

## ARTICLE 1: PREAMBLE

1.1 State Law Reference: Planning, zoning and development, 30 M.R.S.A. 4501 et. seq.

1.2 Title.

1.3. Purpose. This chapter, made in accordance with a comprehensive plan, is enacted for the purpose of decreasing congestion in streets; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the over-crowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, sewerage, schools, parks and other community facilities and utilities; thus promoting the health, safety, convenience and general welfare of the citizens of the town. This chapter is made with reasonable consideration, among other things, to the character of each zone and its peculiar suitability for particular uses and with a view to conserving and stabilizing the value of property and encouraging the most appropriate use of land throughout the community.

1.4 Jurisdiction

1.5 Zoning Map. The zones in Section 3.1 Establishment of Zones are shown upon a map in one (1) sheet entitled Zoning Map of the Town of Long Island dated July 1, 1993. Such map, with amendments, is hereby adopted as part of this article and incorporated in and made a part of this chapter. **(Amended May 14, 2022)**

1.6 Relation to other ordinances. This chapter shall not repeal the provisions of any other ordinance relating to the use of buildings or premises; provided, however, that where this chapter imposes greater restrictions, it shall control.

1.7 Prohibited uses. Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

1.8 Separability

1.9 Effective Date: May 4, 2002

Adopted July 1, 1993

Amended:

## ARTICLE 2: DEFINITIONS

### **Word Usage**

The following words shall be defined as set forth below for use in this chapter. Definitions set forth in the building code of the town shall apply to words not herein defined. Additional definitions are contained in Article 4 (Shoreland Zoning District Standards), Article 7, subsection 7.20 (Townwide Performance Standards-Temporary Occupancy Structures) Articles 10 (Site Plan Review), Article 11 (Subdivisions), Article 12 (Floodplain) and Article 15 (Wireless Communication Facilities). Some terms are defined in more than one of the sections listed and the definitions may differ. In the event that differing definitions of a term apply to an activity the more restrictive definition shall be used. **(Amended May 8, 2010)**

**Accessory Dwelling Unit-** **(Amended May 9, 2009)** An efficiency or one (1) bedroom residential unit that is clearly secondary to the owner occupied residence used for purposes of housing not more than two (2) people, one or both of which must be related by blood, marriage or adoption to the primary residents, and which provides a separate living area designed and equipped with separate and complete housekeeping facilities (living area including kitchen, bath, and one (1) bedroom).

**Accessory uses-** Uses which are customarily incidental and subordinate to the location, function and operation of permitted uses.

**Agriculture-** **(Adopted May 9, 2015)** The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green-house products. Agriculture does not include forest management and timber harvesting activities.

**Aquaculture-** **(Adopted May 9, 2015)** The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species for sale.

**Apartment house-** See "multifamily dwelling."

**Assembly-** A joining together of completely fabricated parts to create a finished product.

**Attached-** Having a common wall.

**Bed and Breakfast-** Any establishment where the general public can stay overnight and are provided with a breakfast meal. This meal can be either a full or continental type breakfast. If an evening meal is served as well, the establishment shall be considered an eating and lodging establishment for licensing purposes. Licenses are required for anyone renting one or more room(s) and serving food.

**Buildable Lot-** For purposes of this article buildable lot shall mean any lot which conforms to the minimum lot size criteria as established for the relevant zone and which otherwise conforms to the requirements set forth under this article.

**Building, height of-** The vertical measurement from grade to the highest point of the roof beams in flat roofs; to the highest point of the roof beams or the highest point on the deck of mansard roofs; to a level midway between the level of the eaves and highest point of pitched roofs or hip roofs; or to a level two-thirds of the distance from the level of the eaves to the highest point of gambrel roofs. For this purpose the level of the eaves shall be taken to mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves.

**Campground-** (Adopted May 14, 2005) Any area or tract of land developed with one or more campsites to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, shelters, recreational vehicles, trailers and similar accommodations.

**Coastal wetland-** All tidal and subtidal lands; all lands below any identifiable debris line left by tidal action; all lands with vegetation present that is tolerant of salt water and that occurs primarily in a salt water or estuarine habitat; and/or any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

**Commercial vessel-** Any watercraft used principally in a business or trade, including common carriers of passenger or freight, whether for governmental, nonprofit or emergency purposes; but not including pleasure craft used principally for recreational purposes.

**Common areas-** Portions of a lodging house which are available for use by all residents of the lodging house. Common areas shall include, but are not limited to, one (1) or more of the following: kitchens, living rooms, recreation rooms, improved basements, and finished porches. Bathrooms, stairways, hallways and storage areas shall not be counted as common areas.

**Day care facility-** A facility which provides a regular program of care and protection for children under the age of sixteen (16), for consideration, for any part of the day.

**Dwelling-** (Amended May 5, 2001) A building or portion thereof used exclusively for residential occupancy that is designed to be and is substantially separate from any other building or buildings except accessory buildings, including: single-family, two-family and multifamily units, but not including hotels, motels, lodging houses, sheltered care group homes or tourist homes.

**Dwelling, Multi-Family-** (Adopted May 12, 2007) A detached building used exclusively for the residential occupancy by two (2) or more families and containing two (2) or more dwelling units.

**Dwelling, Single Family-** (Amended May 9, 2009) A detached building used exclusively for the residential occupancy by one (1) family only and containing not more than one (1) dwelling unit or one (1) dwelling unit plus a single accessory dwelling unit.

**Dwelling unit-** (Amended May 5, 2001) One (1) or more habitable rooms with private bath, kitchen and living and sleeping facilities comprising an independent self-contained unit.

**Educational and Recreational Facilities-** (Adopted May 14, 2005) Structures and improvements used for the primary purpose of outdoor educational and/or recreational activities.

**Educational and Recreational Programs-** (Adopted May 14, 2005) Instruction and/programs that educate or offer recreational activities to program participants.

**Emergency operations-** Emergency operations shall include 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 and livestock from the threat of destruction or injury.

**Family-** Not more than sixteen (16) individuals living together in a dwelling unit as a single nonprofit housekeeping unit. A group occupying a hotel, fraternity house or sorority house shall not be considered as a family. The family may include necessary servants.

**Floor area-** A floor space enclosed by exterior or standard fire walls, exclusive of vent shafts and courts.

**Floor area ratio-** The proportion of total floor area in a development to the total land area. The ratio is calculated as follows:

$$\frac{8,000 \text{ square feet (total floor area)}}{20,000 \text{ square feet (total land area)}} = 0.40 \text{ floor area ratio}$$

**Forest Management Activities-** (Adopted May 14, 2005) Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, forest management or planning activities, timber stand improvement, pruning, planting or other activities promoting the regeneration of forest stands, or other similar or associated activities, but not including timber harvesting or the construction, creation, or maintenance of roads.

**Freshwater wetland-** Freshwater swamps, marshes, bogs and/or similar areas which are:

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

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

**Gross area-** Square footage of land area excluding areas of special flood hazard as defined in Article 12 (Floodplain Standards).

**Handicapped family unit-** A dwelling which provides living facilities for handicapped persons. A handicapped family unit may also provide counseling and support services. Staff members may also be included in the population.

**Handicapped person-** A person with a physical or mental impairment which substantially limits one (1) or more of such person's major life activities, a person with a record of having such an impairment, or a person who is regarded as having such an impairment. This term does not include current, illegal use of or addiction to a controlled substance as defined in 21 U.S.C. Section 802.

**Health care practitioner-** A professional providing medical, therapeutic or other services relating to the diagnosis, treatment or prevention of physical or psychological disabilities.

**Home occupation-** A home occupation is a secondary and incidental use of a dwelling unit, conducted entirely within the dwelling unit by one (1) or more persons residing in the dwelling unit.

**Impervious surface-** Means any surface which does not absorb rain and includes all buildings, roads, sidewalks, parking areas, and any area paved with bricks, concrete or asphalt.

**Impervious surface ratio-** The proportion of a site covered by impervious surfaces. Landscaping islands of strips of two hundred (200) square feet or less shall be included in the calculations as impervious surfaces. The ratio is calculated as follows:

$$\frac{5000 \text{ square feet (impervious surfaces)}}{10,000 \text{ square feet (gross land area)}} = 0.50 \text{ impervious surface ratio}$$

**Inaccessible area-**

- (1) Land which is separated from the main portion of the development parcel by means of one (1) or more of the following:
  - a. Existing easements, rights-of-way or dedicated areas which preclude use in conjunction with the proposed development;
  - b. Gullies, drainage swales or watercourses, where the land which is separated thereby from the main development parcel is not to be used for the building of units or is not available for active or passive recreation areas; or
  - c. Areas which are located more than three hundred (300) feet from the nearest proposed dwelling unit.

- (2) Areas which are not to be used for building purposes and are connected to the main portion of the development parcel only by a strip of land which is less than fifty (50) feet wide shall also be deducted as inaccessible areas.

**Individual Private Campsite-** (Adopted May 14, 2005) An area of land with one or more campsites in common ownership but not associated with a Campground, and which is developed for repeated camping by a single group not to exceed ten (10) individuals in number at any time and which involves site improvements including but not be limited to gravel pads, parking areas, fireplaces, or tent platforms.

**Inn-** A building used for more or less temporary occupancy of individuals, who are lodged with or without meals, having ten (10) but no more than fifty (50) rooms. Guest rooms shall not contain separate kitchen facilities.

**Kitchen facilities-** Facilities used for the preparation of meals, including refrigerators and devices used for the cooking and preparation of food.

**Limited Bed and Breakfast Restaurant-** A separate, incidental accessory use of a legally operating Bed and Breakfast that allows meals to be served to persons not staying overnight at the Bed and Breakfast provided that applicable review and performance standards contained in this Ordinance are met and maintained.

**Lodging house-** A house, building or portion thereof containing three (3) or more rooming units and providing such units, with or without meals, to individuals on a weekly or monthly basis for compensation.

**Lot-** Except when reference is made herein to a lot of record, a lot is a single tract of land located within a single block which at the time of filing for a building permit or certificate of occupancy is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control.

**Lot area-** The area of land enclosed within the boundary lines of a lot.

**Lot width-** The distance parallel to the front of the building measured between side lot lines through that part of the principal building where the lot is narrowest.

**Manufactured housing-** (Amended May 5, 2001) A structural unit or units designed for residential occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis or placement on an independent chassis to a building site. The term includes any type of building which is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing and may be purchased or sold by a dealer in the interim. For purposes of this Ordinance, there are two (2) types of manufactured housing:

- (1) Those units constructed after June 15, 1976, commonly called "newer mobile homes" which the manufacturer certifies are constructed in compliance with the standards required

by the United States Government Department of Housing and Urban Development, as such standards are from time to time revised or amended, meaning structures, transportable in one (1) or more sections, which in the traveling mode are fourteen (14) body feet or more in width and are seven hundred fifty (750) or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air-conditioning and electrical systems contained therein. This term also includes any structure which meets all the requirements of this subparagraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401 et seq.; and

(2) Those units constructed after June 15, 1976, commonly called "modular homes" which the manufacturer certifies are constructed in compliance with the Title 10, Chapter 957 of the Maine Revised Statutes Annotated, and rules adopted under that chapter, meaning structures, transportable in one (1) or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained therein.

Any unit which does not fall within the definitions of this section and which is legally sited within the town on December 18, 1989, may be relocated to any location in the town in which manufactured housing is allowed.

**Marina-** Commercial operation providing floats, slips and piers intended primarily for berthing of noncommercial vessels and the provision of related services such as supplies, fuel, equipment and repairs, which may be provided both to tenants and nontenants.

**Material Storage Area- (Adopted May 14, 2016)** An outdoor area used for the storage or collection material which is to be used at another location.

**Multiple-component manufactured housing-** Manufactured housing which is constructed and transported in two (2) or more sections of substantially similar size that must be mated to form a habitable dwelling. For purposes of multiplex development, multiple-component manufactured housing shall be considered a dwelling unit.

**Noncommercial vessel berthing-** The use of berthing space for berthing of watercraft other than commercial vessels. Berthing space used in the following manner shall not be counted in computing the number of linear feet under this use category:

- (1) Space used principally for sale or repair of vessels;
- (2) Commercial vessel tenant space used by a noncommercial vessel for a period not exceeding ten (10) consecutive days while the primary commercial vessel tenant is conducting its business or trade.

**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, the normal high water line is the upland edge of the wetland, and not the edge of the open water.

**Normal high water mark of inland waters-** That line on the shores and banks of nontidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups water lily, pond lily, pickerelweed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups upland grasses, aster, lady slipper, wintergreen, partridge berry, sasparilla, pines, cedars, oaks, ashes, alders, elms and maples). In places where the shore or bank is of such character that the high water mark cannot be easily determined (rockslides, ledges, rapidly eroding or sloping banks), the normal high water mark shall be estimated, from places where it can be determined by the above method.

**Off-street Parking-** (Adopted May 10, 2008) A parking space provided no less than four (4) feet beyond a public way, street, and road.

**Permanent Foundation-** (Adopted May 5, 2001) Includes the following types of foundations:

- (1) A full, poured concrete or masonry foundation;
- (2) A full concrete frost wall or a mortared masonry wall, with or without concrete floor;
- (3) A reinforced floating concrete pad, provided an engineer licensed by the State of Maine certifies that the pad is adequate if the pad will be placed on soil with high frost susceptibility;
- (4) Foundations for single family dwellings that are in conformance with the requirements of the Town of Long Island Building Code as adopted under Chapter 6 "Buildings and Building Regulations" of the Town of Long Island Code of Ordinances; and Article 2 of this Chapter;
- (5) Foundations with essentially the same structural qualities and characteristics as those enumerated herein.

**Permanent marker-** A granite monument for street monumentation and an iron pin or drill hole in ledge for property delineation, or as otherwise approved by the code enforcement officer.

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

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



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

**Principal building-** The building occupied by the chief or principal use on the premises. When a garage is attached to the principal building in a substantial manner as by a roof or common wall, it shall be considered as a part of the principal building.

**Private club-** Private club, or nonprofit social and recreational facility: A private club, or nonprofit social and recreational facility, is open exclusively to members and to their bona fide guests accompanying them, in order to promote fellowship, social living, proper recreation, civic responsibility, neighborhood responsibility, community welfare or other endeavors. It shall be permissible to serve food and meals on such premises provided adequate dining room space and kitchen facility are available and are provided within all regulations of this article and other applicable codes and ordinances.

**Processing-** Any operation changing the nature of material or materials such as chemical composition or physical qualities. Does not include operations described as fabrication.

**Recent flood plain soils-** Recent flood plain soils include the following soil series as described and identified by the National Cooperative Soil Survey:

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

**Recreation facilities-** Any establishment designed or equipped for the conduct of sports or indoor leisure-time recreational activities.

**Restaurant-** Any food service establishment, with indoor seating capacity for ten (10) or more patrons. **(Amended May 14, 2011)**

**Retail-** Sale to the ultimate consumer for direct consumption and not for resale.

**Retail establishment-** Means (1) any food service establishment which is not a restaurant; or (2) any shop or store offering goods or merchandise to the general public, but does not include temporary free standing stands in either case.

**Rooming unit-** A room or suite of rooms in a house, building or portion thereof rented as living and sleeping quarters, but without full kitchens or bathrooms. In a suite of rooms, each room which provides sleeping accommodations shall be counted as one (1) rooming unit for the purpose of this article. Each rooming unit in a lodging house shall have kitchen privileges unless all meals are

provided on a daily basis. There shall be no more than two (2) persons residing in each rooming unit.

**Seasonal Recreational Facility-** (Adopted May 14, 2005) A property and associated facilities that is used on a seasonal basis primarily for passive recreational purposes.

**Setback-** The required distance and the land resulting therefrom between a street line and the closest possible line of conforming structure.

**Shoreland zone-** The land area located within two hundred fifty (250) feet, horizontal distance, of the maximum spring tide level of any saltwater body; within two hundred fifty (250) feet of the upland edge of a coastal or freshwater wetland; or within seventy-five (75) feet of the normal high water line of a stream.

**Sign-** (Adopted May 5, 2001) Any device, structure, building or part thereof for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public. A roof sign is an outdoor sign which is attached flat to, painted on, or does not project more than 4 inches from the roof. Sign height will be measured from the average original grade within 30 (thirty) feet of the sign to the highest portion of the sign or supporting structure.

**Sign area-** (Adopted May 5, 2001) The area which encompasses the facing of a sign, including copy, insignia, background and borders. Where a supporting structure bears more than one sign, all such signs on the structure shall be considered as one sign, and so measured. A sign with a double sign board or display area shall be considered to be one sign for the purpose of this section and only one side shall be considered in computing sign area.

**Single-component manufactured housing-** Manufactured housing which is constructed and transported in one (1) section that is a habitable dwelling unit. For purposes of multiplex development, single-component manufactured housing shall not be considered a dwelling unit.

**Stormwater detention area-** A storage area for the temporary storage of stormwater runoff which does not contain water during nonstorm conditions.

**Storm water retention area-** A pond or basin used for the permanent storage of stormwater runoff.

**Story-** That portion of a building included between the surface of any floor and the surface of the floor, or the roof, next above. A half story is a story situated under a sloping roof, the area which at a height four (4) feet above the floor does not exceed two-thirds of the floor area of the story immediately below it and which does not contain an independent apartment or dwelling unit. A story which exceeds eighteen (18) feet in height shall be counted as two (2) stories. A basement shall be counted as a story for the purpose of height measurement where more than one-half of its height is above the average level of the adjoining ground.

**Stream-** A free-flowing body of water from the outlet of the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5-minute series topographic map, or if not available, a 16-minute series topographic map, to the point where

the body of water becomes a river or flows to another water body or wetland within a shoreland area, or any stream designated within a Stream Protection Zone.

