the Maine Department of Environmental Protection, it shall not discharge storm water without an approved stormwater treatment system.

(C) *Sufficient water.*

(1) *Water supply.*

(a) Any subdivision within the area served by public water supply shall make provisions for connection to the public water system.

(b) When a subdivision is to be served by a public water system, the complete supply system within the subdivision including fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the Bangor Water District.

(c) When a proposed subdivision is not within the area designated for public water supply service in the comprehensive plan, water supply shall be from individual wells or a private community water system as defined by the Maine Department of Health and Human Services.

1. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface waste water disposal systems and other sources of potential contamination.

2. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the Maine subsurface wastewater disposal rules and the well drillers and pump installers rules.

3. If a central water supply system is provided by the applicant, the location and protection of the source, the design, construction and operation of the system shall conform to the standards of the Maine rules relating to drinking water (10-144A C.M.R. 231).

4. The applicant shall demonstrate that water supplies and facilities will meet the foreseeable firefighting needs of the development and will be in accordance with Chapter 55 of the Hermon Town Code (Fire Protection)

(2) *Water quality.* Water supplies shall meet the primary drinking water standards contained in the Maine rules relating to drinking water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine rules relating to drinking water, that fact shall be disclosed in a note on the plan to be recorded in the Penobscot County Registry of Deeds. The same note shall also be included in deeds for individual lots.

(D) *Impact on existing water supplies.*

(1) In meeting the standards of § 154.210(C)(1), a proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the servicing water company or district beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision.

(2) The applicant shall be responsible for paying the costs of system improvements to the district's or company's system as necessary to alleviate existing deficiencies.

(E) *Soil erosion.*

(1) The proposed subdivision shall prevent soil erosion from entering waterbodies, wetlands, and adjacent properties.

(2) The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

(3) Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

(4) The proposed subdivision meets the standards for storm water management in 38 M.R.S.A. § 420-D and the standards for erosion and sedimentation control in 38 M.R.S.A. § 480-C, if applicable.

(F) *Traffic conditions.*

(1) *General standards.* The proposed subdivision shall meet the following general transportation performance standards:

(a) The subdivision transportation system shall provide safe and convenient circulation for vehicles, and pedestrians on interior subdivision streets and access connections to external streets.¹

(b) The subdivision transportation system shall be designed to avoid traffic congestion on any street;

(c) The subdivision transportation system shall be designed to accommodate the estimated average annual daily traffic of the street, and the land uses and lot densities served by the street; and

(d) The subdivision transportation system shall have a positive relationship to the natural setting of the proposed subdivision site.¹

(2) *General access standards.* All subdivision access ways connecting with external streets shall meet the following standards:

(a) *State and state-aid highways.* Access ways connecting to any state or state-aid highway shall meet the minimum access permitting requirements of the Maine Department of Transportation *Highway Driveway and Entrance Rules*.

(b) *Large developments.* Access ways expected to carry more than 100 passenger car equivalent (PCE) trips in the peak hour shall meet the minimum access permitting requirements of the Maine Department of Transportation *Rules and Regulations Pertaining to Traffic Movement Permits*.

(c) Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic

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External streets are those streets outside of the proposed subdivision. Internal streets are those streets within the proposed subdivision that provide access from external streets to the lots or units within the proposed subdivision.

congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, ~~bicycle ways~~ and traffic controls within existing public streets.

(d) *Queuing, Left Lane Storage.* Access ways to non-residential subdivisions or to multifamily subdivisions shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. The Board may require a study or analysis to determine the need for a left-turn storage lane when peak hour traffic is forecast to be 40 or more vehicles.

(e) *Interconnections.* Where topographic and other site conditions allow, the Board may require vehicle and/or pedestrian connections to adjoining lots of similar existing or potential use if it will:

1. Facilitate fire protection services as approved by the Fire Chief; and/or
2. Enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a public street.

(f) *Minimum frontage.* The subdividing of the land shall be such as to provide that all lots shall have the minimum frontage required upon a public street.

(g) *Street names and signs.* Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to the approval of the Addressing Officer. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation.

(h) *Clean-up.* Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

(G) *Sewage disposal.*

(1) *Public system.*

(a) When a subdivision is proposed to be served by the public sewage system, the complete collection system within the subdivision, including manholes and pump stations, shall be installed at the expense of the applicant.

(b) The Town Manager shall certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.

(c) The Municipal Engineer shall review and approve the construction drawings for the sewerage system.

(2) *Private systems.* The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine licensed site evaluator in full compliance with the requirements of the

state of Maine subsurface wastewater disposal rules.

(a) The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough to install a disposal area on soils which meet the disposal rules.

(b) On lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.

(c) In no instance shall a disposal area be on a site which requires a new system variance from the subsurface wastewater disposal rules.

(H) *Impact on the municipality's ability to dispose of solid waste.* If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contact with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its Maine Department of Environmental Protection license. The Board may not require the alternate arrangement to exceed a period of five years.

(I) *Impact on natural beauty, aesthetics, historic sites, wildlife habitat, rare natural areas or public access to the shoreline.*

(1) *Preservation of natural beauty and aesthetics.* The Board may require the application to include a landscape plan that will show the preservation of any existing trees larger than 24 inches diameter breast height, the replacement of trees and vegetation, and graded contours.

(2) *Protection of significant wildlife habitat.*

(a) If any portion of a proposed subdivision lies within 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife or the comprehensive plan as:

1. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
2. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
3. Shorebird nesting, feeding and staging areas and seabird nesting islands;
4. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission;
5. Valuable deer wintering areas or travel corridors; and/or
6. Other important habitat areas identified in the comprehensive plan including coastal wildlife concentration areas; the applicant shall demonstrate how adverse impacts can be mitigated. A report prepared by a wildlife biologist with demonstrated experience with the wildlife resource being

impacted and/or from the Maine Department of Inland Fisheries and Wildlife or Maine Natural Areas Program shall be submitted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.

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

(J) *Conformance with requirements of §§ 154.040 through 154.047, 154.065 through 154.096, §§ 154.250 through 154.262, and other land use ordinances.* All lots shall meet or exceed the minimum dimensional requirements set forth in §§ 154.040 through 154.047 above for the zoning district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria set forth in §§ 154.065 through 154.096 and §§ 154.250 through 154.262, and other provisions of this chapter and other town land use ordinances, as applicable.

(K) *Financial and technical capacity.*

(1) *Financial capacity.* The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of this subchapter.

(2) *Technical ability.*

(a) The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.

(b) In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

(L) *Impact on water quality or shoreline.* Cutting or removal of vegetation along waterbodies shall not increase water temperature, or result in shoreline erosion or sedimentation of waterbodies.

(M) *Impact on ground water quality or quantity.*

(1) *Ground water quality.*

(a) When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:

1. A map showing the basic soils types. (at least a “medium” intensity soils map)
2. The depth to the water table at representative points throughout the subdivision.
3. Surface drainage conditions throughout the subdivision.
4. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
5. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential subdivisions, the evaluation shall, at a minimum, include a projection of post

development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance.

6. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.

(b) Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

(c) No subdivision shall increase any contaminant concentration in the ground water to more than one half of the primary drinking water standards. No subdivision shall increase any contaminant concentration in the ground water to more than the secondary drinking water standards.

(d) If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.

(e) If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

(f) Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.

(2) *Ground water quantity.* Ground water withdrawals by a proposed subdivision served by a community water system shall not lower the water table beyond the boundaries of the subdivision.

(N) *Floodplain management.* When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

(1) All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.

(2) Adequate drainage shall be provided so as to reduce exposure to flood hazards.

(3) The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.

(O) *Identification of freshwater wetlands.* All freshwater wetlands shall be identified in accordance with the *1987 Corps of Engineers Wetland Delineation Manual* or most current publication, published by the United States Army Corps of Engineers. The Applicant shall provide a wetland delineation

map and report, both stamped by a Maine certified soil scientist, which describes the site, states the date(s) of the delineation field work, describe the methodology used to identify the wetlands and how their boundaries were located (ie; GPS, standard survey, etc.) and characterizes the wetland types found (ie; forested, scrub shrub, emergent marsh, etc.) Any wetlands of special significance or significant wildlife habitat, as defined by the current Maine Natural Resources Protection Act (NRPA), including “Significant Vernal Pools” (NRPA- Chapter 335) must also be clearly shown on the map.

(P) *Storm water management.*

(1) Adequate provision shall be made for the management of the quantity and quality of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, underdrains, storm drains and best management practices equivalent to those described in the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, ~~1995~~ or most current regulations, in conformance with the policies of the comprehensive plan. The storm water management system shall be designed to meet the following standards, for subdivisions which involve road construction:

(a) *Quantity.* Peak discharge rates shall be limited to the pre-development levels for the two-year, ten-year, and 25-year frequency, 24-hour duration storm. This shall be determined by analysis using HydroCAD or another acceptable method utilizing the TR-55 methodology.

(b) *Quality.*

1. Storm water run-off in subdivisions which involve road construction must be treated by the use of best management practices equivalent to those described in the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, ~~1995~~ or most current regulations.

2. Storm water run-off in other subdivisions must be treated by the use of best management practices equivalent to those described in the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, most current regulations. Low Impact Development (LID) techniques are encouraged.

(2) Where necessary to achieve the above standards, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the municipality allowing maintenance and improvement of the system.

(3) In subdivisions where no new roads will be added or road frontage for the proposed lots are on an existing town-maintained road, the developer must obtain a letter from the road commissioner stating that the proposed subdivision will not alter or change the effectiveness or efficiency of the present storm water drainage system. If it is determined that the subdivision will alter or affect the efficiency of the present storm water drainage system, the developer will be required to comply with this subchapter.

(Q) *Reservation or dedication and maintenance of open space and common land, facilities and*

services.

- (1) All open space common land, facilities and property shall be owned by:
 - (a) The owners of the lots or dwelling units by means of a lot owners' association;
 - (b) An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or
 - (c) The Town of Hermon.
- (2) Further subdivision of the common land or open space and its use for other than noncommercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to noncommercial recreational or conservation uses may be erected on the common land. When open space is to be owned by an entity other than the municipality, there shall be a conservation easement deeded to the municipality prohibiting future subdivision.
- (3) The common land or open space shall be shown on the final plan with appropriate notations on the plan to indicate:
 - (a) It shall not be used for future building lots; and
 - (b) Which portions of the open space, if any, may be dedicated for acceptance by the Town of Hermon.
- (4) The final plan application shall include the following:
 - (a) Covenants for mandatory and perpetual membership in the lot owners' association setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.
 - (b) Draft articles of incorporation of the proposed lot owners' association as a not-for-profit corporation; and
 - (c) Draft by-laws of the proposed lot owners' association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.
- (5) In combination, the documents referenced above shall provide for the following:
 - (a) The homeowners' association shall have the responsibility of maintaining the common property or facilities.
 - (b) The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.
 - (c) The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.