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

**Street-** For purposes of meeting the street frontage and access requirements of this ordinance, the term street shall mean:

- (1) a public way established by or maintained under public authority, or
- (2) any way, designated for private use and maintained by a property owner or group of property owners, which is not an accepted town road. **(Amended May 14, 2022)**

**Street Frontage-** The portion of a lot property line, measured in horizontal distance, that directly abuts a public or private way. **(Adopted May 14, 2022)**

**Street line-** The line of demarcation between a street and the abutting land.

**Structure-** Anything constructed or erected of more than one (1) member which requires a fixed location on the ground or attached to something having a fixed location on the ground.

**Use-** The purpose for which land or structures thereon is designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.

**Utility substation-** Any sewage or water pumping station, electric power substation, transformer station, telephone equipment enclosures, or other similar structures owned or operated by a public utility.

**Vegetation-** All live trees, shrubs, ground cover, and other plants including, without limitation, trees both over and under four (4) inches in diameter, measured at four and one-half (4 1/2) feet above ground level.

**Water body-** Any river, stream or tidal area.

**Watercourse-** Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, or which has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or flood water.

**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 which cannot be located away from these waters.

**Wireless Communication Facility-** A Facility that transmits, receives, distributes, provides or offers wireless communications together with facility's associated antennas, microwave dishes, horns, cables, wires, conduits, ducts, lightning rods, electronics and other types of equipment for the transmission, receipt, distribution or offering of such signals, wireless communication towers, antenna support structures, and other structures supporting said equipment and any attachments to those structures including guy wires and anchors, equipment buildings, generators, parking areas, utility services, driveways and roads and other accessory features subject to standard contained in this Chapter.

**Wetlands-** Those areas which have two (2) or more of the following:

- (1) A water table at or near the surface during the growing season;
- (2) Very poorly drained soils, including Sebago mucky peat; or
- (3) Obligate wetland vegetation.

For purposes of this definition, "very poorly drained soils" and "obligate wetland vegetation" shall be as defined and illustrated in the United States Department of Interior, Fish and Wildlife Service publication of Wetland Plants of the State of Maine (1986), a copy of which is on file with the code enforcement officer.

**Wholesale-** Sale for resale, not for direct consumption.

**Yard-** A space on a lot which is required by this article to be maintained open, unoccupied and unobstructed between lot lines and any structure, except as permitted in this article. In determining the front, rear or side of any accessory building, the orientation of the principal building shall be controlling.

**Yard, front-** A yard adjoining the front lot line, extending between side lot lines, the depth of which shall be the least distance between the front lot line and any structure.

**Yard, rear-** A yard adjoining the rear lot line, extending between side lot lines, the depth of which shall be the least distance between the rear lot line and any structure.

**Yard, side-** A yard adjoining a side lot line extending from the front yard to the rear yard, the width of which shall be the least distance between the side lot line and any structure.

### **ARTICLE 3: ZONING DISTRICT STANDARDS**

**3.1 ESTABLISHMENT OF ZONES.** In order to carry out the provisions of this Chapter, the Town is hereby divided into the following classes of zones:

Island residential zone (IR-1)

Island residential zone (IR-2)

Recreation and open space zone(R-OS)

Island business zone (I-B)

Shoreland Overlay Zone (Article 4)

Resource protection zone (R-P)

#### **3.2 IR-1 ISLAND RESIDENTIAL ZONE**

A. Purpose. The purpose of the IR-1 island residential zone is to provide for low intensity residential, recreational, and rural uses in the less developed areas of the town in order to preserve the rustic character of the town, to protect groundwater resources and natural and scenic areas, and to permit only appropriate low intensity development in areas lacking adequate public facilities and services.

B. Permitted uses: The following uses are permitted in the IR-1 island residential zone:  
**(Amended May 9, 2015)**

(1) One single-family dwelling per lot.

(2) Boat houses and store houses for fishing equipment.

(3) Parking and storage of equipment related to agriculture or commercial fishing.

(4) Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of Article 2 (Definitions) and Article 7 (Townwide Performance Standards) of this article, including but not limited to (a) home occupations, (b) temporary private tenting with one (1) tent accessory to a principal residential use provided that adequate water supplies and sanitation facilities are available in connection with the principal residential use, and (c) road side stands less than two hundred (200) square feet in floor area for the sale of agricultural products and the sale of fish and shellfish caught by the occupant of the dwelling or principal structure.

- (5) Use of temporary occupancy structures that comply with standards herein.
- (6) Storage Sheds One storage shed with a footprint of not more than one hundred (100) square feet shall be permitted on a lot and shall be exempt from side and rear setbacks and shall require a no fee building permit. Storage sheds shall not be used for human habitation. **(Adopted May 4, 2002)(Amended May 12, 2007) (Amended May 11, 2019)**

C. Conditional uses:

The following uses are permitted only upon the issuance of a conditional use permit by the Planning Board, subject to the provisions of Article 14 (Planning Board) of this chapter and any special provisions, standards or requirements specified below: **(Amended May 11, 2019)**

(1) Institutional: **(Amended May 14, 2016)**

- a. Schools and other educational facilities including seasonal day camps other than campgrounds;
- b. Churches, or other places of worship;
- c. Private clubs, fraternal organizations, excluding yacht clubs and marinas;
- d. Municipal uses, provided that outside storage and parking areas are suitably screened and landscaped to ensure compatibility with the surrounding neighborhood;

Such uses shall be subject to the following standards:

- i. In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential area;
- ii. The proposed use will not cause significant displacement or conversion of residential uses existing as of July 15, 1985, or thereafter; and
- iii. When more than one of the conditional uses exists, the applicable minimum lot sizes shall be cumulative.

(2) Other:

- a. Utility substations including sewage and water pumping stations and standpipes, electric power substations, transformer stations, buried and underwater electric and telephone transmission cables (entering the Town of Long Island from the ocean only), telephone electronic equipment enclosures, and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;
- b. Nursery schools, kindergarten, and day care facilities for seven (7) or more children;
- c. Cemeteries;
- d. Raising of domesticated animals, excluding swine and reptiles, with no animals kept on any lot less than three (3) acres or closer than one hundred (100) feet to any street or lot line, and provided that such use will not create any odor, noise, health or safety

hazards, or other nuisance to neighboring properties; except domesticated fowl as regulated in Ch. 5 Animals and Fowl – Article III Keeping of Domesticated Fowl. This ordinance, to include all of the above text, does not apply to cats and dogs.

**(Amended May 14, 2011)**

- e. Wharves, piers, docks, or landing ramps;
- f. Bed and breakfasts
- g. Handicapped family unit, as defined in Article 2 (Definitions) for handicapped persons, plus staff.
- h. Lodging houses, with more than two (2) but not more than nine (9) lodging rooms.
- i. Wireless Communication Facilities that comply with standards herein.
- j. Limited Bed and Breakfast Restaurants that comply with standards herein.
- k. Accessory Dwelling Units. **(Adopted May 12, 2007)**
- l. Agriculture **(Adopted May 14, 2016)**
- m. Aquaculture **(Adopted May 14, 2016)**
- n. Material Storage Area **(Adopted May 14, 2016)**
- o. Medical Clinic **(Adopted May 13, 2017)**

D. Prohibited uses. Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

E. Dimensional requirements. In addition to the provisions of this chapter, lots in the IR-1 zone shall meet the following minimum requirements:

(1) Minimum lot size except as provided in Article 6 (Nonconformance Structures, Uses and lots):

- a. Sixty thousand (60,000) square feet for all permitted uses except for animal raising and lodging houses.
- b. Animal raising: Three (3) acres.
- c. Lodging houses: Sixty thousand (60,000) square feet for up to six (6) lodging rooms, plus ten thousand (10,000) square feet for each additional lodging room in excess of six (6).
- d. Where an existing subsurface wastewater disposal system serving an existing structure requires replacement, the replacement system shall meet the Maine Subsurface Wastewater Disposal Rules. The land area requirements in this section shall not apply to such a replacement system.

(2) Minimum street frontage:

One hundred (100) feet, except that a lot of record as of the date of the adoption of these ordinances and held under separate and distinct ownership from adjacent lots need not provide street frontage if access is available by means of a permanent easement or right-of-way which existed as of the date of the adoption of these ordinances. **(Amended**

**May 14, 2022)**

(3) Minimum yard dimensions: Yard dimensions shall mean setbacks of structures from property lines.

- a. Front yard: Principal or accessory structures: Thirty (30) feet.
- b. Rear yard: Principal or accessory structures : Thirty (30) feet.
- c. Side yard: Principal or accessory structures: Twenty (20) feet.
- d. Side yard on side streets: Principal or accessory structures: Twenty (20) feet.

(4) Maximum lot coverage: The combined area of all structures, including accessory structures, shall not cover more than 15% of the contiguous area of the lot which is to be built upon or otherwise improved.

(5) Minimum lot width: One hundred (100) feet. **(Amended May 14, 2016)**

(6) Maximum structure height:  
Principal or attached structure: Thirty-five (35) feet.  
Accessory detached structure: Eighteen (18) feet.

F. Other requirements. Other requirements include the following:

(1) Off-street parking shall be required.

(2) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the town shoreland zoning map or in a flood hazard zone shall be subject to the requirements of Article 4 (Shoreland Zoning District Standards) and Article 12 (Floodplain Standards) of this chapter.

(3) Storage of vehicles: Only one (1) unregistered motor vehicle may be stored outside on the premises and not for a period exceeding thirty (30) days.

(4) Additions: Whenever a bedroom is to be added to any structure a Licensed Site Evaluator shall be retained, not at public expense, to inspect the subsurface sewage disposal system. If the system is found to be malfunctioning or not adequate to service the structure including the proposed addition while insuring the integrity of the groundwater, then a building permit will not be granted for the addition of the bedroom until the system is upgraded according to the Maine Subsurface Wastewater Disposal Rules. Such inspections shall be considered valid for three (3) years from date of issuance. For purposes of this section any room in excess of one (1) kitchen, one (1) living room, one (1) dining room, one (1) family room/office, and bathrooms shall also be considered as if it were a bedroom.

### **3.3 IR-2 ISLAND RESIDENTIAL ZONE**

A. Purpose. The purpose of the IR-2 island residential zone is to protect the character of existing developed residential neighborhoods on the island. Expansion or extension of an existing IR-2 zone should be strictly limited, generally focused toward areas adjacent to existing village IR-2 areas, and restricted by such factors as adequacy of access, whether adequate water will be available for private use and for fire protection, and whether soils in the area are adequate for



subsurface water disposal. IR-2 rezoning on substantially sized parcels should not be considered for those sites that should be more appropriately zoned IR-I.

B. Permitted use. The following uses are permitted in the IR-2 island residential zone:  
**(Amended May 9, 2015)**

- (1) One single-family dwelling per lot, excluding mobile home manufactured housing units.
- (2) Boathouses and storehouses for fishing equipment.
- (3) Parking and storage of equipment related to commercial fishing.
- (4) Accessory uses customarily incidental and subordinate to the location, function and operation of principal uses, subject to the provisions of Article 2 (Definitions) and Article 7 (Townwide Performance Standards) of this chapter including but not limited to (a) home occupations, (b) private temporary tenting with one (1) tent accessory to a principal residential use, provided that adequate water supplies and sanitation facilities are available in connection with the principal residential use, and (c) roadside stands less than two hundred (200) square feet in floor area for the sale of agricultural products produced on the premises, and the sale of fish and shellfish caught by the occupant of the dwelling or principal structure.
- (5) Use of temporary occupancy structures that comply with standards herein.
- (6) Storage Sheds, One storage shed with a footprint of not more than one hundred (100) square feet shall be permitted on a lot and shall be exempt from side and rear setbacks and shall require a no fee building permit. Storage sheds shall not be used for human habitation.  
**(Amended May 11, 2019)**

C. Conditional uses. The following uses are permitted only upon the issuance of a conditional use permit by the Planning Board, subject to the provisions of Article 14 (Planning Board) of this chapter and any special provisions, standards or requirements specified below:  
**(Amended May 14, 2019)**

- (1) Institutional: **(Amended May 14, 2016)**
  - a. Schools and other educational facilities, including seasonal day camps other than campgrounds;
  - b. Churches or other places of worship;
  - c. Private clubs or fraternal organizations excluding yacht clubs and marinas;
  - d. Municipal uses, provided that outside storage and parking areas are suitably screened and landscaped to ensure compatibility with the surrounding neighborhood;

Such uses shall be subject to the following standards:

- i. In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential area;
- ii. The proposed use will not cause significant displacement or conversion of residential uses existing as of July 15, 1985, or thereafter; and
- iii. When more than one of the conditional uses exist, the applicable minimum lot sizes shall be cumulative.

(2) Other:

- a. Utility substations including sewage and water pumping stations and stand- pipes, electric power substations, transformer stations, buried and underwater electric and telephone transmission cables (entering the Town of Long Island from the ocean only), telephone electronic equipment enclosures, and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;
- b. Nursery schools, kindergartens, and day care facilities for seven (7) or more children;
- c. Cemeteries;
- d. Raising of domesticated animals, excluding swine and reptiles, with no animals kept on any lot less than three (3) acres or closer than one hundred (100) feet to any street or lot line, and provided that such use will not create any odor, noise, health or safety hazards, or other nuisance to neighboring properties; except domesticated fowl as regulated in Ch. 5 Animals and Fowl – Article III Keeping of Domesticated Fowl. This ordinance, to include all of the above text, does not apply to cats and dogs. **(Amended May 14, 2011)**
- e. Wharves, piers, docks, or landing ramps;
- f. Bed and breakfasts
- g. Handicapped family unit, as defined in Article 2, for handicapped persons plus staff.
- h. Lodging houses, with more than two (2) but not more than nine (9) lodging rooms.
- i. Accessory Dwelling Units. **(Adopted May 12, 2007)**
- j. Agriculture **(Adopted May 14, 2016)**
- k. Aquaculture **(Adopted May 14, 2016)**
- l. Material Storage **(Adopted May 14, 2016)**

D. Prohibited uses. Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

E. Dimensional requirements. In addition to the provisions of this chapter, lots in an IR-2 zone shall meet the following minimum requirements:

- (1) Minimum lot size except as provided in Article 6 (Non-Conformance Structures, Uses and Lots)

- a. Sixty thousand (60,000) square feet for all permitted uses except for animal raising and lodging houses.
- b. Animal raising three (3) acres.
- c. Lodging houses: Sixty thousand (60,000) square feet for up to six (6) lodging rooms, plus ten thousand (10,000) square feet for each additional lodging room in excess of six (6).
- d. Where an existing subsurface wastewater disposal system serving an existing structure requires replacement, the replacement system shall meet the requirements of Maine Subsurface Wastewater Disposal Rules. The land area requirements of this section shall not apply to such a replacement system.

(2) Minimum street frontage: One hundred (100) feet, except that a lot of record as of the date of the adoption of these ordinances and held under separate and distinct ownership from adjacent lots need not provide street frontage if access is available by means of a permanent easement or right-of-way which existed as of the date of the adoption of these ordinances.

**(Amended May 14, 2022)**

(3) Minimum yard dimensions: Yard dimensions shall mean setbacks of structures from property lines.

- a. Front yard: Principal or accessory structures: Thirty (30) feet.
- b. Rear yard: Principal or accessory structures : Thirty (30) feet.
- c. Side yard: Principal or accessory structures: Twenty (20) feet.
- d. Side yard on side streets: Principal or accessory structures: Twenty (20) feet.

(4) Maximum lot coverage: The combined area of all structures, including accessory structures, shall not cover more than 15% of the area of the lot which is to be built upon or otherwise improved.

(5) Minimum lot width: One hundred (100) feet. **(Amended May 14, 2016)**

(6) Maximum structure height:

Principal or attached structure: Thirty-five (35) feet.

Accessory detached structure: Eighteen (18) feet.

F. Other requirements. Other requirements include the following:

- (1) Offstreet parking: Off-street parking shall be required.
- (2) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the town shoreland zoning map or in a flood hazard zone shall be subject to the requirements of Article 4 (Shoreland Zoning District Standards and Article 12 (Flood Plain Standards) of this chapter.
- (3) Storage of vehicles: Only one (1) unregistered motor vehicle may be stored outside on the premises and not for a period exceeding thirty (30) days.

- (4) Additions: Whenever a bedroom is to be added to any structure a Licensed Site Evaluator shall be retained, not at public expense, to inspect the subsurface sewage disposal system. If the system is found to be malfunctioning or not adequate to service the structure including the proposed addition while insuring the integrity of the groundwater, then a building permit will not be granted for the addition of the bedroom until the system is upgraded according to the Maine Subsurface Wastewater Disposal Rules. Such inspections shall be considered valid for three (3) years from date of issuance. For purposes of this section any room, attached or otherwise, in excess of one (1) kitchen, one (1) living room, one (1) dining room, one (1) family room/office, and bathrooms shall also be considered as if it were a bedroom.

**3.4 through 3.6-** Reserved.

### **3.7 RECREATION AND RESORT ZONING DISTRICT (Adopted May 14, 2005)**

A. Purpose. The purpose of this zoning district is:

- (1) To preserve and protect limited and valuable natural and scenic resources.
- (2) To permit low impact passive recreational and educational uses of island shoreland and upland areas while providing measures to protect and preserve natural and scenic characteristics and resources.
- (3) To allow limited, low-impact and low-density development that supports passive recreational and educational activities.
- (4) To control development and construction activities, the removal or disturbance of vegetation, earthmoving to the minimum amount necessary to allow for development that supports passive recreational and educational activities.
- (5) To preserve existing scenic vistas.

B. Permitted Uses. The following uses are allowed within the Recreation and Resort Zone subject to the development standards contained herein:

- (1) Public open spaces
- (2) Picnic areas and groves
- (3) Playgrounds
- (4) Natural parks and scenic overlooks
- (5) Hiking, walking, bicycling, or cross-country ski trails
- (6) Agriculture
- (7) Boat houses and storehouses for fishing equipment
- (8) Forest Management Activities
- (9) Recreational and Educational Programs
- (10) Individual Private Campsites

C. Uses requiring Site Plan Review. The following uses are allowed in the Recreation and Resort Zone provided that approval is obtained from the Planning Board in accordance with the standards established in Article 10 (Site Plan Review) as well as Section 3.7.D below in this Ordinance.

- (1) Municipal parks
- (2) Food preparation facilities
- (3) Campgrounds
- (4) Structures with a footprint larger than four hundred (400) sq. ft.
- (5) Wharves, piers, or landing ramps
- (6) Educational and recreational facilities including seasonal day camps
- (7) Municipal uses
- (8) Seasonal Recreational Facility
- (9) Utility substations including sewage and water pumping stations and standpipes, electric power substations, transformer stations, buried and underwater electric and telephone transmission cables entering the Town of Long Island from the ocean.

D. Standards for uses that require Site Plan Review. In addition to the criteria established in Article 10 (Site Plan Review), the Planning Board will require that the following criteria is met when reviewing proposed activities and uses in the Recreation and Resort Zone.

- (1) When more than one use or activity requiring Site Plan Review is proposed, the more restrictive standards shall apply.
- (2) In the event that a use or activity requiring Site Plan Review is proposed in a location that is difficult to access by emergency services, as determined by the Planning Board, the Planning Board may require the applicant to provide appropriate equipment, improvements and/or facilities as the Planning Board deems necessary to assist emergency personnel.
- (3) All authorizations obtained under site plan approval shall only apply to the applicant. Any change of use, as determined by the Code Enforcement Officer, change of ownership, or change in the party overseeing recreational or educational program operations shall require Planning Board approval.
- (4) The Planning Board shall ensure that the applicant is aware of the notification and/or permits required for large groups. The Planning Board shall also determine that the facilities to be used by the applicant will be adequate to serve the anticipated uses, to protect the general safety and welfare of the participants and the public, and will adequately protect conservation and scenic values.
- (5) The Planning Board shall ensure that the applicant has made adequate provisions for a potable water supply, bathroom facilities, and wastewater disposal in accordance with all applicable standards.

- (6) Outside storage and parking areas must be suitably screened and landscaped to ensure compatibility with the surrounding neighborhood.
- (7) Utility substations, including sewage and water pumping stations and stand-pipes, electric power substations, transformer stations, buried and underwater electric and telephone transmission cables must be suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood.

E. Standards for Campgrounds. **(Amended May 10, 2008)**

- (1) Campgrounds may contain multiple campsites. Campsites may be located anywhere within a campground so long as all setback standards are complied with. The number of campsites allowed on a parcel is determined by dividing the qualifying land area of the parcel by 5,000. Areas on a parcel that are not owned in fee simple, the area under buildings or other structures, parking areas, roads, driveways and land supporting wetland vegetation and land below the maximum spring tide level is not to be included in the qualifying land area of the parcel for this density calculation.
- (2) All campsites shall be set back a minimum of seventy-five (75) feet from the maximum spring tide level.

F. Standards for Individual Private Campsites. **(Amended May 10, 2008)**

- (1) Owners of parcels in existence before the date these provisions are adopted may develop a single individual private campsite if all other applicable set back and bulk and space criteria can be met even if the lot size of their property is less than thirty thousand (30,000) square feet. Individual private campsites may otherwise be developed on each separate parcel with a density no greater than one campsite per thirty thousand (30,000) square feet of land included in the parcel.
- (2) All individual private campsites shall be set back a minimum of seventy-five (75) feet from the maximum spring tide level.

G. Prohibited Uses. Uses that are not expressly enumerated herein as either permitted uses or uses requiring Site Plan Review are prohibited.

H. Access to property. In order to ensure that any new lot created after the adoption of this Recreation and Resort Zoning District shall have reasonable access the following standards shall be applicable:

- (1) No new lot may be developed without deeded access to the shore.
- (2) All lots that do not have direct shore frontage must have deeded rights to utilize a right-of-way or have an access easement, in a location and configuration acceptable to the Planning Board. Such rights of way or easements shall be a minimum of fifty (50) feet in width. All such rights of way or easements shall be located in a manner so as to

minimize soil and wave erosion, to take advantage of appropriate slopes and topography to minimize construction costs and degradation of the site conditions, in consideration of the accessibility and utility of the easement or right of way from the shore and land areas and in consideration of the development of other existing and future lots.

I. Space and Bulk requirements. No building or structure shall be erected, altered, enlarged, rebuilt, or used unless it meets the following requirements:

- (1) Minimum Lot Size: One hundred and twenty thousand (120,000) square feet.
- (2) Minimum Lot Width: Two hundred (200) feet.
- (3) Minimum Shore Frontage: Two hundred (200) feet (where applicable) measured in a straight line between the side lot lines.
- (4) Common Shore Frontage: Shorefront area(s), including beaches, owned, the subject of easements or rights of way or used by multiple property owners must include two hundred (200) feet of shore frontage for the first owner and an additional 25 feet of shore frontage, measured in a straight line between the side lot lines, for each additional property owner using the common shore frontage. In no event shall such common use exceed other applicable density requirements including those established by the Maine Department of Environmental Protection.
- (5) Minimum yard dimensions: Yard dimensions shall mean setbacks of structures from property lines.
  - a. Front yard: Principal or accessory structures: Thirty (30) feet.
  - b. Rear yard: Principal or accessory structures: Thirty (30) feet.
  - c. Side yard: Principal or accessory structures: Twenty (20) feet.
  - d. Side yard on side streets: Principal or accessory structures: Twenty (20) feet.
- (6) Maximum Lot Coverage: The combined area of all structures, including accessory structures, campsites, shall not cover more than 15% of the contiguous area of the lot.
- (7) Maximum Structure Height: Thirty-five (35) feet.

J. Other requirements. Other requirements include the following:

- (1) No roads shall be constructed.
- (2) Shoreland and floodplain management regulations: Any lot or portion of a lot located in a Shoreland zone as identified on the Town Shoreland Zoning Map or in a flood hazard zone shall be subject to the requirements of Article 4 (Shoreland Zoning District Standards) and Article 12 (Floodplain Standards) of this Ordinance.

### **3.8 R-OS RECREATION AND OPEN SPACE ZONE**

A. Purpose. The purpose of this division is:

- (1) To preserve and protect open space as a limited and valuable resource;
- (2) To permit the reasonable use of open space, while simultaneously preserving and protecting its inherent open space characteristics to assure its continued availability for public use as scenic, recreation, and conservation or natural resource area, and for the containment and structuring of development; and
- (3) To coordinate with and carry out federal, state, regional, and town recreation and open space plans.

The recreation open space zone may include major parcels (over two (2) acres) of public property, and private property legally restricted from intensive use or development through deed, covenant, or otherwise.

B. Permitted uses. The following uses are permitted uses within the recreation and open space zone, subject to the development standards contained herein:

- (1) Municipal parks, public open spaces, picnic areas, playgrounds;
- (2) Cemeteries;
- (3) Arboretums;
- (4) Golf courses, excluding miniature golf;
- (5) Boat landings, beaches, and marinas for public uses;
- (6) Outdoor ballfields and public athletic fields;
- (7) Swimming pools and tennis courts;
- (8) Picnic groves and areas;
- (9) Natural parks and scenic overlooks;
- (10) Hiking, walking, bicycling or cross-country ski trails;
- (11) Community gardens for cultivation by and for town residents;
- (12) Accessory uses, including structures or buildings of less than two thousand five hundred (2,500) square feet of floor area.

C. Conditional uses. The following uses are conditional uses in the recreation and open space zone, subject to approval by the Planning Board (**Amended May 11, 2019**).

- (1) Accessory uses with structures or buildings of two thousand five hundred (2,500) square feet or more of floor area;
- (2) Other recreational facilities and uses that are open to the public;
- (3) Buried and underwater electric and telephone transmission cables (entering the Town of Long Island from the ocean only).



D. Standards for conditional uses. In addition to the criteria listed in Article 14 (Planning Board), the Planning Board shall consider the following criteria when reviewing conditional uses in the recreation and open space zone: **(Amended May 11, 2019)**

- (1) The use shall be in conformity with or satisfy a deficiency identified in a federal, state, regional, or town recreation and open space plan, including but not limited to the state comprehensive outdoor recreation plan, as such plans may from time to time be created or revised.
- (2) Buildings and structures shall not obstruct significant scenic views presently enjoyed by nearby residents, passersby, or users of the site.

E. Prohibited uses. Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

F. Space and bulk requirements. No building or structure of a permanent nature shall be erected, altered, enlarged, rebuilt, or used unless it meets the following requirements:

- (1) Minimum front yard:
  - a. Principal buildings or structures: Twenty-five (25) feet.
  - b. Accessory buildings or structures: Twenty-five (25) feet.
- (2) Minimum rear yard:
  - a. Principal buildings or structures: Twenty-five (25) feet.
  - b. Accessory buildings or structures: Twenty-five (25) feet.
- (3) Minimum side yard:
  - a. Principal buildings or structures: Twelve (12) feet.
  - b. Accessory buildings or structures: Twelve (12) feet.
- (4) Minimum lot size: Two (2) acres
- (5) Maximum building height: Thirty-five (35) feet.
- (6) Maximum coverage of lot by buildings, structures and other impervious site improvements such as paved sidewalks, drives and parking lots: Twenty-five (25) percent of lot area.
- (7) Maximum floor area ratio: Two-tenths (0.2).

G. Development standards for recreation and open space zone. All development in the recreation and open space zone shall comply with the following development standards, which shall be reviewed by the planning board in conjunction with the site plan review:

- (1) All ground areas not used for parking, loading, vehicular or pedestrian areas and not left in their natural state shall be suitably landscaped.
- (2) Natural features, such as mature trees and natural surface drainageways, shall be preserved to the greatest possible extent consistent with the uses of the property.
- (3) Loading areas shall be screened and parking areas shall be screened and landscaped so as to avoid a large continuous expanse of paved area.
- (4) Buildings and structures shall be sited to avoid obstructing significant scenic views presently enjoyed by nearby residents, passersby, and users of the site.
- (5) Storage of commodities and equipment shall be completely enclosed within buildings

- or provided with screening by a fence, wall, or landscaping.
- (6) The outer perimeter of playfields, and other active recreational areas shall be screened, or shall be located a reasonable distance from any residential use.
- (7) Off-street parking shall be required.

H. Shoreland and flood plain management regulations. Any lot or portion of a lot located in a shoreland zone as identified on the town shoreland zoning map or in a flood hazard zone shall be subject to the requirements of Article 4 (Shoreland Zoning District Standards) and Article 12 (Floodplain Standards).

### **3.9 I-B ISLAND BUSINESS ZONE**

A. Purpose. The purpose of the I-B island business zone is to provide limited areas on the island for retail and service establishments that serve primarily the needs of the local island market area.

B. Permitted uses. The following uses are permitted in the I-B island business zone: **(Amended May 5, 2001)**

- (1) One Single-family dwelling per lot, excluding mobile home manufactured housing units.
- (2) Retail or service establishments, excluding those listed below:
  - a. Automobile service stations;
  - b. Inns;
- (3) Marinas and yacht clubs;
- (4) Lodging houses, with more than two (2) but not more than nine (9) lodging rooms;
- (5) Wharves, piers, docks, or landing ramps;
- (6) Off-street parking;
- (7) Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of Article 2 (Definitions) and Article 7 (Townwide Performance Standards) of this chapter including but not limited to home occupations;
- (8) Restaurants
- (9) Use of temporary occupancy structures that comply with standards herein.

C. Conditional uses. The following uses are permitted only upon the issuance of a conditional use permit, subject to the provisions of Article 14 (Planning Board) of this Chapter and any special provisions, standards or requirements specified below: **(Amended May 11, 2019)**

- (1) Automobile service stations;
- (2) Inns;
- (3) Schools;
- (4) Nursery schools, kindergartens and day care centers for seven (7) or more children;
- (5) Municipal uses, provided outside storage and parking area uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;
- (6) Churches or other places of worship;
- (7) Private clubs, fraternal organizations;
- (8) Bed and Breakfasts;
- (9) Handicapped family unit, as defined in Article 2 (Definitions), for handicapped persons plus staff;

- (10) Buried and underwater electric and telephone transmission cables (entering the Town of Long Island from the ocean only);
- (11) Accessory Dwelling Units; **(Adopted May 12, 2007)**
- (12) Multi-Family Dwellings. **(Adopted May 12, 2007)**
- (13) Raising of domesticated animals, excluding swine and reptiles, with no animals kept on less than 3 acres or closer than one hundred (100) feet to any street or lot line, and provided that such use will not create any odor, noise, health or safety hazards, or any other nuisance to neighboring properties. Except domesticated fowl as regulated in Ch. 5 Animals and Fowl – Article III Keeping of Domesticated Fowl. This ordinance, to include all of the above text, does not apply to cats and dogs. **(Adopted May 14, 2011)**
- (14) Agriculture **(Adopted May 9, 2015)**
- (15) Aquaculture **(Adopted May 9, 2015)**
- (16) Material Storage Area **(Adopted May 14, 2016)**

D. Prohibited uses. Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

E: Dimensional Requirements. **(Amended May 9, 2009)** In addition to the provisions of this Chapter, lots in the IB, Business District Zone, shall meet the following minimum requirements:

(1) Minimum lot size except as provided in Article 6 (Non-conforming Structures, Uses and Lots):

a. Thirty thousand (30,000) square feet for all permitted uses except for the following:

(i). Lodging Houses: Thirty thousand (30,000) square feet for up to three (3) lodging rooms, plus an additional ten thousand (10,000) square feet for each additional lodging room in excess of (3) rooms.

(ii). Inns: Ten thousand (10,000) square feet for each guest room, Thirty Thousand (30,000) square feet minimum.

(iii) Multi-Family Dwelling: Thirty thousand (30,000) square feet per dwelling unit.

b. Where an existing subsurface disposal system serving an existing structure requires replacement or enlargement, the replacement system shall meet the requirements of the latest Maine Subsurface Wastewater Disposal Rules. The land area requirements of this section shall not apply to such a replacement system.

(2) Minimum street frontage: Forty (40) feet.

(3) Minimum yard dimensions: Yard dimensions mean setbacks of structures from property lines.

a. Front yard: Principal or accessory structures: Twenty (20) feet.

b. Rear yard: Principal or accessory structures: Ten (10) feet.

c. Side yard: Principal or accessory structures: Ten (10) feet.

- (4) Maximum lot coverage: twenty (20) percent of lot area except for lots of record containing less than 20,000 sq. ft which can have maximum lot coverage of up to 50% but only with planning board approval.
- (5) Minimum lot width: Forty (40) feet.
- (6) Maximum structure height:  
Principal or attached structure: Thirty-five (35) feet.  
Accessory detached structure: Eighteen (18) feet.

F. Other requirements. Other requirements include the following:

- (1) Additions: Whenever a bedroom is to be added to any structure a Licensed Site Evaluator shall be retained, not at public expense, to inspect the subsurface sewage disposal system. If the system is found to be malfunctioning or not adequate to service the structure including the proposed addition while insuring the integrity of the groundwater, then a building permit will not be granted for the addition of the bedroom until the system is upgraded according to the Maine Subsurface Wastewater Disposal Rules. Such inspections shall be considered valid for three (3) years from date of issuance. For purposes of this section any room, attached or otherwise, in excess of one (1) kitchen, one (1) living room, one (1) dining room, one (1) family room/office, and bathrooms shall also be considered as if it were a bedroom.

### **3.10 RESOURCE PROTECTION ZONE**

**A. Purpose.** The purpose of the Resource Protection Zone is to restrict development in those areas of the Shoreland Zone (see Article 4) in which it would adversely affect water quality, productive habitat, biological ecosystems or scenic and natural values.

**B. Uses.** No building shall be erected, altered, enlarged, rebuilt or used, and no premises shall be used, in a R-P resource protection zone except for the following uses:

- (1) Nonintensive recreational uses not requiring structures, such as fishing and hiking;
- (2) Bikeways, pedestrian trails and walkways;
- (3) Fire prevention activities;
- (4) Wildlife management activities;
- (5) Soil and water conservation activities;
- (6) Surveying and natural resource analysis;
- (7) Emergency operations as defined in Article 2 (Definitions);
- (8) Harvesting of wild crops;
- (9) Nonresidential structures for educational, scientific or nature interpretation purposes, containing a maximum floor area of not more than two hundred (200) square feet;
- (10) Public and private parks and recreational areas, including one (1) or more structures containing a total maximum floor area of not more than two hundred (200) square feet;
- (11) Permanent and temporary piers, docks, wharves, bridges and uses projecting into water bodies, as allowed in this article 4 (Shoreland Zoning District Standards);
- (12) Storehouses for fishermen's gear;
- (13) Essential aids to navigation;

**C. Conditional uses.** The following uses are permitted only upon the issuance of a conditional use permit by the Planning Board, subject to the provisions of Article 14 (Planning Board) of the Land Use Ordinance and any special provisions, standards or requirements specified below: **(Amended May 11, 2019)**

(1) Buried and underwater electric and telephone transmission cables (entering the Town of Long Island from the ocean only).

**D. Space and bulk.** No building or structure shall be erected, altered, enlarged, rebuilt, or used in a R-P resource protection zone which does not comply with the following requirement:

(1) Maximum height:

a. Building or structure: 15 feet.