(d) The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board upon request of the lot owners' association or the developer.

(R) *Phosphorus impacts on great ponds.*

(1) *Phosphorus export.*

(a) Any subdivision within the watershed of a great pond shall limit its post development phosphorus export to the standards contained in Table 9 of § 154.211(L)(2), dependent on the great pond in whose watershed the subdivision is located.

(b) The Board or Code Enforcement Officer shall keep an accurate record of permits issued by watershed and shall notify the comprehensive planning committee of the actual development rates at five-year intervals, as the comprehensive plan is revised. The above table shall be amended as required by amendments to the comprehensive plan, reflecting changes in expected development rates.

(2) *Simplified phosphorus review.* The simplified review may be used for any:

(a) Proposed subdivision of three or four lots with less than 200 feet of new or upgraded street with a cumulative driveway length not to exceed 450 feet for a three lot subdivision or 600 feet for a four-lot subdivision;

(b) Proposed subdivision of three or four lots with no new or upgraded street with a cumulative driveway length not to exceed 950 feet for three lot subdivisions or 1,100 feet for four lot subdivisions; or

(c) Proposed subdivision consisting of multi-family dwellings that have less than 20,000 square feet of disturbed area including building parking, driveway, lawn, subsurface waste water disposal systems, and infiltration areas, and new or upgraded streets not exceeding 200 linear feet.

(d) A proposed subdivision which creates lots which could be further divided such that five or more lots may result shall be subject to the standard review procedures unless there are deed restrictions prohibiting future divisions of the lots.

(3) *Standard review.* This section shall apply to proposed subdivisions which do not qualify for the simplified review. Phosphorus export from a proposed subdivision shall be calculated according to the procedures in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, most current regulations. When a proposed subdivision creates lots which are more than twice the required minimum lot size and there are no deed restrictions proposed to prohibit future divisions, the applicant shall either calculate phosphorus loading based on the maximum feasible number of lots, and shall design controls adequate to limit the resulting phosphorus loading, or shall reserve a portion of the permitted phosphorus export for future divisions.

(4) *Maintenance and use restrictions for phosphorus control measures.*

(a) *Monitoring.* Provisions for monitoring, inspections, and maintenance of phosphorus control

measures shall be included in the application.

(b) *Vegetative buffer strips.* Individual lot owners shall be required to maintain buffer areas on their individual lots in accordance with the following standards, to be specified in recorded deed restrictions and as notes on the plan. Where a vegetative buffer strip is to be owned in common by property owners in the subdivision, documentation establishing the lot owners' association shall include the following standards.

1. *Wooded buffers.* Maintenance provisions for wooded buffers shall provide for the following: No Disturbance. Maintenance and use provisions for wooded buffer strips which are located on hydrologic soil group D soils and within 250 feet of the great pond or a tributary, or which are located on slopes over 20% shall include the following.

a. Buffers shall be inspected annually for evidence of erosion or concentrated flows through or around the buffer. All eroded areas must be seeded and mulched. A shallow stone trench must be installed as a level spreader to distribute flows evenly in any area showing concentrated flows.

b. All existing undergrowth (vegetation less than four feet high), forest floor duff layer, and leaf litter must remain undisturbed and intact, except that one winding walking path, no wider than six feet, is allowed through the buffer. This path shall not be a straight line to the great pond or tributary and shall remain stabilized.

c. Pruning of live tree branches that do not exceed 12 feet above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.

d. No cutting is allowed of trees except for normal maintenance of dead, wind blown or damaged trees.

e. Buffers shall not be used for all-terrain vehicle or vehicular traffic.

2. *Limited disturbance.* Maintenance and use provisions for other buffer strips may include the following:

a. There shall be no cleared openings. An evenly distributed stand of trees and other vegetation shall be maintained.

b. Activity within the buffer shall be conducted to minimize disturbance of existing forest floor, leaf litter and vegetation less than four feet in height. Where the existing ground cover is disturbed and results in exposed mineral soil, that area shall be immediately stabilized to avoid soil erosion.

c. Removal of vegetation less than four feet in height is limited to that necessary to create a winding foot path no wider than six feet. This path shall not be a straight line to the great pond or a tributary. The path must remain stabilized.

d. Pruning of live tree branches that do not exceed 12 feet in height above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.

e. Where the removal of storm-damaged, diseased, unsafe, or dead trees results in a cleared opening, those openings shall be replanted with native trees at least three feet in height unless existing

new tree growth is present.

f. Buffers shall not be used for all terrain vehicle or vehicular traffic.

3. *Non-wooded buffers.*

a. Non-wooded buffers may be allowed to revert or to be planted to forest, in which case the standards above shall apply.

b. A buffer must maintain a dense, complete and vigorous cover of “non-lawn” vegetation which shall be mowed no more than once a year. Vegetation may include grass, other herbaceous species, shrubs and trees.

c. Activity within the buffer shall be conducted so as to prevent damage to vegetation and exposure of mineral soil. Burning of vegetation shall be prohibited.

d. Buffers shall not be used for all-terrain vehicles or other vehicular traffic.

4. *Infiltration systems.* Individual lot owners shall be responsible for maintenance of individual infiltration systems according to the standards specified in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, most current regulations. Requirements for maintenance shall be included in deed restrictions and as notes upon the plan. As an alternative to maintenance by individual lot owners, the applicant may designate some other entity to be contracted to take the responsibility, and shall include the above referenced maintenance provisions in any contractual agreement. Where infiltration systems serve more than one lot, a lot owners' association shall be established and the above referenced maintenance provisions shall be referenced in the documentation establishing the association.

5. *Wet ponds.* A lot owners' association shall be established to maintain wet ponds, unless the municipality or some other public entity agrees to assume inspection and maintenance duties. Documentation establishing the association or establishing an agreement with a public entity shall include the maintenance standards specified in the manual *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, or most current regulations.

(Ord. Passed 1-3-2013) (Amended 10-22-2015)

§ 154.211 DESIGN GUIDELINES.

(A) *General.*

(1) This section is intended to provide an example of design guidelines, which if followed will result in meeting the appropriate performance standards of § 154.210.

(2) Compliance with these guidelines shall be considered evidence of meeting those standards.

(3) Proposed subdivisions not in compliance with the design guidelines of this subchapter may be considered, but the applicant shall provide clear and convincing evidence that the proposed design

will meet the performance standard(s), the standards of §§ 154.040 through 154.047 above, Maine and the statutory criteria applicable to subdivisions, as applicable.

(4) In all instances, the burden of proof shall be upon the applicant to present adequate information to indicate all ordinance requirements, performance standards and statutory criteria for approval have been or will be met.

(B) *Sufficient water.* (See § 154.210.(c))

(C) *Transportation access management and design*²

(1) *General design.* To the maximum extent practicable, all subdivision access way entrances and exits shall be constructed perpendicular to the external street providing access to the subdivision. No subdivision access way shall intersect the external street at an angle of less than 60 degrees.

(2) *Multiple frontages.* Where a lot has frontage on two (2) or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction to the affected parcel(s). In cases where creating an access way to a lesser traveled way is problematic, the Board may allow access to the higher volume street if the access does not significantly detract from public safety. For access way entrances and exits on higher volume streets, the Board shall consider the functional classification of the external street, the length of frontage on the external street, the intensity of traffic generated by the proposed subdivision, the geography along the frontage of the external street with lesser potential for traffic, and the distance to the external street with lesser potential for traffic.

(3) *Shared Access.* The Board may require that lots in subdivisions with frontage on a state or state-aid highway have shared access points (entrances/exits) to and from the highway. Normally a maximum of two (2) access points should be allowed regardless of the number of lots or businesses served.

(4) *Paving.* The subdivision access way including all radii must be paved from the edge of pavement of the external street to the street right-of-way, and connecting to the paved internal subdivision streets.

(5) *Minimum sight distances for access ways connecting to external streets.*

(a) Minimum sight distance requirements for all subdivision access ways connecting to external streets shall be contingent on the posted speed of the external street. For access ways expected to carry primarily passenger vehicles, the standards in the second column in Table 1 shall apply. For access ways estimated to carry more than 30% of their traffic in vehicles larger than standard passenger vehicles, the standards in the third column of Table 1 shall apply.

²External streets are those streets outside of the proposed subdivision. Internal streets are those streets within the proposed subdivision that provide access from external streets to the lots within the proposed subdivision.

Table 1 Minimum Sight Distances for Subdivision Access Way Entrances/Exits		
Posted Speed (MPH)	Sight Distance Standard Passenger Vehicles (Feet)	Sight Distance Larger Vehicles (Feet)
20	155	230
25	200	300
30	250	375
35	305	455
40	360	540
45	425	635
50	495	740
55	570	855
60	645	965

(b) Access way entrances/exits shall be located and designed in profile and grading to provide the required sight distance measured in each direction. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curbline or edge of shoulder, with the height of the eye three and one-half (3½) feet, to the top of an object four and one-half (4½) feet above the pavement.

(6) *Access way design based on traffic volume.*

(a) Access way design shall be based on traffic volume estimates anticipated to be carried by the internal subdivision street. Traffic volume estimates shall be as defined by the latest edition of the Institute of Transportation Engineers' Trip Generation Manual. The following traffic volume categories shall apply to the design of the subdivision access ways connecting to external streets:

1. Low volume access way: An access way with 50 or less passenger car equivalent (PCE) trips in the peak hour.
2. Medium volume access way: Any access way with more than 50 PCE trips in the peak hour but

less than 100 PCE trips during the peak hour.

3. High volume access way: Any access way with 100 or more PCE trips during the peak hour.

(7) *Basic access design standards for low and medium volume access ways.* The following minimum design standards shall apply to all low and medium volume access ways connecting to external streets (Table 2):

Table 2 Access Design Standards for Low and Medium Volume Access Ways			
Basic Standards		Low Volume (Feet)	Medium Volume (Feet)
Minimum Access Road Width ¹	Majority Passenger Vehicles	22	22
	>30% Larger Vehicles	24	30
Minimum Curb Radius	Majority Passenger Vehicles	10	15
	>30% Larger Vehicles	15	15
Minimum Distance to: ²	Unsignalized Intersection	75	100
	Signalized Intersection	125	125
Notes: ¹ Minimum width for low and medium volume accesses shall be either the minimum cross section width of the internal subdivision street (Table 3) or the minimum access width in this table, whichever is greater. ² The distance measured from the edge of an internal subdivision access road excluding radii to the edge of an external street excluding radii.			

(8) *Additional access requirements for medium volume access ways.* In addition to the basic access standards in Table 2, the Board may require that medium volume access ways on state or state-aid highways designated by the MDOT as major collectors or arterials also comply with the following standards:

(a) The minimum curb radius on the edge of the access shall exceed the minimum curb radius standard in Table 2 if a larger design radius is needed to accommodate a larger design vehicle.