**(Adopted/Amended May 8, 2010)**

**ARTICLE 4: SHORELAND ZONING DISTRICT STANDARDS**  
**(Amended May 15, 2021)**

**4.1 Purposes.**

The purposes of this article are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space, as appropriate in an island environment; and to anticipate and respond to the impacts of development in shoreland areas.

**4.2 Authority.**

This Article has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

**4.3 Applicability.**

This article applies to all land areas within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action, or upland edge of a freshwater wetland. This Article also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

**4.4 Effective Date of Article and Article Amendments.**

This Article, which was adopted by the municipal legislative body on May 9, 2020, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Article, or Article Amendment, attested and signed by the Town Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Article or Article Amendment, within forty-five (45) days of his/her receipt of the Article, or Article Amendment, it shall be automatically approved.

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

#### **4.5 Availability.**

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

#### **4.6 Severability.**

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

#### **4.7 Conflicts with Other Ordinances.**

Whenever a provision of this article conflicts with or is inconsistent with another provision of the Town of Long Island Land Use Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

#### **4.8 Amendments.**

This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

#### **4.9 Shoreland Zone Map.**

**A. Official Shoreland Zoning Map.** The State mandated Shoreland Zone is an overlay zone imposed on existing zones as defined in Article 3 of this ordinance and shown on the Town of Long Island Official Zoning Map(s) which is (are) made a part of this ordinance.

#### **B. Scale of Map.**

The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. Zone boundaries shall be clearly delineated and a legend indicating the symbols for each zone shall be placed on the map.

**C. Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal

office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.

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

#### **4.10 Interpretation of Shoreland Zone Boundary.**

The location of the shoreland zone boundary is given on the Town of Long Island Official Zoning Map. Where uncertainty exists as to the exact location of any part of this boundary, the Board of Appeals shall be the final authority as to location.

#### **4.11 Land Use Requirements.**

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created in the shoreland zone except in conformity with all of the regulations herein specified, unless a variance is granted.

#### **4.12 Non-conformance.**

##### **A. Purpose**

It is the intent of this Article to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Article or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 4.12. Except as otherwise provided in this Article, a non-conforming condition shall not be permitted to become more non-conforming. See section 4.17 of this Article for the definitions of non-conforming structures, lots and uses.

##### **B. General**

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

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



### **C. Non-conforming Structures**

(1) Expansions. All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 4.15(B)(1). A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with sub-paragraphs (a) and (b) below.

(a) Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.

(b) Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 4.12(C)(1).

(i) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.

(c) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 4.12(C)(1) or Section 4.12(C)(1)(a), above.

(i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.

(ii) In addition to the limitations in subparagraphs (i) for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the

upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 4.12(C)(1)(b)(i) and Section 4.12(C)(1)(c)(i), above.

- (d) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.

(2) Foundations. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Code Enforcement Officer, basing the decision on the criteria specified in Section 4.12(C)(3) Relocation, below.

(3) Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Code Enforcement Officer, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

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

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 4.15(S). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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

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

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

(4) Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Code Enforcement Officer in accordance with the purposes of this Article. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 4.12(C)(1) above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 4.12(C)(3) above.

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

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Code Enforcement Officer shall consider, in addition to the criteria in Section 4.12(C)(3) above, the physical condition and type of foundation present, if any.

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

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

historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

#### **D. Non-conforming Uses**

(1) Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Sections 4.12(C)(1) above.

(3) Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the IB Zone, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 4.12(C)(5) above.

#### **E. Non-conforming Lots**

(1) Non-conforming Lots: A non-conforming lot of record as of the effective date of this Article or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Article except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

(2) Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Article, if all or part of the lots do not meet the dimensional requirements of this Article, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

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

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

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on ~~the~~ *July 1, 1993*, and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage

disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

(a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or

(b) Any lots that do not meet the frontage and lot size requirements of Section 4.12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

#### **4.13 Establishment of Districts.**

See Article 3 of the Land Use Ordinance

#### **4.14 Table of Land Uses.**

See Article 3 of Land Use Ordinance.

#### **4.15 Land Use Standards.**

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

##### **A. Minimum Lot Standards**

###### **(1) Lot Size and Shore Frontage**

###### **(a) Minimum Lot Size:**

###### **(i) Residential Development adjacent to tidal areas:**

The more stringent of the lot size specified in Article 3 for the underlying zone or thirty thousand (30,000) square feet per single family dwelling or dwelling unit.

###### **(ii) Governmental, Institutional or Commercial Development adjacent to tidal areas:**

The more stringent of the lot size specified in Article 3 for the underlying zone or forty thousand (40,000) square feet per principal structure.

###### **(b) Minimum Shore Frontage:**

###### **(i) Residential Development adjacent to tidal areas:**

One-hundred and fifty (150) feet per single family dwelling or dwelling unit.

(ii) Governmental, Institutional or Commercial Development adjacent to tidal areas:

Two-hundred (200) feet per principal structure.

(2) Land below the upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

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

(4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the 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 single family dwelling or dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

## **B. Principal and Accessory Structures**

(1) All new principal and accessory structures shall be set back at least seventy-five (75) feet, horizontal distance, from tributary streams or the upland edge of a coastal wetland, except that in the IB Zone the setback shall be at least twenty five (25) feet, horizontal distance. In a Resource Protection Zone the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply. In addition:

(a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

(b) Reserved .

(c) For principal structures, wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil

Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.

(d) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area or eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

(2) Principal or accessory structures and expansions of existing structures which are permitted in the Recreation and Resort, Recreation and Open Spaces, Island Business and Resource Protection zones shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

(3) Reserved.

(4) With the exception of IB Zone, non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located. Note that the lot coverage requirements of the underlying zone shall apply if they are more restrictive.

In the IB Zone, non-vegetated surfaces shall not exceed a total of seventy (70) percent of the portion of the lot located within the shoreland zone. Note that the lot coverage requirements of the underlying IB zone shall apply if they are more restrictive.

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

(5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

(a) The site has been previously altered and an effective vegetated buffer does not exist;

(b) The wall(s) is (are) at least 25 feet, horizontal distance, from a tributary stream or upland edge of a coastal wetland;

(c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

(d) The total height of the wall(s), in the aggregate, is no more than 24 inches;

(e) Retaining walls are located outside of the 100-year floodplain on coastal wetlands and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

(f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

(g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

(i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;

(ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of storm water runoff;

(iii) Only native species may be used to establish the buffer area;

(iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;

(v) A footpath not to exceed the standards in Section 4.15(P)(2)(a), may traverse the buffer;

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

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



(1) No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15(A), a second structure may be allowed and may remain as long as the lot is not further divided.

(2) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

(3) The location shall not interfere with existing developed or natural beach areas.

(4) The facility shall be located so as to minimize adverse effects on fisheries.

(5) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.

(6) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

(7) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

(8) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

(9) Except in the General Development Districts and Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

(10) Vegetation may be removed in excess of the standards in Section 15(P) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.

(a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.

(b) Revegetation must occur in accordance with Article 4.15(S).

## **D. Campgrounds**

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

(1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.

(2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

## **E. Individual Private Campsites**

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

(1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.

(2) When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.

(3) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

(4) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.

(5) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

(6) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

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

## **F. Reserved**

## **G. Parking Areas**

(1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

(2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a tributary stream or coastal wetland and where feasible, to retain all runoff on-site.

(3) In determining the appropriate size of proposed parking facilities, the following shall apply:

(a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

(b) Internal travel aisles: Approximately twenty (20) feet wide.

## **H. Roads and Driveways.**

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

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

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

Section 4.15 (H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 4.15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

(2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.

(3) Reserved.

(4) New roads and driveways are prohibited in a Resource Protection Zone except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection Zone the road and/or driveway shall be set back as far as practicable from the normal high-water line of a tributary stream or upland edge of a wetland.

(5) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 4.15(T).

(6) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

(7) In order to prevent road and driveway surface drainage from directly entering tributary streams or coastal wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a tributary stream or upland edge of a coastal wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

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

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

Grade (Percent)	Spacing (Feet)
0-2	250

3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

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

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

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

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

**I. Signs.**

The following provisions shall govern the use of signs in the Resource Protection zone and the shoreland zone sections of the IR1, IR2 and IB Zones:

(1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the IB zone, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

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

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

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

(5) Signs relating to public safety shall be allowed without restriction.

(6) No sign shall extend higher than twenty (20) feet above the ground. (7) Signs may be illuminated only by shielded, non-flashing lights.

## **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 storm waters.

(2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

## **K. Septic Waste Disposal**

(1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:

a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the upland edge of a coastal wetland and

b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

## **L. Essential Services**

(1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

(2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection Zone, except to provide services to a permitted use within said zone, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

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

## **M. Mineral Exploration and Extraction - Repealed May 15, 2021**

## **N. Agriculture**

(1) All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the former Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).

(2) Manure shall not be stored or stockpiled within tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

(3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Article.

(4) There shall be no new tilling of soil within seventy-five (75) feet, horizontal distance, from coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams. Operations in existence on the effective date of this Article and not in conformance with this provision may be maintained.

(5) Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance, of coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the Planning Board.

#### **O-1. Timber Harvesting - Repealed May 15, 2021**

Administered by Bureau of Forestry

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

(1) In any Resource Protection Zone the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

(2) Except in areas as described in Section 4.15(P)(1), above, within a strip of land extending seventy-five (75), horizontal distance, from any tributary stream or the upland edge of a coastal wetland, a buffer strip of vegetation shall be preserved as follows:

(a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.

(b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 4.15(P)(2)(b) a "well-distributed stand of trees" adjacent to tributary streams or

coastal wetlands shall be defined as maintaining a rating score of 16 or more in each 25 foot by 50 foot rectangular (1250 square feet) area as determined by the following rating system.

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

The following shall govern in applying this point system:

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

For the purposes of Section 4.15(P)(2)(b) “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

(c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 4.15(P) paragraphs (2) and (2)(a) above.

(d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

(e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section Q, below, unless existing new tree growth is present.



(f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 4.15.P(2).

Section 4.15(P)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

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

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

(4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Article.

(5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 4.15(P).

#### **Q. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal.**

(1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

(a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.

(b) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared

openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

(c) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.

(d) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

(e) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.

(2) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

(a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:

(i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;

(ii) Stumps from the storm-damaged trees may not be removed;

(iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and

(iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.

(b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand

(10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

## **R. Exemptions to Clearing and Vegetation Removal Requirements**

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

- (1) The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15(P) apply;
- (2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;
- (3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
- (4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;
- (5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:
  - (a) A coastal wetland; or
  - (b) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.
- (6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
  - (a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five

- (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
  - (b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
  - (c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.
- (7) The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

### **S. Revegetation Requirements.**

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

- (1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- (2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
- (3) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
- (4) Revegetation activities must meet the following requirements for trees and saplings:
  - (a) All trees and saplings removed must be replaced with native noninvasive species;

- (b) Replacement vegetation must at a minimum consist of saplings;
  - (c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
  - (d) No one species shall make up 50% or more of the number of trees and saplings planted;
  - (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
  - (f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
- (5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
- (a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
  - (b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  - (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
  - (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
  - (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years
- (6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:
- (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

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

## **T. Erosion and Sedimentation Control**

(1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

- (a) Mulching and re-vegetation of disturbed soil.
- (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
- (c) Permanent stabilization structures such as retaining walls or rip-rap.

(2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

(3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

(4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

- (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
- (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
- (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

(5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry

water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

#### **U. Soils**

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

#### **V. Water Quality**

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

#### **W. Archaeological Site**

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

### **4.16 Administration**

**A. General site plan features.** The Planning Board shall approve a site plan located within a shoreland zone if it finds that the following standards, in addition to the standards set forth in Article 10 (Site Plan Review) are met:

- (1) The proposal will maintain safe and healthful conditions;
- (2) The proposal will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) The proposal will adequately provide for the disposal of all wastewater;

- (4) The proposal will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) The proposal will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) The proposal will protect archaeological and historic resources;
- (7) The proposal will not adversely affect existing commercial fishing or maritime activities;
- (8) The proposal will avoid problems associated with flood plain development and use; and
- (9) The proposal is in conformance with the standards set forth in this section.

**B. Permit expiration.** In the shoreland zone if a permitted project is not substantially started (30% of project completed) within one year the permit becomes void.

**C. Shoreline Lot Line.** For purposes of these land use ordinances the highest annual tide level shall be considered to be the shoreline lot line.

#### **4.17 Definitions**

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

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

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

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

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

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



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

**Bureau of Forestry** - State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.

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

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

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

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

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

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

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

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

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

**Essential services** - gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles

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

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

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

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

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

**Floor area** - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

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

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

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

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

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

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

**Functionally water-dependent uses** - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and

retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be functionally water-dependent use.

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

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

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

**Highest Annual (HAT)** - DEP published highest annual tide for Long Island tide station(s) for the current year.

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

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

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

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

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

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

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

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

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

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

**Native** – indigenous to the local forests.

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

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

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

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

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

**Normal high-water line (non-tidal waters)** - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land.

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

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

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

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

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

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

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

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

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

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

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

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

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

**Salt marsh** – areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

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

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

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

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

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

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

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

**Shoreland zone** - the land area located within two hundred and fifty (250) feet, horizontal distance of the upland edge of a coastal wetland, including all areas affected by tidal action

**Shoreline** – the upland edge of a coastal wetland.

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

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

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

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

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

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

**Timber harvesting** - the cutting and removal of timber for the primary purpose of selling or processing forest products. “Timber harvesting” does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 4.15 (P).

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

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

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

**Upland edge of a wetland** - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action.

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

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

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

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

**Wetland** - a coastal wetland.

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



## ARTICLE 5: GENERAL PROVISIONS

### **5.1 Conformity Required.**

- A. Conformity required. No building or structure shall be erected, altered, enlarged, rebuilt, moved or used, and no premises shall be used unless in conformity with the provisions of this article.
- B. Minimum requirements established. In interpreting and applying the provisions of this article, they shall be held to be minimum requirements for the promotion of health, safety, convenience and welfare of the citizens of the town; for reducing the danger from fires; and for improving the town.
- C. Generally. The requirements of this article shall be subject to the use regulations and exceptions of this division.
- D. Conflicts Provision: Under all circumstances, the most restrictive Ordinance standard shall apply.

### **5.2 Relationship of Buildings to Lots.**

- A. Relationship of buildings to lots. Every building hereafter erected shall be located on a lot as defined in Article 2 (Definitions).
- B. Reduction of lot area prohibited. No lot shall be so reduced that yards, lot width, lot frontage, lot area, area per dwelling unit, and space for off-street parking shall be less than the minimum required under this article.
- C. Required open space. No part of a yard or other open space required about any building under this article shall be included as a part of a yard or other open space required for another building.
- D. Projections in required yard areas. A front yard may be occupied by a one-story entrance porch not enclosed, with or without a roof, if the area of the porch does not exceed fifty (50) square feet nor the projection from the building exceed five (5) feet. A cornice eave, sill, canopy, chimney, or other similar architectural feature, but not including a bay window, may project into any required yard a distance of not more than two (2) feet.

### **5.3 Corner Lots.**

- A. Corner lots. In case a dwelling house has its front yard upon the long side of a corner lot, the rear yard may be reduced to a depth not less than the width required for a side yard on the lot, provided the aggregate of the widths of both sides and depths of front and rear yards is not less than the similar aggregate of required dimensions of all yards required if the front yard were faced on the short side of the lot.

- B. Corner clearance. No obstruction higher than three and one-half (3 1/2) feet above the lowest elevation at the curb line shall be permitted on a corner lot within the area of a triangle formed by a line intersecting the street lines of the intersecting streets at points twenty-five (25) feet from the corner. For the purpose of this section, the word "obstruction" shall mean any shrub, wall, fence, temporary building, sign, a pile of material, but shall not include permanent buildings or structures where permitted elsewhere in this article.

**5.4 Zone boundaries when uncertain.** Where uncertainty exists with respect to the boundaries of the various zones, as shown on the zoning maps, the following rules shall apply:

- A. Unless otherwise indicated, zone boundary lines are the center lines of streets, or waterways or such lines extended.
- B. The depictions of the shoreland zoning districts on the Shoreland Zoning Maps are illustrative of the general location of such zones. The actual boundaries of these zones shall be determined by measurement of the distance indicated on the maps from the maximum spring tide level of the water body or the upland edge of wetland vegetation. Where such measurement is not the same as the location of the boundary on the Shoreland Zoning Maps, the measurement shall control, unless the Shoreland Zoning Map indicates that the zone boundary shall follow an existing property line.

**5.5 Joint occupancy.** When two (2) or more uses occupy the same building or premises, the off-street parking requirements and the dimensional requirements per dwelling unit of both uses shall be met in full.

**5.6 High Tide Mark.** For purposes of these land use ordinances the maximum spring tide level shall be considered to be the shoreline lot line. **(Amended May 10, 2008)**

## **ARTICLE 6: NON-CONFORMING STRUCTURES, USES AND LOTS**

### **6.1 Generally. (Amended May 10, 2008)**

- A. Any lawful use of buildings, structures, premises or parts thereof that existed prior to the date of the adoption of this chapter and amendments, and made nonconforming by the provisions of this article or any amendment thereto, may be continued. The property nonconforming as to use may also be sold or transferred and the new owner can continue the nonconforming use. This ordinance allows the normal upkeep and maintenance of nonconforming uses and structures.
- B. Nonconformity as to off street parking. A building or structure which is nonconforming as to the requirements for off-street parking shall not be enlarged or altered unless required off-street parking is provided for such addition or enlargement.

### **6.2 Nonconforming Structures.** Buildings lawfully nonconforming as to lot size and minimum yard dimensions (beyond the exterior walls of the existing building as specified in 6.2.C. below).

- A. A building lawfully nonconforming as to lot size and minimum yard dimensions may be maintained or repaired, but no alterations, modifications or additions shall be made to it, except as provided in this section. Such nonconforming structures and their lots may be transferred or sold and the new owner may continue to use the structure and lot subject to the following provisions:
- B. Alterations to nonconforming buildings limited. Buildings which are lawfully nonconforming as to lot size and minimum yard dimensions may be altered, modified, or added to, providing the proposed changes in existing exterior walls and/or roofs shall not create any new nonconformity, exceed the maximum lot coverage permitted in the zone in which the building is located, or increase any existing nonconformity. For purposes of this ordinance, an increase to the nonconformity of the structure shall mean any expansion towards a water body or property line that decreases any setback distance from the shore or property line that is already less than current setback requirements.

Setback examples. If the current setback requirement from a particular property line is 20 feet and the building is currently 5 feet (shortest distance perpendicularly) from that line, any addition cannot be closer than 5 feet from that line. If a roof line of a legally nonconforming building is 36 feet and the current regulations limit building height to 35 feet, an addition could be 36 feet in height. These changes would not increase the nonconformity or create any new nonconformity of the building.

#### **C. Building extensions.**

- (1) A building existing on June 5, 1957, the height, yards and other open spaces of which

conformed with the provisions of the zoning ordinance then in effect for new buildings, may be extended upward throughout its area to the full height permitted herein for new buildings and may be extended horizontally, provided the width and the depth of no yard or other open space which is less than that permitted herein is thereby reduced to less than the minimum width or depth of such yard or open space as existing on June 5, 1957.

(2) Existing buildings which are conforming as to land area per dwelling unit on July 19, 1988, whether conforming or nonconforming as to any yard requirements, may be enlarged or extended within the existing footprint, provided that the expansion of portions of buildings adjacent to any nonconforming setback does not extend horizontally beyond the exterior walls of the existing building.

- D. Enclosure of porches. Any open porch existing with a roof over the same on June 5, 1957, and encroaching upon any yard required by this article may be enclosed if the major portion of the enclosure is of glass.

### **6.3 Expansion in Shoreland Zone (Repealed May 8, 2010)**

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#### **6.4 Nonconforming Uses.**

- A. Premises expansion prohibited. A lawful nonconforming use existing on premises outside of a building shall not be extended to or allowed to occupy any additional part of the premises.
- B. Changing to a permitted use. A lawful nonconforming use cannot be changed to any use other than a permitted use or a conditional use (with the required approval) in the zone in which the building or land is located.
- C. A building whose use is wholly nonconforming shall not be altered so as to increase the cubical content or the degree of nonconforming use. In addition, a nonconforming use conducted in any part of a building cannot be extended to any other part of such building, except if it is required for bringing the use into compliance with health or safety codes or to correct a condition that is determined by the board of appeals to constitute a health or safety problem. In either case, expansion shall be limited to the minimum necessary to accomplish that purpose.
- D. Discontinuance in use. If a nonconforming use of land and or building(s) is discontinued for a period of twelve (12) months, such discontinuance shall constitute an abandonment of the use and the building or premises shall not thereafter be occupied or used except in conformity with the provisions of this article.
- E. Change to nonconforming use.

The use of any part of any building or structure for a one-family dwelling house, lodging house, educational use, club, church, farm use, institution, office or bank, place of amusement or assembly, retail business or service other than a filling station or garage, wholesale business, minor garage for not more than one (1) commercial motor vehicle, minor garage for more than one (1) commercial motor vehicle, or for any other distinctive use shall not be changed to any other use in this list of uses or to any other distinctive use, whether alterations in the building or structure are involved or not, until a permit and certificate authorizing such change of use has first been secured from the code enforcement officer, unless the proposed use conforms with the requirements of this article for the zone in which the building or structure or part thereof is located. Failure to secure such a permit before such a change is made shall be a violation of this article.

#### **6.5 Nonconforming lots of record.**

- A. Merger Requirements for Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, and if any of these lots do not individually meet the dimensional requirements of the Town of Long Island Ordinances (60,000 sq. ft.) or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined. Subsequently created lots must be at least

60,000 sq. ft. (Contiguous lots in the same ownership on or after October 3, 1973 shall be considered as one lot to comply with the 20,000 sq. ft. requirement for a single family residential unit as required by the State Minimum Lot Size Law.)

- B. Conveyance of contiguous lots each containing a principal use or structure: If two or more contiguous lots or parcels are in a single or joint ownership of record as of January 1, 1997, and if all or part of the lots do not meet the dimensional requirements of the Town of Long Island ordinances (60,000 sq. ft.), and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with.

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

- C. Nonconforming solitary lots of record A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that all of the following requirements are met:

- (1) such lot is in separate ownership and not contiguous with any other lot in the same ownership, and
- (2) the minimum buildable lot of record is 20,000 sq. ft. except as allowed by the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules, and
- (3) that the structure meets all the required yard dimensions (i.e. setbacks) of this Ordinance except those relating to lot size and frontage, and
- (4) no lot less than 10,000 sq. ft. shall be built upon with any structure which requires a waste water disposal system.

Variations relating to setback or other requirements not involving lot size or frontage shall require action of the Board of Appeals.

## ARTICLE 7: TOWNWIDE PERFORMANCE STANDARDS

### 7.1 Generally.

### 7.2 Abutter Notification Requirements for SSWD Permit

- A. No permit shall be issued for any subsurface wastewater disposal (SSWD) system, or component thereof, until the applicant has submitted the following information to the Long Island Local Plumbing Inspector (LPI);
- (1) A signed statement from the present property owner(s) that abutting property owners have been notified as specified in this section that a subsurface wastewater disposal permit, or a part thereof, may be issued for the applicants property by the town. (see Subsection C below)
  - (2) A signed statement from the present property owner(s) clearly specifying any easements on the property that could potentially affect a subsurface wastewater disposal system or component thereof. If no such easements exist, a statement to this effect shall be submitted.
  - (3) Verification that the applicant has notified the abutting property owners by certified mail, return receipt required. Verification shall be clear, legible copies or the original, signed, USPS return receipts. A recent letter signed by the property owner(s) indicating that they are aware of the applicants pending permit and have seen the information listed below in Subsection C shall also be considered verification of receiving notice.
  - (4) If the town's most current tax records do not match the present owner, a copy of the deed shall be submitted including evidence of its recording at the Registry of Deeds.
- B. For purposes of this section, abutting property owners shall be owner(s) of property within one hundred (100) feet of the applicant/owner's property. Owners of abutting property shall be those listed in the most recent tax records of the Town of Long Island.
- C. For purposes of this section, abutting property owners shall be sent the following information: **(Amended May 10, 2008)**
- (1) A letter from the applicant/owner describing the reason for requesting a permit.
  - (2) A copy of the Subsurface Wastewater Disposal Permit Application.
  - (3) The applicant/owner shall clearly indicate to the property owner(s) being sent notice that they must contact Long Island Town Hall in writing within fourteen (14) days of the notice being sent if they object to the permit being issued by the Town.
  - (4) Current days and hours of regular Town Hall operation including address, FAX and telephone number.
  - (5) A copy of this Section 7.2 of the Long Island Land Use Ordinance.



- D. If an abutting property owner notified in accordance with these standards objects to the Town issued a SSWD permit, or is concerned that any system component may be too close to their well or property line, the concerned owner must notify the Town in writing within fourteen (14) days of the notice being sent. The concerned owner or agent must physically mark the well, property line, or other feature that is of concern or send a certified plot plan (scaled) to the LPI with well and septic locations clearly marked within twenty one (21) days of the notice being sent. If the feature is not marked clearly or scaled plot plan received within this twenty one (21) day period, the SSWD system may be designed and permitted based on information available.
- E. The Town's LPI shall be authorized to issue a SSWD permit without following the standards established in this section only in extreme situations when, in the opinion of the LPI, irreparable harm and or an immediate public health risk may result if a permit is not issued immediately.

**7.3** Reserved.

**7.4 Accessory use.** The term "accessory use" shall include only the following:

- A. A subordinate use of land or building which is customarily incidental to the main building or to the principal use of the land and which is located on the same lot with the principal building or use. No "garage sale," "lawn sale," "attic sale," "rummage sale," or other similar casual sale of tangible personal property which is advertised by any means whatsoever whereby the public at large is or can be made aware of such sale, shall be deemed to be "customarily incidental" if such sale occurs after sales have been conducted on the same premises for six (6) or more days previously during the calendar year.
- B. Off-street parking when serving conforming uses located in any zone, but not more than one (1) motor vehicle may be parked or stored per dwelling unit, except that three (3) motor vehicles may be parked on any lot used for a single or two (2) family house.
- C. Home occupations as defined in Article 2 (Definitions) and Article 7 (Townwide Performance Standards).
- D. The letting of rooms within an existing dwelling unit in any residential zone, provided that:
  - (1) There shall be no more than two (2) persons occupying such room or rooms;
  - (2) There shall be not more than two (2) rooms per dwelling unit occupied for such use; and
  - (3) There shall be no increase in the bathroom and/or kitchen facilities in the dwelling, and no such facility shall have been constructed in the immediately preceding two (2) years.

**7.6 Bedroom Additions.** Whenever a bedroom is to be added to any structure a Licensed Site Evaluator shall be retained, not at public expense, to inspect the subsurface sewage disposal system. If the system is found to be malfunctioning or not adequate to service the structure including the proposed addition while insuring the integrity of the groundwater, then a building permit will not be granted for the addition of the bedroom until the system is upgraded according to the Maine Subsurface Wastewater Disposal Rules. Such inspections shall be considered valid for three (3) years from date of issuance. For purposes of this section any room, attached or otherwise, in excess of one (1) kitchen, one (1) living room, one (1) dining room, one (1) family room/office, and bathrooms shall also be considered as if it were a bedroom.

**7.8 Fences.** In residence zones no wall or fence along a street line or within twenty-five (25) feet of a street line shall be more than four (4) feet in height, subject to the provisions of Article 5.3.B.

**7.10 Home occupations.**

- A. Purpose. The purpose of home occupations is to allow the secondary and incidental use of a residence for the conduct of appropriate occupations whose external activity levels and impacts are so limited as to be compatible with the residential character of the neighborhood.
- B. In connection with the operation of a home occupation, within a dwelling unit, the following requirements shall be met:
  - (1) A home occupation shall not occupy more than five hundred (500) square feet of floor area or more than twenty-five (25) percent of the total floor area of such a dwelling unit, whichever is less, or in the case of licensed family day care homes, or home babysitting services, to accommodate not more than six (6) children plus two (2) children after school and having no nonresidential employees;
  - (2) There shall be no outside storage of goods and materials nor shall there be exterior displays, or display of goods visible from the outside;
  - (3) Storage of materials related to the home occupation shall count as a part of the occupancy limitations in subsection B.1. above, but shall not constitute a dominant part of such occupancy provided, however, storage of such materials or products in garages or other accessory structures is prohibited;
  - (4) Exterior signs shall be limited to one (1) nonilluminated sign not exceeding a total area of two (2) square feet, affixed to the building and not projecting more than one (1) foot beyond the building;
  - (5) Any exterior alterations to the residence shall be compatible with the architecture of the building and maintain the residential appearance by virtue of exterior materials, lighting, and signs;
  - (6) Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard;
  - (7) The home occupation shall not produce offensive noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare or other objec-

- tionable effects;
- (8) There shall be no more than two (2) nonresidents employed in the home occupation, provided, however, family day care or home babysitting services shall have no nonresident employees;
  - (9) No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood;
  - (10) No motor vehicle exceeding a gross vehicle weight of six thousand (6,000) pounds shall be stored on the property in connection with the home occupation.

C. No residence shall be occupied, altered or used for any home occupation except the following:

1. Accountants and auditors;
2. Answering services (telephone);
3. Architects;
4. Artists and sculptors;
5. Authors and composers;
6. Computer programming;
7. Custodial services;
8. Custom furniture repair and upholstering;
9. Dentists, doctors, therapists, and health care practitioners;
10. Direct mail services;
11. Dressmakers, seamstresses and tailors;
12. Engineers;
13. Family planning services;
14. Hairdressers (limited to no more than two (2) hair dryers);
15. Home crafts, such as model making, rug weaving, lapidary work, cabinet making, weaving, ceramics;
16. Interior decorators;
17. Lawyers, justices of the peace and notary publics;
18. Licensed family day care home or babysitting services;
19. Musicians or music teachers, including group instruction not to exceed six (6) students at any time but not including performances or band rehearsals, which shall meet the following requirements in addition to those set forth in subsection (1) of this section:
  - i. Electronic amplification is prohibited;
  - ii. The applicant shall demonstrate that noise attenuation is provided which minimizes perception of sound at property lines at all times during the use. Noise attenuation measures may include, but are not limited to, insulation, double-pane windows, air conditioners or any combination of these or similar noise attenuation measures;
  - iii. Hours of operation shall be limited to 8:30 a.m. to 9:30 p.m.
20. Office facility of a minister, rabbi, or priest;
21. Photographic studios;
22. Professional counseling and consulting services;
23. Professional research services;

- 24. Sales;
- 25. Small appliance repair;
- 26. Snow plowing provided that only one (1) snow plow vehicle is stored on or generated from the site;
- 27. Special tutoring or instruction (not to exceed three (3) pupils at any given time);
- 28. Stenographic and other clerical services;
- 29. Fishing and related activities.

D. A home occupation that is not listed in paragraph (C) of this section but is similar to and no more objectionable than those home occupations listed in that paragraph, shall be permitted as a conditional use subject to the requirements of this Article 7 (Townwide Performance Standards) and Article 14 (Planning Board) of this chapter. This provision shall not include veterinarians, kennels, animal raising, funeral homes, retail uses including antique shops, restaurants, dancing studios, towing services, repair and painting of automobiles as home occupations. **(Amended May 11, 2019)**

### **7.12 Limited Bed and Breakfast Restaurant.**

- A. Purpose. The purpose of Limited Bed and Breakfast Restaurant is to allow the secondary and incidental use of a legally operating Bed and Breakfast to provide meals to persons not staying overnight in the establishment.
- B. The following standards must be met and maintained.
  - 1. The number of persons served at any one time shall not exceed 1 1/2 (one and one-half) times the number of persons the establishment has obtained all necessary approvals for including but not limited to safety egress, water supply and disposal, and all applicable local and state approvals.
  - 2. The owners/operators are responsible for having the ability of the subsurface wastewater disposal system checked to ensure that it is capable of absorbing the total expected flow (gallons per day) for the establishment and any other plumbing fixtures connected to the disposal system.
  - 3. The owners/operators are responsible for obtaining the above referenced report from a licensed engineer or site evaluator. This report shall be made available to the town's Local Plumbing Inspector (LPI) at the town's request. If the town's LPI determines that the disposal system is malfunctioning and is causing a public health hazard, the LPI shall have the authority to order that the additional meals not be served until all applicable standards have been met.
  - 4. The owners/operators are responsible for ensuring that food and drink are served and consumed on the premises. Any outdoor consumption of food or drink on the premises must be specifically approved by the Planning Board.
  - 5. The Planning Board shall have the authority to approve or deny any outdoor consumption based upon the Site Plan standards and whether or not neighboring properties would incur unreasonable adverse impact(s).

6. In no event shall any Limited Bed and Breakfast Restaurant sell food or drink that is specifically designed to be consumed off the premises from the Bed and Breakfast establishment (i.e. take-out). This specifically excludes drive-thru service.
7. In no event shall the Limited Bed and Breakfast Restaurant Use of a Bed and Breakfast establishment become the primary use of the property as determined by the Planning Board.

**7.14 Manufactured Housing.** Manufactured housing as defined and allowed under this Ordinance to be placed or erected on individual house lots or undeveloped lots where single family dwellings are allowed shall be required to meet the following design standards:

- (1) There shall be a pitched roof having a 2 in 12 or greater pitch covered with roofing shingles;
- (2) The exterior walls shall be covered with materials similar to traditional site-built houses. These materials may include clapboards, simulated clapboards such as conventional vinyl or metal siding, wood shingles, or shakes or similar materials, but shall not include smooth, ridged or corrugated metal or plastic panels;
- (3) The minimum horizontal dimension shall be 14 feet;
- (4) The house shall have a permanent foundation; and
- (5) All plumbing and utility connections shall comply with local, state and national codes.

**7.15 Parking Requirements.** The Minimum Non-Residential Parking requirement shall be one (1) parking space for every three (3) patrons unless otherwise approved by the Planning Board.

**7.15.5 Seasonal Recreational Facility Performance Standards. (Adopted May 14, 2005)**

- A. The primary season for the use of seasonal recreational facilities and activities in the District is the period from March 1<sup>st</sup> to November 30<sup>th</sup>. The maximum number of days or nights that the facility may be operated during the winter season, between December 1<sup>st</sup> and February 28<sup>th</sup>, is not to exceed forty (40) days or nights.
- B. The primary use of properties in the District is for passive recreation purposes associated with recreational and educational programming.
- C. Educational and Recreational facilities may include facilities such as picnic areas, campsites, tenting areas, lean-to shelters, facilities that support indoor and outdoor educational or recreational activities, structures for storage of recreational equipment, central dining/meeting facilities, bath houses, or caretaker's dwellings.
- D. All structures, campgrounds, campsites, lean-to shelters or developed areas must meet all setbacks.
- E. Individual cabins for seasonal use are permitted provided that they are occupied only by participants in recreational or educational programs.