(b) A throat shall be constructed around the access in order to store vehicles waiting to exit the access. The throat shall be of sufficient length to prevent incoming vehicles from queuing back into the highway. Access from the throat to parking or other areas shall be prohibited.

(c) A separator strip or strip of land that separates the roadway from the throat or parking area shall be constructed. The access separator strips shall be installed between the parking area and the roadway and along the throat. The Board shall determine if the separator strip shall include curbing, walkways, ditching, and/or vegetation. The separator strip shall extend away from the highway at a minimum of nine (9) feet from the traveled way of the external road.

(9) *High volume access ways.* All high volume accesses shall meet the requirements of the MDOT's *Rules and Regulations Pertaining to Traffic Movement Permits*. A copy of any initial and subsequent MDOT-required traffic studies shall be submitted to the Board. The Board shall consider design standards for the proposed subdivision access based on the findings of the traffic study submitted to the MDOT. The design standards shall be compatible with the performance standards cited in this chapter.

(D) *Street design and construction standards.*

(1) *General requirements.*

(a) The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with any local ordinance or the specifications contained in this chapter. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.

(b) **Submissions.**

1. Applicants shall submit to the Board, as part of the final plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within 300 feet of any proposed intersections. The plan view shall be at a scale of one inch equals no more than fifty (50) feet. The vertical scale of the profile shall be one inch equals no more than five **(5)** feet.

2. The plans shall include the following information:

- a. Date, scale, and north point, indicating magnetic or true.
- b. Intersections of the proposed street with existing streets.
- c. Roadway and right-of-way limits including edge of pavement or aggregate base, edge of shoulder, sidewalks, and curbs.
- d. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
- e. Complete curve data shall be indicated for all horizontal and vertical curves.
- f. Turning radii at all intersections.
- g. Centerline gradients.
- h. Size, type, vertical clearance and locations of all existing and proposed overhead and

underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.

3. Where the applicant proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the Road Commissioner or designees, and/or MDOT , as appropriate.

(2) *Street design standards.*

(a) *Guidelines to control roadway, etc.* These design guidelines shall control the roadway, shoulders, clear zones, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice and will meet the performance standards of § 154.210.

(b) *Reserve strips prohibited, exception.* Reserve strips controlling access to subdivision streets shall be prohibited except where their control is definitely placed with the municipality.

(c) *Mark for road realignment.* Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in this subchapter), or when the comprehensive plan indicates or the municipality has plans for realignment or widening of a road that would require use of some of the land in the subdivision, the subdivision plan shall indicate reserved areas for widening or realigning the road marked “Reserved for Road Realignment (Widening) Purposes.” Land reserved for such purposes may not be included in computing lot area or setback requirements of the zoning code. The reserve area shall not be included in any lot, but shall be reserved to be deeded to the Town of Hermon or State of Maine.

(d) *Two street connections.* Any subdivision expected to generate average daily traffic of 200 trips per day or more shall have at least two (2) street connections with existing public streets, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. Any street with an average daily traffic of 200 trips per day or more shall have at least two (2) street connections leading to existing public streets, streets shown on an official map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.

(e) *Street design guidelines.* The design standards of Table 3 shall apply according to street classification.

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Table 3: Street Design Guidelines

<i>Description</i>	<i>Type of Street</i>			
	<i>Arteri al</i>	<i>Colle ctor</i>	<i>Mino r</i>	<i>Industri al/ Commer cial</i>

Minimum right-of-way width ⁶	90 feet	60 feet	60 feet	70 feet
Minimum traveled way width	24 feet	24 feet	20 feet	24 feet
Minimum width of shoulders (each side) ⁷	6 feet	4 feet	4 feet	4 feet
Maximum width of shoulder ⁷	8 feet	5 feet	5 feet	8 feet
Minimum grade	0.5%	0.5%	0.5%	0.5%
Maximum grade ¹	5.0%	6.0%	8.0%	5.0%
Minimum centerline radius:				
-----without superelevation	500 feet	280 feet	280 feet	400 feet
-----with superelevation	350 feet	175 feet	175 feet	300 feet
Roadway crown ²	1/4 inch/foot	1/4 inch/foot	1/4 inch/foot	1/4 inch/foot
Minimum angle of street intersections ⁴³	90 degrees	90 degrees	75 degrees	90 degrees
Maximum grade within 75 ft. of intersection	3%	3%	3%	3%
Minimum curb radii at intersection	30 feet	25 feet	25 feet	30 feet ⁵⁴
Minimum r/o/w radii at intersections	20 feet	10 feet	10 feet	20 feet

¹Maximum grade may be exceeded for a length of 100 feet or less.

²Roadway crown is per foot of land width.

³Street intersection angles shall be as close to 90 degrees as feasible but no less than the listed

angle.

⁴Should be based on turning radii of expected commercial vehicles, but no less than 30 feet.

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(f) *On street parking.* The Board shall have authority to require a paved cross section of 26 feet for residential subdivisions with average lot widths between 100 feet and 40 feet wide for on-street spillover parking.

(g) *Centerline of right-of-way.* The centerline of the roadway shall be the centerline of the right-of-way.

(m) *Dead end streets.*

1. In addition to the design standards in Table 3 above, dead-end streets shall be constructed to provide a cul-de-sac turn-around with the following minimum requirements for radii:

a. Property line: 60 feet.

b. Outer edge of pavement: 50 feet.

c. Inner edge of pavement: 30 feet.

2. The required lot frontage off a cul-de-sac shall meet the required frontage within the land use district the lot is situated in and will be measured along the building setback line following the radius of the right-of-way (ROW). Side lot lines shall extend a minimum of 100 feet perpendicular from the ROW prior to changing direction. This clause shall only apply to lots contained completely within the radius of the cul-de-sac; all other variations shall meet normal frontage requirements. See Cul-de-sac Design (figure).

3. The cul-de-sac area shall be cleared of trees and brush and designed so the center of the cul-de-sac is graded and paved to allow for appropriate drainage, unless a waiver is granted by the Planning Board for an alternate plan. The Board shall require the reservation of a 20-foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a 60-foot easement in line with the street to provide continuation of the road where future subdivision is possible.

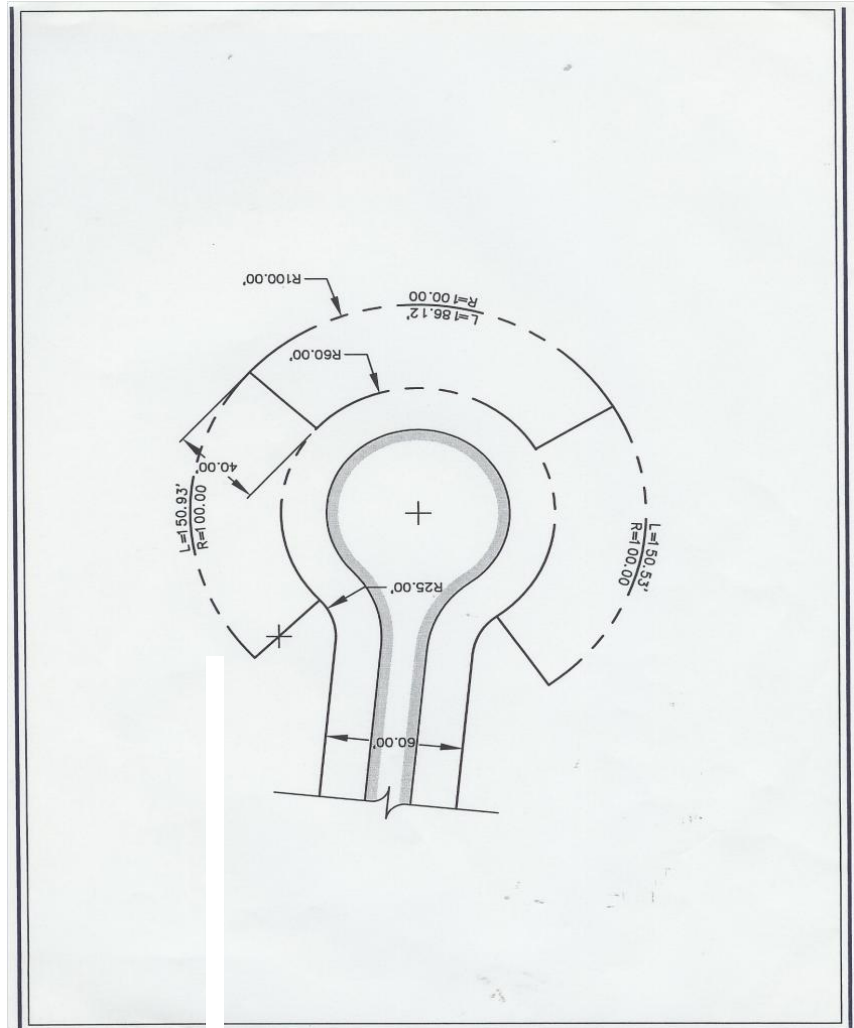
 4. *Temporary exception for phased development:* The Board may grant a temporary exception to the cul-de-sac requirement above for phased development. Where an approved plan contains provisions for phased development, the dead-end street may terminate in a temporary T-style turnaround. To be granted this exception, the applicant must submit a sketch plan for build-out of the entire phased development that includes a continuation of the subdivision street in accordance with Table 3, and that terminates in a cul-de-sac as required above.

 a. The ROW for the temporary T-style turnaround shall be at least sixty (60) feet wide in all parts. The traveled way shall be a minimum of twenty (22) feet wide in all directions, with the top of the "T" a minimum of one hundred (100) feet in length. Provision shall be made for the reservation of an easement in line with the street to provide for continuation of the street. See T-style Turnaround Design (figure).

___b. If phased development has not occurred within three (3) years, a cul-de-sac meeting the requirements of this section shall be constructed to replace the T-style turnaround. The applicant may apply for a 2-year extension that the Town Council may grant if there is adequate evidence that the developer will complete the phased development within the near future.

5. *Performance guarantee required.* A performance guarantee in accordance with §154.212 of this code is required for all cul-de-sac and T-style dead end streets.