- F. Cabins shall have a maximum occupancy of no more than ten (10) persons and no more than one cabin may be constructed for every one hundred and twenty thousand (120,000) square feet of land area under common ownership. Property not owned in fee simple interest may not be counted as part of the 120,000 square feet of land area required for each cabin.
- G. In no event shall any facility, structure, campground, campsite, lean-to shelter, developed area, or cabin owned or used by a recreational or educational program be used, rented or let to a person or party that is not a participant in a recreational or educational program.

**7.16 Septic Inspections required at time of property title transfer. (Adopted May 5, 2001) (Amended May 11, 2019)**

- A. Prior to the title transfer of ownership of a lot containing a Subsurface Wastewater Disposal (SSWD) system or a structure connected to a SSWD system, a person certified by the state shall be hired, not at public expense, to inspect the SSWD system. If the inspection finds that the SSWD system is malfunctioning, the system must be repaired or replaced within one year after transfer. The indications of a malfunctioning system are those specified in “system, malfunctioning” as provided in the definition section of 10-144, Chapter 241, the State of Maine Subsurface Wastewater Disposal Rules (Rules). The following are the only exceptions allowed to the requirement of this paragraph:
  - 1. When a SSWD system has been installed pursuant to rules adopted under Title 22 M.R.S. section 42, and Title 30-A M.R.S. subsection 4211, within 3 years prior to the date of the transfer of property title.
  - 2. When the current property owner has a written report from a person certified by the state for an inspection of the SSWD that was performed within 3 years prior to the date of transfer that certifies that the system was not found to be malfunctioning and the current property owner provides the inspection results to the purchaser.
  - 3. When weather conditions preclude an inspection of the SSWD by a person certified by the state prior to the date of transfer the inspection must be performed within 9 months after the date of transfer. If the inspection finds the system to be malfunctioning the system must be replaced or repaired.
  - 4. When the person acquiring title to the lot containing an SSWD system or a structure connected to a SSWD certifies to the Town Code Enforcement Officer (CEO) that the system will be replaced with one installed pursuant to Title 22 M.R.S. section 42, and Title 30-A M.R.S. subsection 4211, within one year from the date of transfer.
- B. A full copy of the inspection results required under section A shall be provided to the CEO in a timely manner. If the person certified by the state determines that a SSWD system is malfunctioning then a structure connected to the SSWD system shall not be

occupied until the system has been brought into conformance with the Rules.

- C. The present title holder may not transfer, sell or offer to transfer or sell any lot containing a SSWD system or structure connected to the SSWD system without advising the prospective new title holder of the requirements of this article.
- D. Noncompliance of this section will result in an assessed fine of no less than \$500 to the prior or new title holder. Assessment of a fine does not release the prior or new title holder from the requirements of this section.
- E. In this section the term, "Transfer" shall include the following: any transfer of ownership whether by sale, gift, devise, transfer to an entity, and inheritance, including transfers to a trust for which the current owner is the beneficiary.

#### **7.18 Signs. (Adopted May 5, 2001)**

- (1) A permit shall be required for all non-residential signs, and the fee will be set by the selectmen.
- (2) The supporting structure for the sign shall be the minimum necessary to support the sign.
- (3) In no event shall roofs be utilized for any sign unless a sign is meeting applicable standards attached as a separate structure to the roof.
- (4) Name signs shall be permitted, provided such signs shall not exceed 2 (two) signs per premises.
- (5) Residential uses may display a single sign not over three (3) square feet in area relating to the sale, rental or lease of the premises.
- (6) Signs relating to trespassing and hunting shall be permitted, provided that no such sign shall exceed two (2) square feet in area.
- (7) Signs relating to public safety as determined by the Public Safety Coordinator shall be permitted.
- (8) Signs may be illuminated only by shielded, non-flashing lights. In no event shall signs be internally illuminated.
- (9) House occupancy signs shall not exceed three (3) square feet.
- (10) No freestanding sign shall extend more than ten (10) feet, and no sign shall extend higher than twenty (20) feet above the ground.
- (11) Signs shall be located at least fifteen (15) feet from any property line or edge of the traveled way or ROW, whichever is most restrictive.
- (12) Signs in the I-B zone relating to goods or services sold on the premises shall be permitted, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises.
- (13) Signs relating to goods or services not sold or rendered on the premises shall be prohibited except temporary real estate signs may be allowed with written permission from the owner for properties for sale that do not have any frontage on a public road.

## **7.20 Temporary Occupancy Structures (Adopted May 5, 2001)**

- A. For the purposes of these standards, terms shall be defined as follows: \*
  - (1) Temporary Structure: Any structure or unit, including mobile units or recreational vehicles, used for habitation purposes for a limited period during construction of a permanent residential dwelling.
  - (2) Storage of a temporary structure: Any temporary structure on a property not utilized for habitation purposes in the previous 30-day period.
  
- B. Permits issued by the CEO shall be required for the use or storage of any temporary structure. The fee shall be determined by the selectmen.
  
- C. Any use of a temporary structure shall meet and maintain all the following standards:
  - (1) The use of a temporary structure shall only be used for the period during construction of a permitted, permanent residential structure. A permit for a temporary structure for habitation purposes shall not be issued unless a permit for a permanent residential structure has been issued.
  - (2) A temporary structure may only be used for a maximum of two (2) six (6) month periods on the same property in any five (5) year period. The owner/applicant must demonstrate to the CEO that there is sufficient cause to grant the six (6) month permit.
  - (3) All applicable standards, specifically including wastewater disposal, must be met during the entire period that the temporary structure is utilized.
  - (4) The temporary structure shall meet all applicable standards for a permanent structure or be removed from the property within three (3) months of the completion of the permanent residential structure.
  - (5) In no event shall a temporary structure remain on the property longer than fifteen (15) months in any five (5) year period including the time period referenced above unless all applicable standards for permanent structures are met.
  - (6) In no event shall the basement of any structure be utilized for habitation until the permanent residential structure is complete and the certificate of occupancy has been issued.

## **7.22 Well Permits required.**

- A. No well shall be drilled, dug, or created except in conformance with the standards established in this section and applicable State standards.
  
- B. A well permit shall be required from the Long Island CEO prior to moving, replacing, or creating a well on Long Island.
  
- C. No permit shall be issued for a well until the applicant has submitted the following information to the Long Island Local Plumbing Inspector (LPI);



- (1) A signed statement from the present property owner(s) that abutting property owners have been notified as specified in this section that a well permit may be issued for the for the applicant's property by the town. (see Subsection E below)
  - (2) A signed statement from the present property owner(s) clearly specifying any easements on the property that could potentially be affected by a well. If no such easements exist, a statement to this effect shall be submitted.
  - (3) Verification that the applicant has notified the abutting property owners by certified mail, return receipt required. Verification shall be clear, legible copies or the original, signed, USPS return receipts. A recent letter signed by the property owner(s) indicating that they are aware of the applicant's pending permit and have seen the information listed below in Subsection E shall also be considered verification of receiving notice.
  - (4) If the town's most current tax records do not match the present owner, a copy of the deed shall be submitted including evidence of its recording at the Registry of Deeds.
- D. For purposes of this section, abutting property owners shall be owner(s) of property within one hundred (100) feet of the applicant/owner's property. Owners of abutting property shall be those listed in the most recent tax records of the Town of Long Island.
- E. For purposes of this section, abutting property owners shall be sent the following information:
- (1) A letter from the applicant/owner describing the reason for requesting a permit.
  - (2) A copy of the Municipal Well Permit application if the permit application has been completed. If the application is not completed at the time when notification is being sent, a plot plan clearly showing the potential locations shall be included.
  - (3) The applicant/owner shall clearly indicate to the property owner(s) being sent notice that they must contact Long Island Town Hall in writing within fourteen (14) days of the notice being sent if they object to the permit being issued by the Town.
  - (4) Current days and hours of regular Town Hall operation including address, FAX and telephone number.
  - (5) A copy of this Section 7.22 of the Long Island Land Use Ordinances.
- F. If an abutting property owner notified in accordance with these standards objects to the Town issuing a Municipal Well Permit, or is concerned that any component may be too close to their well or property line, the concerned owner must notify the Town in writing within fourteen (14) days of the notice being sent. The concerned owner or agent must physically mark the well, property line, or other feature that is of concern or send a certified plot plan (scaled) to the LPI with well and septic locations clearly marked within twenty one (21) days of the notice being sent. If the feature is not marked clearly or scaled plot plan received within this twenty one (21) day period, the well system may be designed and permitted based on information available.

**Section 7.23 Accessory Dwelling Units. (Adopted May 12, 2007)**

- A. The purpose of these provisions authorizing Accessory Dwelling Units is to provide enhanced opportunities to accommodate housing for family/relative members while

protecting the single-family character of existing residential neighborhoods.

B. Any proposed Accessory Dwelling Unit must meet the following standards:

1. Accessory Dwelling Units shall be primarily accessed through the existing living area of the primary structure and all other entrances to the Accessory Dwelling Unit as may be required shall appear subordinate to the main entrance serving the existing dwelling.
2. All additions or reconfigurations related to an Accessory Dwelling Unit shall be designed to be subordinate in scale and mass to the design and massing of the main structure and shall be compatible with the architectural style and quality of the main structure.
3. Accessory Dwelling Units shall have at least five hundred (500) square feet of floor area and shall not exceed fifty (50%) percent of the floor area of the main dwelling unit. Floor area measurements for these purposes shall not include unfinished attic, basement or cellar areas, and shall not include shared hallways or other common areas.
4. A Single Family Dwelling containing an Accessory Dwelling Unit shall be served by a single electrical service.
5. Only one (1) Accessory Dwelling Unit is permitted per lot and must be incorporated into the existing dwelling.
6. Accessory Dwelling Units shall not be permitted for any nonconforming structure or use, where the nonconformity is due to the use of the premises. Accessory Dwelling Units may be permitted in nonconforming structures that are nonconforming due to dimensional requirements As long as the proposed Accessory Dwelling Unit and structure conform to the other requirements for Accessory Dwelling Units under this Section.
7. **(Amended May 9, 2009) (Amended May 11, 2019)** Prior to permitting an Accessory Dwelling Unit in either an existing structure or a new structure, the Board of Appeals shall require the applicant to hire a licensed Site Evaluator (SE), not at public expense, to certify that any existing subsurface wastewater disposal system (SSWD) proposed to be used, or a new system to be built, meets or will meet the current standards of the Maine State Plumbing Code Subsurface Wastewater Disposal Rules for the number of bedrooms being proposed for the structure. A full copy of the results shall be included in the Conditional Use Permit Application and submitted to the Planning Board

**7.24 Multi-Family Dwellings. (Adopted May 12, 2007)**

A. To permit a Multi-Family Dwelling in an existing structure or a new structure, the applicant must provide a report and certification from a licensed Site Plan Evaluator (SE), not at public expense, certifying that any existing or proposed subsurface wastewater disposal system (SSWD) meets or will meet the current standards of the Maine State Plumbing Code Subsurface Wastewater Disposal Rules for the proposed Multi-Family Dwelling. A full copy of the report and certification shall be provided as part of the applicant's Conditional Use Permit Application.

## ARTICLE 8: ADMINISTRATION

### 8.1 Administration of Permits

#### A. Building Permits. **(Amended May 14, 2011)**

No building, structure or part thereof shall be constructed, altered, enlarged or moved unless a building permit for such action has been issued by the Code Enforcement Officer or is otherwise exempted under other provisions of this ordinance.

A site plan showing the dimensions of the lot and of all buildings, yards and parking spaces, existing or proposed, shall accompany each application to the Code Enforcement officer for a building permit or certificate of occupancy. Site plans of all off-street loading and off-street parking, whether or not such parking is located on the same lot with the building for which it is required or which it is to serve, shall be provided.

#### B. Certificate of occupancy required. **(Amended May 14, 2011)**

After a building, structure or part thereof has been completed, altered, enlarged or moved, as authorized by a building permit, a certificate of occupancy shall be obtained for the proposed use before the same may be occupied or used. A certificate of occupancy shall also be required for any of the following:

(1) Any conversion of a seasonal residential dwelling to a year round residential dwelling.

(2) Change in the use of a nonconforming use, whether of land or buildings;

(3) Occupancy and use, or change of use, of vacant land, except for the raising of crops;

(4) Change in the use of an existing building, whether or not alterations are involved,

from any use in the following list to any of the other uses on the list:

- a. Residential;
- b. Retail;
- c. Transportation;
- d. Institutional;
- e. Office;
- f. Other commercial;
- g. Water-dependent use;
- h. Marine use.

(5) Any building lot shall have an approved sewage disposal system plan designed by a Licensed Site Evaluator prior to the issuing of a building permit, except for a fish house. A gray water system must be in place before issuance of an occupancy permit.

C. Shoreland Permits- (Reserved)

D. Fee Schedule

1. Building Permit Fees- (Reserved)

2. Zone Change Fees. Applicants for zone changes will be required to put \$1000 into an escrow account from which payment will be made for all town costs associated with the application, including but not limited to the costs of new mapping, copying costs, and costs of all notices, including newspaper publication. Money remaining in the escrow account after payment of all expenses associated with the application shall be returned to the applicant. The fee for zone change applications will be waived in the case of an application submitted by any governmental body.

**8.2 Enforcement.** The code enforcement officer is authorized to institute or cause to be instituted by the counsel in the name of the town any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this article; provided, however, that this section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this article.

A. Code Enforcement Officer. It shall be the duty of the code enforcement officer to enforce the provisions of this article. No permit or certificate of occupancy shall be issued for the construction, alteration, enlargement, moving, use or change of use of any building, structure, or part thereof, or for the use or change of use of any premises, unless the plans and intended use indicate that the building, structure or premises is to conform in all respects with the provisions of this article.

B. Legal Actions and Violations. Any person being the owner or occupant of, having control of or the use of any building or premises or part thereof, who violates any of the provisions of this article, shall be guilty of an offense.

C. Role of the Zoning Board of Appeals- (Reserved)

D. Performance Guarantees- (Reserved)

**ARTICLE 9: RESERVED (Amended May 14, 2022)**

**ARTICLE 10**  
**SITE PLAN REVIEW**

**REPEALED AND REPLACED MAY 14, 2005**

**10.1 PURPOSE**

The purpose of this Article is to provide for Site Plan Review of commercial, retail or institutional projects which are of a scale or magnitude that they may affect the physical or visual environment, the provision of public services, or the value and rights of adjoining properties, and through the Site Plan Review process, to help protect and promote the health, safety, property interests and general welfare of the citizens of the Town of Long Island.

**10.2 APPLICABILITY**

Except as expressly authorized in this Article, Site Plan Review and approval by the Planning Board shall be required for the following activities:

A. Proposals for new construction of commercial, retail, institutional or non-residential buildings or structures, including accessory buildings or structures:

1. when the total floor area of the proposed new construction seeks to construct a structure or building with more than seven hundred fifty (750) square feet of floor area;
2. when the applicant for a building permit to construct a building or structure having a total floor area of seven hundred fifty (750) square feet or less has requested a waiver of one or more standards of this Ordinance, Site Plan Review; or
3. when the total floor area of the proposed new construction is seven hundred fifty (750) square feet or less and no waiver is requested, the Code Enforcement Officer shall perform Site Plan Review or, at his or her discretion, refer the application to the Planning Board for Site Plan Review.

B. Proposals for the enlargement of commercial, retail, institutional or non-residential buildings or structures, including accessory buildings or structures:

1. when an applicant proposes to enlarge a non-residential building or structure, including accessory buildings or structures, such that the building or structure will result in a building or structure with more than seven hundred fifty (750) square feet of total floor area within any three (3) year period;
2. when existing non-residential structures or buildings are to be added to or expanded, including accessory buildings or structures, so as to create more than seven hundred fifty (750) square feet of total floor area;

3. when the proposed enlargement will result in a total floor area for a building or structure of seven hundred fifty (750) square feet or less within any three (3) year period, and the applicant seeks a waiver of one or more standards of this Ordinance; or
  4. when the square footage of a proposed enlargement is seven hundred fifty (750) square feet or less within a three (3) year period, and no waivers are requested. In such cases the Code Enforcement Officer may perform Site Plan Review or, at his or her discretion, refer the application to the Planning Board for Site Plan Review.
- C. Proposals to convert a current residential use to a non-residential use.
  - D. Proposals to pave, strip, grade or remove earth materials from vegetated areas of more than one thousand (1,000) square feet during any three (3) year period.
  - E. Proposals to change the use of an existing structure to a different use when the total floor area for the proposed new use is more than seven hundred fifty (750) square feet.
  - F. Any amendments to a previously approved Site Plan Review.
  - G. Proposals seeking changes from a current use to a more intensive use.
  - H. Proposals for any of the uses listed in Article 3, Zoning District Standards, and any other uses or activities that require Site Plan Review under the Town Ordinances.

### **10.3 ADMINISTRATION**

A. No building permit may be issued for, commercial, industrial and institutional uses or projects until the submissions plans, drawings, sketches, and other documents required under this Article have been reviewed and approved by the appropriate reviewing authority and all fees related to independent reviews or studies as may be required of the applicant by the Planning Board have been paid.

B. Construction, site development and landscaping shall be completed by the applicant strictly in accordance with the plans, drawings, sketches, and other documents submitted by the applicant and as approved by the Planning Board unless such standards and specifications are later amended by Planning Board as an amendment of the Site Plan Review approvals or conditions. Nothing in this article shall be construed to prevent ordinary maintenance, upkeep or repair of existing structures and facilities as long as such activities are in conformance with the Ordinances of the Town of Long Island.

C. When a proposed development requires both Site Plan Review and Subdivision Review, the Applicant shall make a concurrent application and the Planning Board shall endeavor to conduct a concurrent review. The procedures and standards set forth in the Subdivision



Ordinance shall be required, followed and applied. The procedures and standards under this Site Plan Review Article shall also be required, followed and applied.

D. The following procedures and requirements govern all applications for Site Plan Review:

1. Applications for Site Plan Review shall be first submitted to the Code Enforcement Officer on forms provided for this purpose. Applications shall be made by the owner of the property or an agent, as authorized in writing by the owner, and must be accompanied by the payment of the application fee.
2. Before submitting a formal application for Site Plan Review, the applicant or their authorized agent may request a pre-application conference with the Planning Board or its designated staff to discuss the proposed development, the required submissions and review standards and how the development will comply with Town standards. Comments by the Planning Board or its staff at such meetings are advisory in nature; and the Planning Board or its staff at a pre-application conference shall take no formal action.
3. The Planning Board is authorized to impose application fees as set by the Selectmen, as amended, and as set forth in the Town Fee Schedule.
4. The Planning Board may require the applicant to undertake any studies that it deems reasonable and necessary to insure that the requirements of Site Plan Review or the Town's Ordinances will be met. All costs of all such required studies shall be borne solely by the applicant. The Planning Board will require applicants or their authorized agents to deposit funds in escrow in an amount sufficient to cover the costs of such studies or professional review services. All such consultants retained for such services shall be licensed or otherwise qualified to provide the required information or services and shall be selected from candidates that are mutually acceptable to the Town and the applicant. For projects with floor areas below 3,000 square feet the professional review fees shall be as designated in the Town Fee Schedule. For projects with floor areas in excess of 3,000 square feet the fee shall be as designated in the Town Fee Schedule\*. Payment of such funds is mandatory and must be made in advance of the Planning Board's commencement of final review of a Site Plan Application. The balance of any funds deposited with the Town for required studies or consultations that remain after final payment for the required studies or consulting services will be refunded to the applicant or his agent.
5. To schedule a hearing on an application requiring Site Plan Review, applicants must submit a letter of request to proceed at least thirty (30) working days before a scheduled Planning Board meeting.
6. At least twenty-one (21) days before such a scheduled hearing, applicants must file with the Planning Board eight (8) copies of their complete

application for Site Plan Review, together with all other documents as required for Site Plan Review.

7. Applications that do not include the submissions, studies or documents required by the Planning Board or as required under this Article will not be scheduled for hearing or review by the Planning Board and will be returned to the applicant by the Code Enforcement Officer with notification of the deficiencies and identification of the additional information or submissions that are required for a complete application.
8. The Planning Board may require the applicant to post a performance guarantee to cover the cost of required improvements before granting final approval of a Site Plan Review application. The performance guarantee shall be in the form of a deposit, performance bond, escrow agreement, irrevocable standby letter of credit or other form of surety in form and amount acceptable to the Planning Board, the Town Attorney and Town Selectmen. In no event shall the amount of the performance guarantee be less in amount than the anticipated costs, including contingencies and inflation, to fully complete the improvements required as conditions of approval under a Site Plan. The applicant shall also be required to pay to the Town a non-refundable performance guarantee administrative fee in the amount established by order of the Selectmen and as set forth in the Town Fee Schedule before the Planning Board may issue final approval of a Site Plan Review application.
9. Upon receipt of Site Plan Review Application, the Planning Board shall determine the completeness of an application and shall make such a finding during its preliminary review of an application.
10. Before to taking final action on any Site Plan Review application, the Planning Board shall hold at least one public hearing to afford the public an opportunity to comment on the application. Notice of the date, time, and place of such hearing shall be published in a newspaper of local circulation at least ten (10) calendar days before to the hearing. At least ten (10) calendar days before the public bearing, the applicant must provide notice to all persons owning or occupying properties within one hundred (100) feet of the site of the proposed activities that are the subject of Site Plan Review. The notice of the proposed project and Site Plan Review shall be given by providing a summary of the proposed project through certified mail, return receipt requested, addressed to all persons who own or occupy properties within 100 feet of the property lines of the proposed site of the project or development. The applicant shall submit to the Planning Board, as evidence of compliance with this notification requirement, copies of the certified mail receipts. The identification of the owners or occupants of abutting properties, if not known to be otherwise, shall be as listed in the most up to date tax records of the Town of Long Island.

11. The Planning Board, unless the applicant otherwise extends the review period, shall act on all applications within ninety (90) days following its determination that the application is complete. The Planning Board's receipt of the studies and reviews as it may require from the third party consultants as necessary for Site Plan Review or to ensure that the proposed activity will be in conformance with Town Ordinances shall be part of the Planning Board's determination of completeness of an application. The Planning Board final action on an application for Site Plan Review shall be to approve, approve with conditions, or disapprove the application as submitted or amended. If the Planning Board votes to disapprove an application, it will notify the applicant or authorized agent in writing of the specific reasons for the disapproval.
12. Proposals for Site Plan Review must also comply with all other applicable state and local regulations. Where review by federal or state agencies or other local boards are required, the applicant shall endeavor to conduct such reviews concurrently and consistent with the Planning Board's review of the application for Site Plan Review. Where the approval of the Zoning Board of Appeals is required, such approval must be obtained before the Planning Board undertakes consideration of an application for Site Plan Review. Final approval by all other federal or state agencies or boards shall also be required before the Planning Board takes final action on an application for Site Plan Review.

#### **10.4 SUBMISSION REQUIREMENTS**

Unless waived or otherwise authorized by the Planning Board, the applicant or his or her authorized agent must submit the following as part of the application for Site Plan Review:

- A. A fully executed original and eight (8) copies of the application for Site Plan Review.
- B. Eight (8) copies of a site plan drawn at a scale sufficient to allow review of the items listed under section 10.5 CRITERIA AND STANDARDS of this Article, but in no event shall the scale of such plan be more than fifty (50) feet to the inch for the portion of the tract of land being proposed for development. The applications submissions shall also include or show the following:
  1. Owner's name, address, and signature.
  2. Names and addresses of all abutting property owners.
  3. A sketch map showing general location of the site within the Town.
  4. A plan depicting the configuration and boundaries of all contiguous properties, including properties under the control of the owner or applicant

regardless of whether all or part of such land area is being developed at this time.

5. The bearings and distances of all property lines and the source of this information.
6. Zoning classification(s) of the property and adjacent properties, and the location of zoning district boundaries if the property is located in two or more zoning districts.
7. A map or plan showing the soil types and location of soil type boundaries as certified by a registered engineer or certified soil scientist.
8. The location, with corresponding setbacks, and depiction of the setbacks as required under the Town Ordinances for all existing and proposed buildings and structures (including size and height), driveways, sidewalks, decks, walks, patios, other impervious areas, parking spaces, loading areas, open spaces, large trees, existing and proposed drainage courses, signs, exterior lighting, service areas, easements, power or other utility lines, wells on the property and on all adjacent properties, fences and other landscaping features. The lot area and lot coverage of the parcel, the street frontage and the relevant zoning requirements governing minimum lot size, set backs and frontage for the site.
9. The location, size, and character of all existing and proposed signs and exterior lighting.
10. The location of all buildings within one hundred (100) feet of the parcel to be developed and the location of intersecting roads or driveways within 100 feet of the parcel.
11. A plan drawn with two (2) foot contour intervals that shows existing and proposed topography and grading of the site
12. A plan showing the location of Shoreline Zoning District boundary, if applicable.
13. If the property is within two hundred fifty (250) feet of shoreland areas the Location of Maximum Spring Tide Level and elevations as may be required to demonstrate the suitability of the property or proposed project under floodplain management and shoreland zoning regulations. **(Amended May 10, 2008)**
14. The location of existing or proposed well(s), subsurface wastewater disposal field(s), tank(s), and piping/wiring serving the wastewater disposal system on the property.

15. The location of any wells on the property, adjacent or within three hundred (300) feet of the property on nearby properties that are classified as public drinking water sources.

C. A storm-water drainage assessment and plan showing and providing:

1. The existing and proposed method of handling storm water run-off.
2. The direction of current and proposed flows of storm water run-off depicted by arrows.
3. The location, elevation, capacity and size of existing and proposed catch basins, dry wells, drainage ditches, swales, retention basins, storm sewers and other storm water control or drainage improvements.
4. The engineering studies and calculations relied on to determine the adequacy of the site and proposed improvements to provide suitable drainage based upon a 25-year storm frequency, to determine if the project will significantly alter existing drainage patterns on the site or adjacent properties due to the proposed activities or development, including but not limited to such factors as the amount of proposed new impervious surface (such as paving and building area), proposed changes to grading, proposed new structures or improvements, etc.

D. A summary description of the existing and proposed utilities that will be available to service the property and a plan depicting the location and scope of water and wastewater disposal systems, including the size and location of wells, piping, holding tanks, leach fields, etc. as will be necessary to support water and wastewater systems.

E. A landscaping and planting schedule coordinated with the site plan that lists the number and varieties and sizes of trees, shrubs, and other plants that are to be planted on the site which shows the planting arrangements and planting schedule

F. Building plans showing, at a minimum, the first floor plan and all elevations, together with a schedule detailing the type, color, and texture of all exterior materials (roofing, siding, etc.) for all proposed buildings and structures and all accessory buildings and structures.

G. Copies of any proposed or existing deeds for easements, covenants or deed restrictions that currently impact or that are proposed to control or preserve activities on the subject property.

H. Documentation from a Maine licensed Site Evaluator to be submitted to the Town's Local Plumbing Inspector (LPI) that is sufficient to determine that the existing or proposed Subsurface Wastewater Disposal (SSWD) systems are or will be adequate to meet the cumulative or reasonably anticipated needs of the current or proposed use(s) or activities. For the purposes of

this submission requirement sufficient documentation means a completed HHE-200 Form or a scaled plan and documentation prepared by a Maine Licensed Site Evaluator that certifies that the existing or proposed Subsurface Wastewater Disposal system for the new or expanded use(s) meets all applicable Maine Subsurface Wastewater Disposal Rule Standards.

I. Copies, of all applicable State approvals, licenses or permits. The Planning Board may approve site plans subject to the issuance of specified State licenses and permits in cases where it determines that it is not feasible for the applicant to obtain them at the time of Site Plan Review.

J. The Planning Board may, after consideration and discussion, waive or modify any of these submission requirements when the Board determines that the scope or scale of the proposed project or activity is of such a nominal magnitude that the risks from the proposed activity to public safety, adjacent property owners or the Town is so minimal as to make the information or submissions unnecessary or that the proposed activity by its scope, nature or location does not necessitate review of certain criteria.

## **10.5 CRITERIA AND STANDARDS**

The following criteria and standards are to be used by the Planning Board in reviewing applications for Site Plan Review and shall serve as minimum requirements for approval of a Site Plan. In all instances, the burden of proof shall be on the applicant to demonstrate compliance with each standard.

A. Preservation of Landscape: The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, retaining existing vegetation where desirable, and by keeping any grade changes in character with the general appearance of neighboring areas. If a site includes a ridge, or ridges above the surrounding areas and provides scenic vistas for surrounding areas, special attempts shall be made to preserve the natural and existing visual environment of the skyline of the ridge. Preserving existing vegetation, requiring buffering landscaping and the creative siting or location of buildings or structures will be considered as potential methods of preserving scenic vistas.

B. Relation of Proposed Buildings to the Environment: Proposed structures shall be located to the greatest practical extent so that they relate harmoniously to the site, the terrain and to existing buildings in the vicinity with visual relationships to any proposed buildings or activities. Special attention shall be given to the scale of proposed buildings or structures, the massing of proposed buildings or structures, and such natural features as the slopes, orientation, soil types, and drainage courses or the site and adjacent properties.

C. Vehicular Access: The proposed location of vehicular access points to a property shall be designed to minimize adverse impacts on existing vehicular and pedestrian traffic patterns. Proposed site layout shall give special consideration to the location, number, and control of access points, the adequacy and safety of adjacent streets, traffic flow, sight distances, turning lanes, pedestrian-vehicle contacts, and existing or proposed traffic controls.

D. Parking and Circulation: The layout and design of proposed vehicular and pedestrian circulation, including walkways, interior drives, and parking areas, shall be designed to provide appropriate general interior circulation, to separate pedestrian and vehicular traffic, to provide appropriate service access to loading areas, and provide for arrangements and use of parking areas that minimize adverse impacts on adjacent properties, adjacent public streets and pedestrian ways.

E. Surface Water Drainage: Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, down stream conditions, or the public storm drainage system and shall be held to a zero percent or less off-site increase after development. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a twenty-five (25) year storm frequency.

F. Utilities: Adequate provisions shall be made to demonstrate that the project and site will be adequately served with systems for the supply of water and wastewater disposal. When feasible utilities, including electric, telephone, and other utility lines shall be installed underground. Utility installations that are installed above ground shall be installed and located so as to minimize visual or other adverse impacts on neighboring properties and the site.

G. Advertising Features: The size, location, design, color, texture, lighting and materials of all exterior signs and outdoor advertising structures, or features, shall not detract from the design of proposed buildings and structures and shall not unduly interfere with the uses, aesthetics or enjoyment of surrounding properties.

H. Special Features: Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures or similar accessory areas and structures shall be subject to setbacks, screen plantings or other screening methods as are reasonably necessary to protect the scenic, visual and aesthetic rights and resources enjoyed by adjacent properties and to prevent such activities from creating conditions that are inconsistent with existing visual features in the neighborhood of the site.

I. Exterior Lighting: All exterior lighting shall be designed to minimize adverse impacts on neighboring properties. Adverse impacts from proposed lighting is to be judged in terms of hazards to people and vehicular traffic and damage to the value on adjacent properties. Lighting should be shielded from public ways and waterways except for necessary security. Lighting shall be directed and shielded to minimize glare, stray lighting or reflection on adjacent properties, public ways, the traveling public and waterways.

J. Emergency Vehicle Access: Adequate provisions shall be included in the site plan to provide and maintain convenient and safe emergency vehicle access to all buildings and structures at all times. The Town's public safety officials (fire, rescue and law enforcement) shall provide the Planning Board with assistance in making such determinations.

K. Landscaping/Buffering: Adequate landscaping and vegetative buffering shall be provided to define, buffer and screen off-street parking areas from the public right-of-way and abutting properties, to enhance the siting of building(s) and improvements, and to minimize the potentially adverse impacts of light, noise, congestion or other impacts from the proposed uses on

existing neighboring land areas. Applicants are directed that particular attention must be paid to the use of planting to break up parking areas. Landscaping and vegetative buffering shall be included as part of the overall site plan design and integrated into building arrangements, topography, parking and buffering requirements. Landscaping and vegetative buffering designs should include creative use of trees, bushes, shrubs, ground cover, plants and the use of grading, fencing and building materials to result in buffering measures that protect the public and adjacent properties from potentially adverse visual and noise impacts.

L. Environmental Considerations: The site plan shall be designed in accordance with applicable federal, state and town regulations designed to protect the natural environment.

1. Applicants shall make adequate provisions to control and contain noise, vibrations, smoke, heat, glare, fumes, dust, toxic emissions, odors or electromagnetic interference that may be generated by proposed uses or activities on the site; such impacts shall not be readily detectable at any point along the lot lines of a site or produce a public nuisance or hazard.
2. Applicants shall demonstrate that any proposed storage and use of hazardous materials on the site will comply with applicable local, state and federal standards.

M. Adequacy of Subsurface Wastewater Disposal (SSWD) system:

Based on information provided by the applicant or their representative to the Town and reviewed by the Town Licensed Plumbing Inspector (LPI), the Planning Board will make a finding that the existing or proposed Subsurface Wastewater Disposal system is adequate to meet the cumulative proposed use(s). The LPI shall assist the Planning Board in making this determination and shall provide written documentation to the Planning Board to allow it to determine the adequacy of the Subsurface Wastewater Disposal system. In the event that alterations to the existing Subsurface Wastewater Disposal system or a new system is required, the Planning Board shall require as a specific condition of approval that the necessary alterations/installation is completed to the LPI's satisfaction before an Occupancy Permit is issued.

N. Conservation, Erosion and Sediment Control: The following measures shall be included as part of any Site Plan Review and approval where the Planning Board deems such criteria necessary:

1. The removal or stripping of vegetation, re-grading or other development shall be completed in such a way as to minimize erosion and with the applicant using all appropriate erosion and soil conservation control measures.
2. Proposed developments shall preserve as reasonably practical all salient existing natural features at the site. Applicants shall keep cut-fill operations to a minimum and ensure that development and construction activities are consistent with the site topography so as to minimize erosion potential and



adequately control the volume and velocity of surface water runoff from the construction activities or proposed development.

3. Whenever feasible, naturally occurring vegetation on the site shall be preserved, protected and augmented.
4. Disturbed soils shall be stabilized as quickly as practicable.
5. Temporary vegetation or mulching shall be used to protect exposed soil areas during development.
6. Planting and installation of permanent (final) vegetation and mechanical erosion control measures are to be installed as soon as practical on the site.
7. Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other accepted soils conservation and erosion control methods.
8. Whenever erosion and sedimentation results from development, stripping vegetation, re-grading or other development activities, it is the responsibility of the applicant or his or her developer to remove it from all adjoining properties and surfaces, drainage systems and watercourses and to repair any damage to adjacent properties, including public ways. The Applicant or his or her developer shall be solely responsible for the costs of such remedial actions and such actions shall be completed as quickly as possible.
9. When development activity requires and applicant to impact, change or cross a communal stream, watercourse, swale, floodway or right-of-way, it is the responsibility the applicant or his or her contractor to return such areas to their original or equal condition after such activity is completed. The Applicant or his or her developer shall be solely responsible for the costs of restoring such areas to the area's condition before such construction activity and such redial and restorative actions shall be completed as quickly as possible.
10. Maintenance of drainage facilities or watercourses originating and existing completely on private property shall be the sole responsibility of the owner up to the point of open discharge at the property line or to the point of joining a communal watercourse within the property.