CUL-DE-SAC DESIGN



T-STYLE TURNAROUND DESIGN

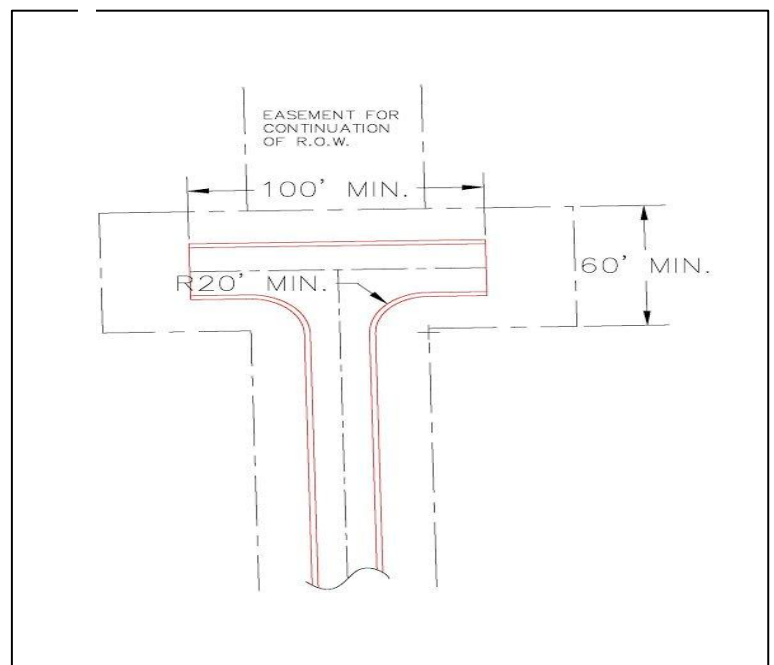
(n) *Sidewalks.* Where installed, sidewalks shall meet these minimum requirements.

1. *Location.* Sidewalks may be located adjacent to the curb or shoulder but it is recommended to locate sidewalks a minimum of two and one-half feet from the curb facing or edge of shoulder if the street is not curbed.

2. *Bituminous sidewalks.*

a. The sub-base aggregate course shall be no less than 12 inches thick after compaction.

b. The hot bituminous pavement surface



course shall be MDOT plant mix grade D constructed in two lifts, each no less than one inch after compaction.

3. *Portland cement concrete sidewalks.*

- a. The sub-base aggregate shall be no less than 12 inches thick after compaction.
- b. The Portland cement concrete shall be reinforced with six inch square, number 10 wire mesh and shall be no less than four inches thick, with a broom finish and a two-inch wide smooth finish edge.
- c. *Concrete curbing.* When utilized, concrete curbing shall be installed on a thoroughly compacted gravel base of six inches minimum thickness. When utilized, bituminous curbing shall be installed on the base course of the pavement. The specified traveled way width above shall be measured between the curbs.

(3) *Street construction standards.*

(a) **Minimum pavement materials thickness.** The minimum thickness of materials after compaction shall meet the specifications in Table 4.

Table 4: Minimum Pavement Materials Thickness

<i>Street Materials</i>	<i>Arteri al</i>	<i>Collect or</i>	<i>Minor</i>	<i>Industria l/ Commerc ial</i>
Aggregate sub-base course (max. sized stone 6 inch)	18"	18"	12"	18"
Sub-base shall be placed in a maximum 8-inch lift				
Crushed aggregate base	6"	6"	6"	6"
Hot bituminous pavement				
Total thickness	4"	4"	3"	4"
Safe course (<i>see note</i> ¹)	1"	1"	1"	1"
Binder course	3"	3"	2"	3"

(b) Preparation.

1. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at 50-foot intervals.
2. Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, sidewalks, drainage-ways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.
3. All organic materials or other deleterious material shall be removed to a depth of two feet below the sub-grade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the sub-grade of the roadway. On soils which have been identified by the Road Commissioner or his/her designee as not suitable for roadways, either the subsoil shall be removed from the street site to a depth of two feet below the sub-grade and replaced with material meeting the specifications for gravel aggregate sub-base below, or a Maine Department of Transportation approved stabilization geotextile may be used.
4. Except in a ledge cut, side slopes shall be no steeper than a slope of three-feet horizontal to one-foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than one-foot horizontal to four-feet vertical is permitted.
5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

(c) *Bases and pavement.*

1. *Bases/sub-base.*

- a. The aggregate sub-base course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three-inch square mesh sieve shall meet the grading requirements of Table 5.

Table 5: Aggregate Sub-base Grading Requirements

<i>Passing Sieve Designation</i>	<i>Percentage by Weight Passing Square Mesh Sieves</i>
1/4 inch	25% - 70%
No. 40	0 - 30%
No. 200	0 - 7%

Aggregate for the sub-base shall contain no particles of rock exceeding six inches in any dimension.

- b. If the aggregate sub-base course is found to be not fine-gradable because of larger

stones, then a minimum of three inches of aggregate base course shall be placed on top of the sub-base course. The aggregate base course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three-inch square mesh sieve shall meet the grading requirements of Table 6.

Table 6: Base Course Grading Requirements

<i>Sieve Designation</i>	<i>Percentage by Weight Passing Square Mesh Sieves</i>
1/2 inch	45% - 70%
1/4 inch	30% - 55%
No. 40	0 - 20%
No. 200	0 - 5%

Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.

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

3. *Pavements.* The subdivider shall provide both the base layer and the surface layer of pavement.

a. Minimum standards for the base layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade B with an aggregate size no more than one inch maximum and a liquid asphalt content between 4.8% and 6% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is 35 degrees F or higher and the surface to be paved is not frozen or unreasonably wet.

b. Minimum standards for the surface layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade C or D with an aggregate size no more than three-quarter-inch maximum and a liquid asphalt content between 5.8% and 7% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and October 15, provided the air temperature in the shade at the paving location is 50 degrees F or higher.

4. *Surface and shoulder gravel.* Surface gravel may be used on shoulders and temporary turnarounds. It shall be placed on top of the aggregate sub-base, shall have no stones larger than two inches in size and meet the grading requirements of Table 7.

Table 7: Surface Gravel Grading Requirements

<i>Sieve Designation</i>	<i>Percentage by Weight Passing Square Mesh Sieves</i>
2 inch	95% - 100%
1/2 inch	30 - 65%
No. 200	7 - 12%

(E) *Impact on natural beauty, aesthetics, historic sites, wildlife habitat, rare natural areas or public access to the shoreline.*

(1) *Preservation of natural beauty and aesthetics.*

(a) Unless located in areas designated as a growth area in the comprehensive plan, a subdivision in which the land cover type at the time of application is forested shall maintain a wooded buffer strip no less than 50 feet in width along all existing public roads. The buffer may be broken only for driveways and streets.

(b) Unless located in areas designated as a growth area in the comprehensive plan, building location shall be restricted from open fields, and shall be located within forested portions of the subdivision. When the subdivision contains no forest or insufficient forested portions to include all buildings, the subdivision shall be designed to minimize the appearance of building when viewed from existing public streets.

(c) When a proposed subdivision contains a ridge line identified in the comprehensive plan as a visual resource to be protected, the plan shall restrict tree removal and prohibit building placement within 50 feet vertical distance of the ridge top. These restrictions shall appear as notes on the plan and as covenants in the deed.

(d) When a proposed subdivision street traverses open fields, the plan shall include the planting of street trees. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted no more than 50 feet apart.

(2) *Protection of significant wildlife habitat and important habitat areas.* The following guidelines are designed to protect the significant wildlife resources identified in the municipality. The Board recognizes that wildlife management must take into account many site specific variables. Applicants proposing to subdivide land within identified wildlife resources must consult with the Maine Department of Inland Fisheries and Wildlife or a qualified wildlife biologist and provide their written comments to the Board. The guidelines of this section shall apply to only those subdivisions which include significant wildlife habitat or resources identified in this division (E).

(a) *Protection of habitat of endangered or threatened species.*

1. Habitat or species appearing on the official state or federal lists of endangered or threatened species shall be placed in open space.

2. Deed restrictions and notes on the plan shall reflect standards from the Department of

Inland Fisheries and Wildlife for removal of vegetation within 250 feet of the habitat for species appearing on the list of endangered or threatened species unless the Department of Inland Fisheries and Wildlife has approved cutting of vegetation in writing.

(b) *Protection of waterfowl, shorebird, and wading bird habitat, Atlantic Salmon spawning and nursery areas.*

1. There shall be no cutting of vegetation within the strip of land extending 75 feet inland from the normal high-water mark of the following habitat areas:

- a. Shorebird nesting, feeding and staging areas and seabird nesting islands;
- b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
- c. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, or
- d. Other important habitat areas identified in the comprehensive plan.

2. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.

(c) *Protection of deer wintering areas.* The report prepared by a wildlife biologist, selected or approved by the Board, shall include a management plan for deer wintering areas.

(d) *Protection of important shoreland areas.*

1. Except as in areas described in §§ 154.205 through 154.214 within all areas subject to the 250-foot Shoreland Zone:

a. Tree removal shall be limited to no more than 40% of the volume of trees four inches or more in diameter measured at four and one-half feet above the ground level on any lot in any ten-year period.

b. Harvesting operations shall not create single clear-cut openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet they shall be at least 100 feet apart. Such clear-cut openings shall be included in the calculation of total volume removal. For the purposes of the guidelines volume may be considered to be equivalent to basal area.

c. Cleared openings for subdivision, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, shall not exceed in the aggregate, 25% of the lot area or 0,000 square feet, whichever is greater, including land previously developed.

2. These restrictions shall appear as notes on the plan and as deed restrictions to the affected lots.

(e) *Other important wildlife habitat.* If the proposed subdivision includes other important wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the comprehensive plan, the restrictions on activities in and around these areas shall be reviewed by the Department or a qualified wildlife biologist and their comments presented in writing to the Board.

(F) *Storm water management design guidelines.*

(1) Design of best management practices shall be substantially equivalent to those described in the *Storm Water Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection or most current regulations, 1995.

(2) Drainage easements for existing water courses or proposed drainage ways shall be provided at least 30 feet wide, conforming substantially with the lines of existing natural drainage.

(3) The minimum pipe size for any storm drainage pipe shall be 15 inches for driveway entrances and 18 inches for cross culverts. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than three inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to a minimum of six inches above the top of the pipe.

(4) Catch basins shall be installed where necessary and when located within a street shall be located at the curb line.

(5) The following are storm drainage construction standards.

(a) *Materials.*

1. Storm drainage pipes shall conform to the requirements of Maine Department of Transportation materials specifications § 706 for non-metallic pipe and § 707 for metallic pipe. All materials shall be approved by the Road Commissioner.

2. Where the storm drainage pipe is to be covered by ten feet or more of fill material, pipe material with a 50-year life shall be used. These materials include concrete pipe, polymer coated galvanized corrugated steel pipe, polyvinyl-chloride (PVC) pipe, and corrugated aluminum alloy pipe.

(b) *Pipe gauges.* Pipe gauges shall be approved by the road commissioner.

(c) *Drain inlet alignment.* Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the municipal engineer.

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

(e) Upon completion, each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until final acceptance.

(G) *Impact on water quality or shoreline, buffer strip required.* Within a strip of land extending 100 feet inland from the normal high-water line of a great pond or any tributary to a great pond, and 75 feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The deeds to any lots which include any such land shall contain the following restrictions:

(1) There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten feet in width

as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a tributary to a great pond, the width of the foot path shall be limited to six feet.

(2) Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. No more than 40% of the total volume of trees four inches or more in diameter, measured at four and one-half feet above ground level may be removed in any ten-year period.

(3) In order to protect water quality and wildlife habitat adjacent to great ponds, and tributaries to great ponds, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.

(4) Pruning of tree branches, on the bottom third of the tree is permitted.

(H) *Blocks.*

(1) Where street lengths exceed 1,000 feet between intersections with other streets, the Board may require a utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width constructed in accordance with design standards in division (D)(2)(n), sidewalks.

(2) Maintenance obligations of the easement shall be included in the written description of the easement.

(I) *Lots.*

(1) Wherever possible, side lot lines shall be perpendicular to the street.

(2) The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of §§ 154.040 through 154.047 and §§ 154.065 through 154.096 of this chapter and this subchapter and conditions placed on the original approval.

(3) If a lot on one side of a stream, road or other similar barrier fails to meet the minimum requirements for lot size it may not be combined with a lot on the other side of the stream, or road to meet the minimum lot size.

(4) The ratio of lot length to width in shoreland zones shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.

(5) Lot numbering shall conform to the standards of the addressing ordinance of the town, article VII. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. Contact the town office for a copy of the street addressing ordinance.

(6) The lot numbering shall be reviewed by the Town Clerk and the Clerk's comments

considered by the Board.

(7) No lot shall be created having a net area less than the minimum required for the zoning district it is situated in, after deducting easement areas, freshwater wetlands and other unusable areas.

(J) *Utilities.*

- (1) Utility poles and 37 KV lines shall be installed to a lot in a subdivision prior to its sale.
- (2) Water and sewer shall be installed if applicable.

(K) *Monuments.*

(1) Monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.

(2) Monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135 degrees or less.

(3) All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.

(L) *Phosphorus export.*

(1) When a proposed subdivision is within the direct watershed of a great pond and qualifies for the simplified review procedure, buffer strips shall be provided in accordance with the following table.

(a) Buffer strips shall be provided on the downhill side of all lots along all tributaries to great ponds and along the great pond.

(b) The minimum required width of buffer strips are designated in Table 9 and depend on the watershed in which the proposed subdivision is located, the size of the lot, the hydrologic soil group, and whether deed restrictions are proposed to limit the area which may be cleared on each lot.

(2) When the proposed subdivision is within the direct watershed of a great pond and does not qualify for simplified reviewed, the phosphorus control measures shall meet the design criteria in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, most current regulations.

Table 9: Buffer Strip Widths in Watershed of Hypothetical Pond

Phosphorus Standard: 0.07 - 0.08 lbs/acre (Buffer Width in Feet Per Lot)

<i>Lot</i>	<i>Hydrologic Soil Group</i>	<i>Clearing Restricted to</i>	<i>No Clearing Restrictio</i>
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12,500 sq. ft.

< 1 acre	A	75	85
	B	130	150
	C	N/A	N/A
	D	N/A	N/A
1 - 1.99 acre	A	25	25
	B	25	55
	C	55	190
	D	200	N/A
2 - 2.99 acres	A	25	25
	B	25	25
	C	25	50
	D	25	200

All lots 3 acres and larger shall provide a minimum 25-foot buffer.

(Ord. Passed 1-3-2013) (Amended 10-22-2015)

§ 154.212 PERFORMANCE GUARANTEES.

(A) *Types of guarantees.* Prior to the applicant being provided with a copy of the approved plan for recording, the applicant shall provide a performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs, in accordance with the provisions of §§ 154.180 through 154.190 above, when required by the Board.

(B) *Phasing of development.* The Board may approve plans to develop a subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those commercial subdivision units or lots abutting that section of the proposed subdivision street or public parking lot which is covered by a performance guarantee. When subdivision is phased, road construction shall commence from an existing public way; parking lot construction shall commence from the principal entrance to the parcel. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

(C) *Release of guarantee.* Prior to the release of any part of the performance guarantee, the Town Manager shall determine to its satisfaction, in part upon the report of the municipal engineer or other qualified individual retained by the municipality and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested. In case of disagreement, the Board shall arbitrate.

(D) *Default.* If upon inspection, the municipal engineer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the Code Enforcement Officer, the municipal officers, the Board, and the applicant or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.

(E) *Improvements guaranteed.* Performance guarantees shall be tendered for all improvements required to meet the standards of this subchapter and for the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures, unless a majority of the Board votes to waive performance guarantees for any or all of the required improvements.

(Ord. passed 1-3-2013)

§ 154.213 WAIVERS.

(A) *Waivers authorized.* Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be developed, it may waive portions of the procedural or submission requirements, unless otherwise indicated in this subchapter, provided the applicant has demonstrated that the performance standards of this subchapter and the criteria of the state statutes have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or this subchapter.

(B) *Findings of fact required.* Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be developed, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the procedural or submission requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or this subchapter, and further provided the performance standards of this subchapter and the criteria of the state statutes have been or will be met by the proposed subdivision.

(C) *Conditions.* Waivers may only be granted in accordance with this section and division (A) When granting waivers, the Board shall set conditions so that the purposes of this chapter are met.

(D) *Waivers to be shown on final plan.* When the Board grants a waiver to any of the improvements required by this subchapter, the final plan (Mylar), to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

(Ord. passed 1-3-2013)

§ 154.214 APPEALS TO SUPERIOR COURT.

An aggrieved party may appeal any decision of the Board under this subchapter only to Penobscot County Superior Court, within 30 days of the date the Board issues a written order of its decision.

(Ord. passed 1-3-2013)

SIGNS

§ 154.225 GENERAL.

(A) *Permit required.* No person shall erect any sign, as herein defined, without first obtaining a permit therefore from the Code Enforcement Office, except those signs exempt from the requirements of this subchapter.

(B) *Filing of permit.* All applications for permits as specified above, shall be filed with the Code Enforcement Officer, upon forms furnished, and shall be accompanied by plans, showing the size of the sign, the position of the sign(s) in relation to the lot lines and streets, the position of the sign in relation to adjoining buildings or structures.

(C) *Fees schedule.* The permit fee for erecting, altering, or replacing signs shall be \$20 per sign, except that if a non-conforming sign of record is being altered or replaced so as to bring it in to conformity with this chapter no fee shall be charged.

(D) *Limitation.* Should the work authorized by a permit granted under this chapter not have commenced within six months, or if the authorized work is suspended or abandoned for a period of six months after the time of commencing, then and in that event, the permit shall become null and void and a new permit shall be required before any work may continue.

(E) *Non-conforming signs.* Signs existing on the date of the adoption of this subchapter on 1-1-2007 shall be allowed to remain without alteration for an indefinite period of time.

(Ord. passed 1-3-2013)

§ 154.226 RESTRICTIONS.

(A) *Flashing and/or revolving signs.* All flashing and/or revolving signs are prohibited in the town.

(B) *Illuminated signs.* All illuminated signs erected or maintained shall be illuminated by non-flashing and non-intermittent light or lights. No illuminated signs shall be of the intensity or brilliance to cause glare or impair the vision of the operator of any motor vehicle or to otherwise interfere with such operator.

(C) *Off-premise signs prohibited.* All off premise signs are prohibited. This provision shall not apply to official business directional signs.

(D) *Attached signs.* No attached sign shall obstruct any window, door, stairway or other opening intended for ingress or for needed ventilation or light. Further, no sign shall be attached to any tree or public utility pole.

(E) *Projecting signs.* No signs shall project over any lot line, public sidewalk, street or right-of-way line. No projecting sign shall be less than eight feet above grade level.

(Ord. passed 1-3-2013)

§ 154.227 SETBACKS.

(A) *Setback from right-of-way.* No signs except official business directional signs, shall be erected inside of the public right-of-way. In addition, if the paved surface of the road extends to the edge of the right-of-way, signs must be located at least seven feet from such paved surface.

(B) *Setback from side lot lines.* All signs shall be set back a minimum of the required building setback within the district the building is located. The setback shall be determined from street or lot line to that part of the sign that extends nearest to said line finished grade level.

(C) *Not to interfere with vision of operator of motor vehicle.* Regardless of these setback provisions, no sign shall be located such that it interferes with or impairs the vision of the operator of any motor vehicle.

(Ord. passed 1-3-2013)

§ 154.228 TEMPORARY SIGNS.

Temporary signs, as defined in this chapter shall be classified in one of the three categories below, and subject to the regulations that pertain there to:

(A) *Real estate sale, rental, or lease.* Temporary signs which pertain to use, sale, or lease of real estate shall be permitted, but must not exceed 32 square feet in area in the Commercial, Village Commercial, and Industrial District. Sixteen square feet in the residential areas. All temporary signs shall conform to § 154.226, restrictions.

(B) *Special event and/or announcement signs.* Signs shall be prohibited, except temporary signs totaling not more than ten square feet in area on a single lot, pertaining to campaigns, drives, or events of political, civic, philanthropic, educational, or religious organizations. Such signs must be removed no later than 30 days after they are erected. A permit shall not be required for said signs. All other regulations contained in this chapter shall apply to said signs.

(C) *Political signs.* Signs bearing a political message relating to an election, primary or referendum shall be permitted without necessity of a permit and may be placed in the right-of-way provided they are removed by the candidate or political committee no later than one week after the election, primary, or referendum to which they relate. Any signs not removed within this time period shall be removed by the Code Enforcement Officer of the town, or his or her agent. The cost of removal of such signs shall be determined by the Town Manager and a bill for such costs shall be sent to the candidate or committee responsible for the placement of such signs. Any such sign placed on private property shall also be removed within one week after the election, primary, or referendum to which they relate. The Code Enforcement Officer shall notify any property owner on whose property such signs have been placed if the signs are not removed within the time period set forth above.

(Ord. passed 1-3-2013)

§ 154.229 SIGNS FOR ALL HOME OCCUPATIONS.

Signs for home occupations shall be limited to one nameplate, which may display the name of the occupation and/or the name of the home occupation(s). Such sign shall not exceed four square feet in area and shall be non-illuminated.

(Ord. passed 1-3-2013)

§ 154.230 HEIGHT OF SIGNS.

No sign, either attached, detached or affixed sign shall extend to a height greater than 25 feet above the level of the finished grade or otherwise noted in the subchapter.

(Ord. passed 1-3-2013)

§ 154.231 FREE-STANDING OR DETACHED SIGNS.

The following standards are for single, stand-alone commercial or industrial uses not located in an industrial park, business park, or a commercial complex (shopping center).

(A) *Village Commercial District*. One sign not exceeding 35 square feet in total surface area.

(B) *Residential B and C Districts*. Commercial uses allowed in RB and RC Districts may have one sign not exceeding 35 square feet each in surface area. Nonconforming commercial uses in existence as of the date of this amendment may have one sign not exceeding 12 square feet in surface area. (See § 154.009 for definition of non-conforming uses.)

(C) *Commercial District*. One sign not exceeding 75 square feet each in surface area.

(D) *Industrial District*.

(1) One sign each not exceeding 128 square feet in surface area.

(2) Exception for Industrial areas abutting I-95 or I-95 Interchanges: two separate signs each not exceeding 150 square feet in surface area or four signs totaling 330 square feet. These signs may not exceed 28 feet in height.

(E) *Residential A District*. No signs allowed except for those permitted through a home occupation.

(F) *Agricultural Forestry District*. Single sign not exceeding 12 square feet in surface area shall be permitted through the Code Enforcement Officer.

(G) *Contract Zone*. The site plan application for a Contract Zone request shall show location and size of all proposed signage.

(Ord. passed 1-3-2013)

§ 154.232 COMMERCIAL COMPLEXES (SHOPPING CENTERS).

(A) *Definition*. **COMMERCIAL COMPLEX (SHOPPING CENTER)** is defined as a grouping of two or more commercial units built primarily for retailing purposes on common

property planned, developed, owned or managed as a unit with common off street parking provided for the same site.

(B) *Shopping center entrance sign.* Shopping center entrance signage shall be part of the site plan approval by the Town Planning Board.

(1) *Village Commercial District.* Each shopping center's main entrance may have one detached sign directing the public to the shopping center and shall not to exceed 100 square feet and additional signage identifying use of services rendered on the premises in combination shall not exceed not 100 square feet Detached signs shall not extend to a height greater than 25 feet above the finished grade.

(2) *Industrial and Commercial Districts.* Each shopping center's main entrance may have one detached sign directing the public to the shopping center and shall not to exceed 175 square feet and additional signage identifying use of services rendered on the premises in combination shall not exceed 175 square feet. Detached signs shall not extend to a height greater than 25 feet above the finished grade.

(3) *Individual space signage.* Each store or shop front may have one attached sign no larger than one square foot of area for every running foot of its frontage. No attached sign or supporting structure shall extend more than four feet above the level of a flat roof or the level of the eaves on the other types of pitched roofs.

(4) *Traffic signage.* Traffic movement signs, measuring not more than four square feet to direct and facilitate the flow of vehicular traffic into and out of a commercial establishment shall be shown on the project site plan.

(Ord. passed 1-3-2013)

§ 154.233 INDUSTRIAL PARK, OR BUSINESS PARK.

(A) *Directory; conditions.* A sign or the name of an industrial or business park and a directory of businesses and industries within the same shall be permitted. Each sign authorized under this subchapter shall be subject to the following conditions.

(B) *Town ownership.* Each sign shall be owned by the town with the costs of construction and installation determined by the Economic Development Director and the Town Council.

(1) *Entrance sign.* No more than one sign shall be located at or near the entrance to any industrial park or business park, except in those cases where a directory of park occupants is to be a separate sign in addition to the park entrance sign. Such directory sign shall be permitted provided it is located in the park no less than 150 feet from the entrance sign and shall be setback a minimum of 25 feet from the edge of the pavement.

(2) *Size.* The park entrance sign shall be no larger than 175 square feet. The bottom of the sign face must stand at least six feet from the finished grade elevation. The sign shall carry no flashing illumination or moving parts. Location of the park entrance sign shall be approved by the Road Commissioner.

(3) *Directory sign.* A sign carrying a directory of park occupants must be designed to provide a name space which is no larger than six square feet in size and which carries no advertising other than business logos and must be equal in size and shape for each of the proposed lots in the park. Individual directory signs must be removed within 30 days of the date that the business which they advertise moves or closes.

(4) *Attached signage.* Each store or shop front may have one attached sign no larger than one square foot of area for every running foot of its frontage.

(Ord. passed 1-3-2013)

VILLAGE COMMERCIAL DISTRICT

§ 154.250 PURPOSE AND SCOPE.

(A) The purpose of this subchapter is to encourage and support the ongoing development of an attractive, traditional, rural New England village consisting of compatible mixed uses that is vibrant, pedestrian friendly and well-designed.

(B) These standards are applicable to new construction, enlargements, and/or change of use.

(Ord. passed 1-3-2013)

§ 154.251 REQUIRED SUBMISSIONS.

(A) *Purpose.* The required submittal helps the Code Enforcement Officer (CEO) and Planning Board determine whether the following standards will be met. The CEO and Planning Board should review each submittal and be confident that the information provided adequately addresses the review standard, prior to approving the application.

(B) *Application.* The application shall be in writing on a form available from the town office and shall contain a description of the proposed structure(s) prior to their construction, enlargement or change of use. Submittals shall include:

(1) A plan of the site to scale showing lot dimensions, abutters, building envelope and proposed landscaping;

(2) A scale drawing of the structure(s) with notations showing:

- (a) Building height;
- (b) Roof type and pitch;
- (c) Dimensions of building and its orientation;
- (d) Exterior finish including colors;

- (e) Building size;
 - (f) Architectural details;
 - (g) Location of building(s) on the site;
 - (h) Street level photograph(s) of adjacent buildings; and
 - (i) Construction materials and textures.
- (3) Specific plans for landscaping, buffers, exterior lighting, hours of operation, noise control, and outside storage of materials;
- (4) A scale drawing, location and description of proposed signs;
- (5) A scale drawing showing sidewalks and sidewalk treatments (if applicable);
- (6) A scale drawing of off-street parking and loading facilities;
- (7) A scale drawing of entrance and exit access roads; and
- (8) Any other information necessary to show that these standards and any other applicable standards of this chapter have been met.

(Ord. passed 1-3-2013)

§ 154.252 ACCESS AND TRAFFIC MANAGEMENT.

(A) *Applicability.* These standards apply to all access ways other than driveways to single family and two-family dwellings. Further, these standards apply:

- (1) To all public or private access ways onto state highways, state-aid highways and town public ways; and
- (2) The alteration of existing access ways onto said highways and public ways; and
- (3) To changes in use on the property serviced by such access ways.

(B) *Access to public ways.*

(1) *State and state-aid highways.* Access ways connecting to any state or state-aid highway shall meet the minimum access permitting requirements of the Maine Department of Transportation *Highway Driveway and Entrance Rules*.

(2) *Large developments.* Access ways expected to carry more than 100 passenger car equivalent (PCE) trips in the peak hour shall meet the minimum access permitting requirements of the Maine Department of Transportation *Rules and Regulations Pertaining to Traffic Movement Permits*.

(3) *Subdivision and site plan review.* Access ways serving Subdivisions and Uses Requiring Site Plan Review shall meet the transportation provisions in §154.205 through 154.214.

(4) *Standards.* All access ways shall be located and designed in profile and grading to provide for safe and convenient ingress and egress, to and from the site, and to minimize conflict with the flow of traffic.

(a) Access ways shall be designed to adequately accommodate the volume and character of vehicles anticipated to be attracted daily.

(b) *Emergency vehicle access.* Provision shall be made for convenient and safe emergency vehicle access to all buildings and structures at all times.

(c) *Multiple frontages.* Where a lot has frontage on two (2) or more streets, the Board may require that road access to the lot is provided across the frontage and to the street where there is less potential for traffic congestion and hazards to traffic and pedestrians.

(d) *Shared access ways.* Shared access ways that connect two (2) or more sites to the public street system shall be encouraged for adjacent sites. Where practicable and to improve safety the Board may require shared access ways for two (2) or more sites with frontage on Route 2, Cold Brook Road, and Odlin Road in order to minimize the number of access ways along these thoroughfares.

(e) *Interconnected development.* Where topographic and site conditions allow, the Board may require vehicle and/or pedestrian connections to adjoining lots of similar existing or potential use if it will:

1. Facilitate fire protection services as approved by the Fire Chief; and/or
2. Enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a public street, such as Route 2.

(f) *Corner lots.* Where a site occupies a corner of two (2) intersecting public streets, no access entrance or exit shall be located within fifty (50) feet of the point of tangency of the existing or proposed curb radius of that site.

(g) *Corner obstructions.* No fence, wall, sign, structure, or landscaping shall be placed within the area within twenty (20) feet of an intersection of any two streets in such a manner to materially impede vision between a height of two and one-half (2½) and ten (10) feet above street level.

(h) *Sight distance.* The minimum allowable sight distance for all access entrances/exits onto public streets to the maximum extent possible, shall be as follows:

Allowable Speed	Sight Distance
-----------------	----------------

(Miles Per Hour)	(Feet)
20	155
25	200
30	250
35	305
40	360
45	425
50	570
55	645
60	645

Note: The Board may require up to 50% greater sight distances when at least 30% of the traffic using the access entrance/exit will be by larger vehicles.

(i) *Angles.* Access ways shall intersect the public street at an angle of, or as near to ninety (90) degrees as site conditions will permit and in no case less than sixty (60) degrees.

(j) *Access widths.* Access entrances and exits shall be designed to be wide enough to adequately accommodate the volume and character of vehicles anticipated. The minimum width for an access shall be 25 feet. The maximum width of an access shall be 35 feet. Access ways serving large volumes of daily traffic or traffic of over fifteen (15%) percent truck traffic shall utilize widths at or approaching the maximum width allowed. The Board may require or allow an even wider access to accommodate higher traffic volumes, larger vehicles, and/or the need for an additional lane but only with the approval from the Road Commissioner or his/her designees.

(k) *Maximum grade.* The grade of the access way shall not be more than 3% for a distance of seventy-five (75) feet from the edge of the pavement of the street intersection.

(l) *Stacking or queuing standards for drive-up businesses.* Stacking or queuing spaces shall be located on-site and shall not be located within the required setbacks. Stacking or queuing

spaces shall not interfere with the stall and aisle space requirements as described in the off-street parking and loading.

1. *Banks or other commercial uses.* There shall be a minimum of eight (8) spaces.
2. *Drive-up restaurant or business.* There shall be eleven (11) spaces for the drive-up window, with a minimum of five (5) of these spaces for the ordering station.

(Ord. passed 1-3-2013)

§ 154.253 BUFFERING OF ADJACENT USES.

(A) The development shall provide for the buffering of adjacent uses, where there is a transition from one type of use to another, and for screening of mechanical equipment, loading and service areas, and storage facilities.

(B) Buffering shall be designed and maintained to provide a year-round visual screen in order to minimize adverse impacts. It may consist of fencing, evergreens, berms, rocks, boulders, mounds, or a combination thereof. The use of native plant species is encouraged.

(C) A development shall provide sufficient buffering when topographic or other barriers do not provide reasonable screening and where there is a need to:

(1) Shield neighboring properties from any adverse external effects of the development;
or

(2) Shield the development from the negative impacts of adjacent uses.

(D) The depth of the buffer may vary depending on the treatment of the area.

(1) A buffer with dense planting, fencing or changes in grade may be as little as five feet in width. A buffer with moderate levels of planting should be ten feet to 15 feet in depth.

(2) Areas adjacent to mechanical service, parking, loading or storage areas and facilities should be screened by dense plantings, berms, fencing, or a combination thereof with a minimum depth of five feet.

(Ord. passed 1-3-2013)

§ 154.254 BUILDINGS.

(A) *Building placement and setback.*

(1) *Relationship to parking lot.* The site design should avoid creating a building surrounded by a parking lot. Parking should be to the side or preferably in the back. (See § 154.260, off-street parking.)

(2) *Setbacks in built-up areas.* In more built-up areas, new buildings should be setback to provide a reasonably uniform relationship with existing and adjacent buildings, while meeting

the minimum front yard building setbacks in §§ 154.040 through 154.047. Buildings that create a terrace, court or plaza or similar outdoor spaces shall be permitted.

(3) *Setbacks in less built-up areas.* In less built-up areas, front yard building setbacks should establish a pattern characteristic of a small, traditional village, with setbacks between 23 feet and 30 feet.

(4) *Corner lots.* For corner lots, the existing setback relationship of both streets should be maintained to the extent practicable and consistent with §§ 154.040 through 154.047, setbacks.

(5) *Side yard setbacks.* Side yard setbacks should appear similar to others in the area, as seen from the street, so as to maintain the uniform spacing of side yards.

(6) *Multiple buildings.* Where two or more buildings are proposed, the buildings shall be grouped and linked with sidewalks. Tree plantings shall be used to provide shade and break up the scale of the site. Parking areas shall be separated from the building by a minimum of five to ten feet. Plantings shall be provided along the building edge.

(B) *Building orientation and scale.*

(1) *Rectangular buildings preferred.* Buildings shall have a basic form that is similar to those seen traditionally. Simple, rectangular buildings are preferred. Box-style buildings are discouraged.

(2) *Visual continuity.* Building forms that disrupt the sense of visual continuity are discouraged.

(3) *Large buildings.* When new large buildings or structures are proposed in built-up areas where their scale (size) and other features may be significantly different from that which already exists in the immediate neighborhood, the new building shall be designed to be compatible with its neighbors. This may include making the building appear small, using traditional materials, styles and/or proportions or dividing the building facade into smaller sections.

(a) *Design.* Buildings with multiple storefronts shall be visually unified through the use of complementary architectural forms, similar materials and colors, consistent details, and a uniform sign and mounting system.

(b) *Entrances.* Pedestrian entrances to each business should be clearly defined and easily accessed.

(c) *Setbacks.* Variations in front setbacks should be considered to add visual interest and create space for common entries, outdoor eating/social places, gardens, and similar landscaped areas.

(d) *Focal points.* Linear commercial buildings should include a focal point, such as a raised entryway, clock tower, or other architectural elements, to add visual interest and help reduce the scale of the building.

(C) *Building materials.*

(1) New building materials shall be compatible in quality, color, texture, finish and dimension to those traditionally found on buildings in New England villages.

(2) Common preferred materials are brick, stone and wood. More modern materials, such as vinyl clapboard siding is also appropriate. Materials not typical such as concrete (cinder block), stucco and metal are discouraged, and shall not be permitted on any portion of the structure visible from the road.

(D) *Building roofs.* Where there is an existing pattern of roofs, new roofs should appear similar to those seen elsewhere in the neighborhood.

(1) Sloping roofs such as gable and hipped, are appropriate for primary roof forms.

(2) Sloping roofs typical of other buildings are encouraged.

(3) Dormers are encouraged because they break up the perceived scale of a roof.

(4) Fake mansard roofs are not permitted.

(5) Flat roofs are discouraged; however if used they shall be hidden from view from the street; decoration of the roofline and/or front facade is encouraged to hide flat roofs.

(6) Parapets, projecting cornices, and decorative roof details are encouraged.

(7) Roof materials shall convey a scale and texture similar to those traditionally used.

(8) The most appropriate roof colors include neutral shades such as earth tones, grays and black. Very bright primary colors are discouraged.

(E) *Building entrances.*

(1) *Street orientation.* The main entrance to a building should face the street unless the parking lot layout or the grouping of the buildings justifies another approach.

(2) *Prominent entry.* A prominent entry, clearly identified as such through building and site design, landscaping and/or signage, should be provided.

(3) *Similarity to others.* The entry should appear similar in scale, location and prominence to those seen in the neighborhood.

(4) *Site furnishings.* At building entrance areas and drop-off areas, site furnishings such as benches and sitting walls and, if appropriate, bicycle racks are encouraged. Additional plantings may be desirable at these points to identify the building entrance and to enhance the pedestrian environment.

(F) *Windows and doors.*

(1) New construction should maintain the proportions and spacing of openings of traditional New England neighborhood buildings.

(2) Owners are encouraged to maintain a greater transparent or glazed open area at the storefront level for pedestrian and commercial activity.

(3) Upper story openings and windows should have a vertical orientation, stacked above each other.

(Ord. passed 1-3-2013)

§ 154.255 BUSINESS SIGNS.

See §§ 154.225 through 154.233, signs.

(Ord. passed 1-3-2013)

§ 154.256 LIGHTING.

(A) *Statement of purpose.* To ensure appropriate outdoor lighting consistent with the traditional New England village character by addressing the issues of safety, efficiency, the environment, and aesthetics, and by addressing the need to protect residential uses from excessive lighting.

(B) *All developments to have adequate outside lighting.* All development shall be provided with adequate outside lighting to ensure a safe environment. All lighting intended to illuminate any outdoor area, or the outside of any building, shall be directed into the property served by such lighting so that no undesirable illumination or glare will be produced on adjacent streets or lots occupied by residential, institutional or public uses.

(C) *Performance standards.* The following standards shall apply:

(1) Unless determined to be a safety hazard or in violation of any state or federal law, all outdoor lighting shall comply with this section, except for the following: lighting installed and maintained for public safety by municipal, state or federal government; approved signs; external illumination of flags; approved lighting for athletic fields; temporary outdoor lighting; holiday lighting; luminaries with lamp or lamps rated at a total of 2,000 lumens or less.

(2) *Unobtrusive lighting; ambiance.* Lighting shall not be obtrusive, and fixtures shall be consistent with the small village ambiance.

(3) *Hours of operation.* The permitting authority may require that all exterior lighting, except where security lighting is necessary, must be turned off between the hours of 11:00 p.m. and 5:00 a.m., if it determines that excessive lighting will negatively impact adjacent uses.

(4) *Definitions.* For the purposes of this section, a **LUMEN** is a unit of lumens flux. One **FOOT-CANDLE** is equal to one lumen per square foot. The **LUMEN-OUTPUT VALUES** shall be the initial lumen output ratings of a lamp.

(a) No luminaries shall produce a stray, dazzling light or reflection onto neighboring residential properties, or onto any public road so as to impair the vision of any driver.

(b) Luminaries shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent buildings. No luminaries shall emit any direct light above its horizontal plane. The permitting authority may grant exceptions for lights that are aesthetically consistent with decorative streetlights and located on parcels adjacent to such streetlights.

(c) No flood or spot luminaire of any lumen output rating shall be aimed, directed or focused toward any adjacent or nearby residential parcel.

(d) Rather than leaving security lights on, the use of motion sensors is encouraged.

(e) Direct or indirect illumination shall not exceed one-half foot-candle upon abutting residential properties.

(f) Luminaire height, including the base, shall not exceed 25 feet. Exceptions may be granted only when it can be demonstrated that the intent of this section will still be substantially met.

(5) *Existing nonconforming luminaires.*

(a) The continued use of nonconforming luminaires legally existing as of the effective date of this section shall be permitted unless determined to be a safety hazard.

(b) Nonconforming luminaires replaced or moved after the effective date of this section shall comply with the provisions of this section.

(Ord. passed 1-3-2013)

§ 154.257 NOISE.

(A) *Generally.* The proposed development shall not increase noise to the extent that abutting or nearby properties, or the traditional village character are adversely affected. All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.

(B) *Noise levels and hours of operation.* The permitting authority may require documentation of noise levels, if it determines that the proposed development might produce more than ambient levels of noise such that abutting and/or adjacent properties would be adversely affected. If the permitting authority determines there will be an adverse affect due to the intermittence, beat frequency or shrillness of noise associated with the proposed development, it may limit the development's hours of operation or deny the project.

(**AMBIENT.** Meaning the noise is constantly and spontaneously occurring as “background noise”.)

(Ord. passed 1-3-2013)

§ 154.258 EXTERIOR STORAGE OF MATERIALS.

(A) Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.

(B) All dumpsters or similar large collection receptacles for trash or other materials must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.

(C) Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition

(Ord. passed 1-3-2013)

§ 154.259 LANDSCAPING.

(A) *Landscape plan required.* A landscaping plan shall be provided as part of the site design.

(B) *Landscaping: general standards.*

(1) The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties.

(2) The variety of vegetation shall be based on a consideration of susceptibility to disease, hardiness for specific site location, colors, seasons, textures, shapes, sizes, blossoms and foliage. Planted vegetation shall take the form of shade trees, deciduous shrubs, evergreen, ground cover, perennial and/or annual flower beds and well kept grassed areas and be approved by the permitting authority.

(3) For vegetation standards. See § 154.081(B).

(a) At least one shade tree at least five feet in height and at least one inch in diameter, shall be planted in each 1,000 square feet of required landscaped area; and at least one deciduous shrub or evergreen at least 18 inches above finished grade level, shall be planted for each 500 square feet of required landscaped area.

(b) A total of 25% of non-impervious surfaces must be landscaped with trees, shrubs, ground covers (including grasses) and/or flowers. All non-impervious surfaces must be covered with living plant material.

(c) Primarily wooded property shall be required to landscape 25% of any cleared non-impervious surfaces.

(4) Landscaping may be waived by the Planning Board for fire, security or safety reasons upon a showing by the applicant of the need for such waivers.

(5) The landscape plan must include a description of how the landscaping will be maintained and preserved in good condition.

(C) *Landscaping of parking lots.* Landscaping around and within parking lots shall be designed to shade hot surfaces and visually “soften” the hard surface look of parking areas.

(1) Parking areas shall be designed and landscaped to create a pedestrian-friendly environment.

(2) A landscaped border shall be created around parking lots.

(3) Any parking lot containing ten or more parking spaces should include one or more landscaped islands within the interior of the lot. There should be at least one island for every 20 spaces.

(4) Landscaping should screen the parking lot from adjacent residential uses and from the street.

(D) *Landscaped roadside buffers.* Whenever the area between the street and the front of the building is used for parking or vehicle movement, a vegetated buffer strip should be established along the edge of the road right-of-way. This buffer strip should soften the appearance of the site from the road and should create defined points of access to and egress from the site.

(Ord. passed 1-3-2013)

§ 154.260 LOCATION OF OFF-STREET PARKING.

(A) Particularly within built-up areas, parking lots should be located to the side or rear of the building. Parking should not be located between the building and the street. The use of shared parking, shared access entrances and/or exits, and inter-connected parking lots is encouraged.

(B) Smaller buildings that may need public visibility from the street should be sited as close as possible to the street, provided that not more than one row of parking shall be allowed between the building and the street, with the balance of the parking located at the side and/or rear of the building. Larger scale uses and uses which do not require visibility from the road may be located further from the road with a landscaped buffer between the building and the road.

(Ord. passed 1-3-2013)

§ 154.261 SIDEWALKS.

(A) When developing adjacent to an existing sidewalk, an extension of the sidewalk across

the front of the property may be required by the permitting authority. This is to allow for the ongoing continuation of sidewalks as a part of the overall plan for the village commercial district.

(B) When a public sidewalk is interrupted by a proposed project driveway, the sidewalk material shall continue to be maintained across the driveway, or the driveway shall be painted to distinguish it as a sidewalk. Further, if street trees exist on an adjacent property, street trees shall be planted, in a like manner, on the new site.

(C) In built-up areas, a widening of the sidewalk onto private property to encourage window shopping and an improved streetscape is encouraged. Benches, sculpture, planters and other street furniture are encouraged.

(Ord. passed 1-3-2013)

§ 154.262 DRIVE -THROUGH FACILITIES.

(A) *Minimize impact.* Any use that provides drive-through service shall be located and designed to minimize the impact on neighboring properties and traffic circulation.

(B) *Adjacent residential use.* Drive-through facilities shall be located and designed to minimize negative impacts (light, noise and traffic) on adjacent residential uses.

(C) *Communication systems.* Communication systems shall not be audible on adjacent residential properties.

(D) *Vehicular access.* Vehicular access to the drive through shall be through a separate lane that prevents vehicle queuing within normal parking areas. Adequate queuing space must be provided to prevent any vehicles from having to wait on a public street, within the entry from the street, or within designated parking areas.

(E) *Pedestrian ways.* The drive-through must not interfere with any sidewalk or bicycle path.

(Ord. passed 1-3-2013)

APPEALS

§ 154.275 ESTABLISHMENT OF BOARD OF APPEALS.

There shall be a Board of Appeals (also referred to herein as “the Board”) of five members and two associates, appointed by the Town Council of the town, and established in accordance with provisions of 30-A M.R.S.A. § 2691, as amended. The associates shall be appointed annually and shall have all of the rights of a full member except such associate may vote only in the absence of a full member. Each full member shall serve a term of three years. Such terms shall be staggered so that they do not all expire the same year. Neither a Municipal

Officer nor his spouse may be a member or associate member of the Board. The Board shall at all times be organized and act in accordance with State law and the provisions of this subchapter.

(Ord. passed 1-3-2013)

§ 154.276 JURISDICTION AND AUTHORITY.

For the purpose of this chapter, the Board of Appeals shall have the jurisdiction and authority:

(A) *Administrative appeals.* To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Town Planning Board in the enforcement or administration of this chapter.

(B) *Variance appeals.* To authorize variances upon appeal within the limitations set forth in this chapter.

(Ord. passed 1-3-2013)

§ 154.277 PROCEDURE.

The following is the procedure to make an appeal:

(A) An administrative or variance appeal may be taken to the Town Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Town Planning Board. Such appeal shall be taken within 30 days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the 30-day requirement.

(B) Such appeal shall be made by filing with the Board of Appeals a written notice of appeal on forms available from the Code Enforcement Officer which includes:

(1) A concise written statement indicating what relief is requested and why it should be granted.

(2) A sketch drawn to scale showing lot lines, location of existing and proposed buildings and structures, contours at realistic intervals, and other physical features of the lot pertinent to the relief sought.

(3) The names and addresses of abutting property owners.

(4) Additional information deemed necessary by the Board of Appeals to make a fair and equitable decision, shall be supplied by the applicant upon request. The application must be signed by the applicant. All variances and Administrative Appeals by an aggrieved party shall be accompanied by a fee payable to the town as established by the Town Council.

(C) Upon being notified of an appeal, the Code Enforcement Officer or Town Planning Board, as appropriate, shall transmit to the Town Board of Appeals all of the papers constituting the record of the decision appealed from.

(Ord. passed 1-3-2013)

§ 154.278 VARIANCE APPEALS.

(A) *General limitations.* Variances may be permitted only under the following conditions:

(1) Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements except for minimum setbacks from a wetland or water body required within shoreland zones (see division (B).)

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

(3) The Board of Appeals shall not grant a variance unless it finds that:

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

(b) 1. The strict application of the terms of this chapter would result in undue hardship.

2. The term **UNDUE HARDSHIP** shall mean:

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

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

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

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

(4) The Town Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this chapter to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed. The Board of Appeals may grant a variance, with or without restrictions, only by a concurring vote of at least four members.

(B) *Additional restrictions in areas subject to §§ 154.125 through 154.140, Shoreland Zoning.*

(1) Variances from the minimum setback requirements may only be approved for a single-family dwelling which serves as the primary year-round residence of the petitioner and may not exceed 20% of the required setback. Variances of greater than 20% may only be approved by the Board of Appeals with the written consent of an affected abutting landowner.

(2) In the case of a variance requested from setbacks, the Board of Appeals shall not grant a variance unless it finds that “undue hardship”, as defined in 30-A M.R.S.A. § 4353.4-B, would result from the strict application of the terms of the setback requirements of this chapter. In this specific instance only, **UNDUE HARDSHIP** means:

(a) The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;

(b) The granting of a variance will not alter the essential character of the locality;

(c) The hardship is not the result of action taken by the applicant or a prior owner;

(d) The granting of the variance will not substantially reduce or impair the use of the abutting property; and

(e) The granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

(3) A copy of all variances granted under this division by the Town Board of Appeals shall be submitted to the Department of Environmental Protection within 14 days of the decision.

(C) Additional restrictions in areas subject to §§ 154.155 through 154.166, floodplain management.

(1) Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances shall be granted only upon a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances may be issued by a community for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

(a) Other criteria of this subchapter and §§ 154.155 through 154.166 are met; and

(b) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(5) Variances may be issued by a community for the repair, reconstruction, rehabilitation,

or restoration of structures listed on the National Register of Historic Places or a state inventory of historic places, provided that the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(6) Any applicant who meets the criteria of division (A) above shall be notified by the Board of Appeals in writing that:

(a) The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;

(b) Such construction below the base flood level increases risks to life and property; and

(c) The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

(7) The Board of Appeals shall submit to the Code Enforcement Officer a written report of all variance actions under this division, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a flood hazard development permit, which includes any conditions to be attached to said permit.

(Ord. passed 1-3-2013)

§ 154.279 ADMINISTRATIVE APPEALS.

An administrative appeal lies from a determination made by the Code Enforcement Officer in enforcing this chapter or Planning Board in interpreting this chapter. Such determination may involve an interpretation of the provisions of this chapter or a finding of fact made by the Code Enforcement Officer or Planning Board. Whenever the applicant alleges error by the Code Enforcement Officer or Planning Board in making such determination, he or she may appeal to the Board of Appeals for relief. The Board of Appeals shall then hear and decide whether the Code Enforcement Officer or Planning Board has committed an error in any order, requirement, decision, determination, action or failure to act. In making its decision, the Board of Appeals shall look to the provisions and purposes of this chapter and to the facts as presented to them. The determination of the Code Enforcement Officer or Planning Board shall then be upheld, modified or reversed by the Board. Reversal or modification of the determination made by the Code Enforcement Officer or Planning Board shall be accomplished only by a concurring vote of at least four members of the Board.

(Ord. passed 1-3-2013)

§ 154.280 PUBLIC HEARING.

The Board of Appeals shall hold a public hearing for the purpose of reviewing and deciding applications to it. The Board shall notify the Code Enforcement Officer and abutting property owners at least seven days in advance, of the time and location of the public hearing.

(A) *Notice.*

(1) Notice of the public hearing shall be published in a newspaper of general local circulation and shall be posted in at least three public places in the town at least seven days in advance of the hearing.

(2) Failure of any property owner to receive such notice shall not necessitate another public hearing nor invalidate any action taken by the Board.

(B) *Costs.* The Board of Appeals shall assess all applicants for advertising and mailing costs related to the public hearing.

(C) *Representation.* The applicant or a legal representative shall be present at the public hearing and such applicant may be represented by an attorney. Upon request of the Board, the Code Enforcement Officer or agent shall be present at the hearing. The public hearing may be cancelled only by the Chairman of the Board of Appeals and only for good cause. If such postponement is at the request of the applicant, all costs related to the cancelled hearing shall be assessed to the applicant.

(Ord. passed 1-3-2013)

§ 154.281 DECISION BY BOARD OF APPEALS.

(A) *Quorum.* A majority of the Board including alternate members, shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.

(B) *Burden of proof.* The person filing the appeal shall have the burden of proof.

(C) *Time limit.* The Board shall decide all appeals within 30 days after the close of the hearing, and shall issue a written decision on all appeals.

(D) *Written record.* All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, and the appropriate order, relief or denial thereof.

(Ord. passed 1-3-2013)

§ 154.282 PERMITS.

If the decision of the Board of Appeals is such that the applicant may thereafter rightfully secure building permits or certificates of occupancy, the Code Enforcement Officer shall issue

such permits or certificates within five calendar days after notification of such decision.

(Ord. passed 1-3-2013)

§ 154.283 EXPIRATION DATE.

If the Board of Appeals decides to grant a variance, whether or not such variance has restrictions, the variance shall expire one year from date of the decision if the necessary permits are not issued during that one-year period.

(Ord. passed 1-3-2013)

§ 154.284 REAPPLICATION FOR APPEAL.

If the Board of Appeals shall deny an appeal, a second appeal affecting the same premises and requesting a similar result, shall not be brought before the Board within six months from the date of the denial by the Board of the first appeal, unless in the opinion of a majority of the Board, substantial new evidence shall be brought forward, or unless the Board finds, in its sole and exclusive judgment, that an error or mistake of law or misunderstanding of fact has been made.

(Ord. passed 1-3-2013)

§ 154.285 APPEAL TO SUPERIOR COURT.

An aggrieved party who participated as a party during the proceedings before the Town Board of Appeals, may take an appeal to Superior Court in accordance with state laws within 30 days from the date of any decision of the Town Board of Appeals.

(Ord. passed 1-3-2013)

§ 154.999 PENALTY.

Any person being the owner or occupant of, or having control or use of any building, structure or premises, who violates a provision of this chapter, shall be guilty of a civil offense and upon conviction, shall be punished by a fine of not less than \$100 nor more than \$2,500 for each offense (30-A M.R.S.A. § 4452). Each day that such violation continues after notification shall constitute a separate offense. In the event that the CEO gives a violator a specific period of time in which to correct such offense, the number of offenses shall be calculated from the expiration of such time given.

(Ord. passed 1-3-2013)

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techsupport@amlegal.com
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