O. In completing Site Plan Review the Planning Board, where applicable, shall also apply the Performance Standards set forth in Article 3, 4, 7, and 12. The following performance standards, though not exclusive, are particularly relevant to the Site Plan Review process: Off-street Parking, Off Loading Access to Property, Buffer Zones and Signs.

P. Any person aggrieved by a final decision of the Planning Board on an application For Site Plan Review may appeal the decision to the Superior Court according to the timing, procedures and requirements of Rule 80B of the Maine Rules of Civil Procedure.

#### **10.6 TIME LIMIT FOR CONSTRUCTION OR CHANGE OF USE**

Applicants must commence construction of new structures, building additions, or site improvements as approved under Site Plan Review and this Article within one (1) year of the date of the approval or Site Plan approval shall become lapse and become null and void. The one (1) year period for commencement of construction or use shall not be extended or affected in any way by the Planning Board's subsequent amendment, change, erasure, modification or revision to a finally approved Site Plan unless the Planning Board grants in writing a specific extension or enlargement. The Planning Board shall have the authority to grant extensions of up to one (1) year to a final Site Plan approval if the applicant demonstrates good cause for the extension and requests the extension before expiration of the one-year period. In granting extensions the Planning Board may impose such additional conditions as the Planning Board deems appropriate under the circumstances.

## ARTICLE 11: SUBDIVISIONS

### **A. Authority and purpose.**

This article is adopted pursuant to the terms and provisions of C.M.R. 241., as amended. The purpose of this article is to provide for the harmonious and economic development of the town; for the orderly subdivision of land and its development; for the orderly development of the general area surrounding such subdivision; for the coordination of streets within the general area; for adequate provisions for drainage, flood control, light, air and other public purposes; for the adequate and proper installation of streets, drainage, subsurface wastewater disposal systems, water and other utilities and facilities; for the dedication to the town of land for streets or other public purposes or the transfer to the town of easements or other rights or privileges; for the reservation for the town of land to be acquired for public facilities; and to protect public safety.

### **B. Jurisdiction.**

This article shall govern each and every subdivision of land within the limits of the town unless specifically exempted in this Article 11. When application is made for the resubdividing of a previously recorded subdivision under the provisions of these regulations, it shall be treated as a new subdivision provided the applicant is the owner of rights in the recorded subdivision.

**C. Definitions.** The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

**Comprehensive plan** shall mean any part or element of the comprehensive plan for the town as adopted by the town meeting in May of 1995.

**Cul-de-sac or dead-end street** shall mean with only one (1) outlet.

**Easement** shall mean a right, privilege or liberty which one has in land owned by another for some special and definite purpose.

**Engineer** shall mean a registered professional engineer in good standing with the state board of registration for engineers.

**Freshwater wetland** shall mean freshwater swamps, marshes, bogs, vernal ponds, and similar areas which are:

(1) Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and

(2) Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

**Lot** shall mean a parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision of record or survey map or by metes and bounds, for the purpose of sale or lease to another.

**Performance guarantee** shall mean a surety bond, letter of credit or escrow account in an amount and form meeting the requirements of this Article 11.

**Permanent marker** shall mean a granite monument for street monumentation and an iron pin or drill hole in ledge for property delineation, or as otherwise approved by the code enforcement officer.

**Planned unit development** shall mean a residential subdivision consisting of attached dwellings or a series of attached dwellings intended for separate ownership, with open spaces, recreational areas, access ways and buildings which are designed, built and controlled in accordance with a unified development plan.

**Recording plat** shall mean the completed subdivision plat in form for approval and recording.

**Roadway** shall mean that portion of a street devoted to vehicular traffic.

**Sidewalk**- shall mean that portion of a street not included in the roadway, and devoted in whole or part to pedestrian traffic.

**Sketch plan** shall mean a very simple layout to show the location of the subdivision to gain informal comments of planning board.

**Street** shall mean a public way for vehicular and pedestrian traffic.

**Subdivider** or applicant shall mean any individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under these regulations to effect a subdivision of land hereunder for himself or for another.

**Subdivision** shall mean the division of a lot, tract or parcel of land into three (3) or more lots, including lots of forty (40) acres or more, within any five-year period whether accomplished by sale, lease, development, buildings or otherwise and as further defined in 30-A M.R.S.A. Section 4401. The term subdivision shall also include the division of a new structure or structures on a tract or parcel of land into three (3) or more dwelling units within a five-year period and the division of an existing structure or structures previously used for commercial or industrial use into three (3) or more dwelling units within a five-year period. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this paragraph. A dwelling unit shall include any part of a structure which,

through sale or lease, is intended for human habitation, including single-family and multi-family housing condominiums, time-share units and apartments.

**Subdivision plat** shall mean a plan of the proposed subdivision for presentation to the planning board and the public.

**Surveyor** shall mean a qualified registered surveyor of good standing with the state board of registration.

**Tract (or parcel) of land** shall mean all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

**Vicinity sketch** shall mean a sketch of the proposed subdivision location, not necessarily drawn to scale, showing the proximity of the subdivision to surrounding streets and highways.

#### **D. Guidance to subdivider.**

The purpose of the preapplication procedure is to afford the subdivider an opportunity to avail himself of the advice and assistance of the planning board, and to consult early and informally with the board before preparation of the subdivision plat and before formal application for its approval, to insure the development of a subdivision plan with mutual benefits for the subdivider and the town.

#### **E. Procedure for approval of a subdivision.**

(1) Application for approval:

(a) To obtain approval of a proposed subdivision the subdivider or applicant shall prepare for the planning board a subdivision plat, a vicinity sketch, and a recording plat in accordance with the requirements and standards established by this article.

(b) The sketch plan may be prepared for planning board review if desired by the applicant prior to formal submission of the subdivision plat.

(c) The subdivider shall supply and submit fifteen (15) copies of the complete subdivision plat and the vicinity sketch and all other communications to the planning board at least fifteen (15) days prior to a regularly scheduled meeting of the planning board, to be in order for consideration by the board at the meeting.

(d) The planning board shall forward a copy of the subdivision plat and vicinity sketch to the code enforcement officer, selectmen, and fire department, all of which shall submit recommendations to the planning board by the time of the initial hearing on the subdivision plat.

(e) Prior to the date upon which the planning board meets to consider the subdivision plat the applicant shall pay all costs incurred in providing public notice. The planning board shall determine the amount of this fee based on the actual costs incurred in newspaper advertising and postage, and shall also be responsible for collecting and accounting for such fee. Public notice in the form of newspaper advertisement shall be provided for any proposed subdivision that contains three (3) or more lots.

(f) The selectmen may from time to time establish by order reasonable application fees to defray the costs of reviewing subdivisions.

(2) Timing of subdivision review: A public hearing shall be commenced within thirty (30) days following the receipt of a complete subdivision application. The planning board shall notify the applicant in writing either that the application is complete or, if it is determined to be incomplete, the specific additional materials needed to make it a complete application. The planning board shall render its decision on any application submitted to it within sixty (60) days following receipt of a complete application, or such other time as may be mutually agreed to by the planning board and the applicant.

(3) Engineering requirements:

(a) The applicant shall furnish the code enforcement officer with all engineering data and plans necessary for the completion of the required improvements, as enumerated in section Article 11 Subsection F.2. Such plans may be furnished apart from but at the same time as the subdivision plat and vicinity sketch and shall be certified by a registered professional engineer.

(b) The code enforcement officer shall review the plans submitted as required in subsection (c)(1) above and shall approve, approve conditionally, or disapprove same within ten (10) days of submission as to whether such plans are in conformance with the standards set forth in this article.

(4) Subdivision plat approval: The planning board shall approve, approve conditionally or disapprove such subdivision plat at a public meeting. If approved conditionally, the conditions and reasons shall be stated and given in writing to the subdivider and, if necessary, the planning board may require the subdivider to submit a revised subdivision plat. If the planning board should disapprove the subdivision plat, the reasons for such action shall be stated and given in writing to the subdivider, and the board may state the conditions under which the proposed subdivision would be approved. One (1) copy of the subdivision plat as acted upon by the planning board shall be retained in its office, one (1) copy forwarded to the code enforcement officer and one (1) copy returned to the subdivider.

(5) Effect of subdivision plat approval: Receipt of the approved copy of the subdivision plat of the subdivider is not authorization that s/he may proceed with the construction of any improvements. No construction will proceed until the recording plat has been approved by the planning board and has been properly recorded as required herein.

(6) Recording plat approval:

(a) The applicant shall submit the recording plat and fifteen (15) copies thereof to the planning board at least fifteen (15) days prior to the date of the meeting of the planning board at which it is intended to be considered, which copies shall be distributed as hereinafter provided.

(b) Consideration of the recording plat, however, shall not take place until approvals required in subsections (c) and (d) are obtained.

(7) Recording:

(a) When the recording plat is approved, the subdivider shall pay the actual cost of recording and reproducing five (5) copies of the plat, one (1) of which shall be on mylar for the code enforcement officer records.

(b) The recording plat shall be recorded in the office of the county registry of deeds by the subdivider.

(c) The registry book and page numbers will then be recorded on the five (5) copies of the plan, of which one (1) shall be kept at the office of the planning board, one (1) sent to code enforcement officer, one (1) copy on mylar sent to the public works file, one (1) to the assessor's file and one (1) to the subdivider.

(d) Unless the subdivider shall record his or her approved recording plat within three (3) years after the planning board has approved the subdivision plat, the recording plat approval shall become null and void. The preceding sentence notwithstanding, if the planning board's initial approval of a subdivision is based in part upon the granting of a variance from any of the applicable subdivision approval standards, no such variance shall be valid unless that fact shall be expressly noted on the face of the recording plat and shall be noted in a certificate, each of which shall conform to 30-A M.R.S.A. Section 4406, and such recording plat or such certificate or both of them are recorded in the Cumberland County Registry of Deeds within ninety (90) days of final subdivision approval.

#### **F. Plat requirements.**

Each and every modification of the information required to be shown on the plat in this section shall be applied for in writing by the subdivider. The decision of the planning board on such request shall be final.

(1) Information on subdivision plat. The following information shall be shown on one (1) subdivision plat unless otherwise indicated:

(a) Date, north point, title and graphic scale. Scale shall not be more than sixty (60) feet to the inch unless lots are more than an acre, but in no event more than one hundred (100) feet to the inch;

- (b) Based on a recent survey by the subdivider, existing contours at two (2) feet intervals or as otherwise required by the code enforcement officer. Existing structures which are to remain will be delineated;
- (c) Names of proposed streets, width of rights-of-way, and typical cross section reservation, and depth of construction materials;
- (d) Locations, widths and purposes of other rights-of-way or easements to be recorded;
- (e) All appropriate street curve information, including point of curvature, point of tangency, tangent distance, radii and interior angle, in standard engineering format;
- (f) Location of those utilities existing on or adjacent to the tract to be subdivided, including size and elevation of buried or underground utilities (may be shown on separate plan);
- (g) Tract boundary lines and property lines of lots, with accurate dimensions and either bearings or deflection angles. All lots shall be numbered;
- (h) Names of adjacent property owners;
- (i) Designation of flood hazard areas, as defined by the National Flood Insurance Program and shown on the town flood hazard boundary map, as well as any other areas in the subdivision subject to inundation by storm water or storm sewer overflow;
- (j) Existing historic sites and structures which either appear on the National Register or are nominated to the National Register by the state historic preservation officer;
- (k) Proposed private and public utility system including water, telephone, and any other services which shall supply the area (may be shown on a separate plan);
- (l) Storm drain plans and profiles showing size, kind and slope of pipe, proposed manhole rim and invert elevations and catch basin locations and drains (may be shown on separate plan);
- (m) Lighting plan showing the location, design, height and spacing from each other of the support poles, in accordance with standards and specifications established by the code enforcement officer (may be shown on separate plan);
- (n) Tree plan showing groups of existing, sizable trees which the subdivider intends to preserve (may be shown on separate plan);
- (o) A detailed plan of the entire subdivision and the immediate vicinity showing all existing and proposed drainage both on and off-site including drainage swales, ditches, etc., with directional flow arrows and approximate slope grades, and showing proposed finished "spot elevations" around the perimeter of the subdivision. Proposed drainage shall be shown as it may affect or restrict development on individual lots and with reference to improvements for which a performance guarantee is required under this article. Where deemed feasible by the code enforcement officer, proposed finished contours at intervals of two (2) feet shall be provided on the drainage plan (may be shown on separate plat);
- (p) Location and designation of any zoning district boundaries affecting the subdivision;
- (q) Proposed parks and school sites, or other public open space that the developer proposes to convey to the town;



- (r) Names and addresses of registered professional engineer, subdivider and owner;
- (s) At the option of the subdivider, any other information that may be necessary for the full and proper consideration of the subdivision shall be submitted in writing;
- (t) Streets and right-of-way monuments and property line markers;
- (u) Vicinity sketch, as defined in Article 2 and Article 3, Subsection C (may be shown on separate plan);
- (v) Total site data, including total area of the subdivision, total area in streets, total area in recreation or open space and number of house lots;
- (w) When private sewage systems are used, the results and supporting data of a soil test of each lot in the subdivision conducted by a soil evaluator licensed in the state; and when shared systems are proposed a plan in accordance with state law shall be provided;
- (x) Additional submission items if required by the planning board (may be shown on separate sheets):

1. When the adequacy of the subdivision's load bearing capacity is in question, the results and supporting data of test borings conducted by a professional engineer registered in the state;
2. When conditions warrant, a program which shall be implemented by the subdivider to control dust, erosion and sedimentation and/or vehicular traffic during construction;
3. Evidence of the applicant's financial capability to carry out all phases of the proposed development;
4. Evidence of state and federal approvals, licenses or permits required by law, or the status of applications therefore;
5. Price range of houses that will be built in the subdivision;
6. Traffic impact analysis;
7. High intensity soil survey, if required by the planning board;
8. Evidence of technical capacity to undertake the development;
9. Types and estimated quantities of solid waste to be generated by the development;
10. Construction plan outlining the anticipated sequence of construction of the major features of the project including without limitation roads, retention basins, sewer lines, seeding and other erosion and sedimentation control measures, and pollution abatement measures and also setting forth the approximate dates for commencement and completion of the project;
11. A narrative and a plan showing all proposed buffer strips, their dimensions, and maintenance plans and responsibilities; and
12. A description of any wetlands, wildlife and fisheries habitats, archaeological sites or unusual natural areas located on or near the project site and a description of the methods that will be used to protect such areas.

(2) Recording plat. The recording plat shall be an original ink drawing on linen or mylar, or as necessary to be acceptable to the registry of deeds, and shall be tied to an accepted street or to a proposed street under construction and bonded to insure construction. This plat also shall show the following:

- a. Title, date, graphic scale, north arrow, name, signature and registration number or seal of a registered land surveyor licensed in the state, name and address of developer and owner;
- b. Tract boundary lines and property lines of lots, with accurate dimensions and either bearings or deflection angles. All lots shall be numbered;
- c. All appropriate street curve information, including point of tangency, tangent distance, radii and interior angles, in standard engineering form;
- d. Street names, width of street rights-of-way and typical cross section showing only surface dimensions of roadway pavement;
- e. Street and right-of way monuments and property markers. Iron pipes shall be designated by a small circle at the point of installation;
- f. Locations, dimensions and purposes of any easement or right-of-way;
- g. Purpose for which sites, other than residential lots, are dedicated or reserved; it being understood that any reservations of areas shall be subject to the proper zoning thereof;
- h. Reference to recorded subdivision plats of adjoining platted land by book and page number;
- i. Space for the signatures of the planning board and date of approval;
- j. Where required by 30-A M.R.S.A. Section 4406, the fact that initial approval or subsequent amendment of a subdivision is based in part upon the granting of a variance from any of the applicable subdivision approval standards.

(3) Alterations to an approved plat. The planning board may approve alterations to an approved recording plat when all of the following conditions are met; otherwise, a new subdivision plat must be submitted to the planning board:

- a. The rearrangement of lot lines does not increase the number of lots within a block or other subdivision unit or area;
- b. The alteration will not affect any street, utility easement or drainage easement;
- c. The alteration meets all of the minimum requirements of this article, article III of this chapter on zoning and other applicable state and local codes;
- d. The alteration is approved by the code enforcement officer and the fire department.

Such approved alterations shall be properly recorded in the registry within thirty (30) days thereof or they shall be null and void. Recording of approved alterations also shall be in accordance with the requirements of 30-A M.R.S.A. Section 4406.

(4) Vacation of plats. Any such plat recorded, or any portion thereof, may be vacated with the consent of the selectmen as follows:

- a. At any time before the sale of any lot therein, by written instrument, signed by the selectmen and the owners of such subdivision, declaring the same to be vacated and describing therein the part or portion to be so vacated.
- b. At any time after the sale of any lot therein and by written instrument, signed by the selectmen and all owners of record of lots shown on the plat, declaring the same to

be vacated and describing therein the part or portion to be so vacated.

Any instrument so executed vacating all or a portion of any plat shall be duly filed and recorded in the county registry of deeds. The execution and recording of the instrument described in subsection (4)b. above shall vest fee simple title to the centerline of the street, or easement for public passage so vacated in the owners of abutting properties. Title to property located within the vacated streets or easements for public passage shall pass to abutting property owners free and clear of any rights of the public or other owners of lots shown in the plan, but subject to the rights of the owners of any public utility installations which have been previously erected therein.

### **G. General requirements.**

(1) Review criteria. When reviewing any subdivision for approval, the planning board shall consider, among others, the following review criteria and before granting approval shall determine that the proposed subdivision:

- a. Will not result in undue water or air pollution. In making this determination it shall at least consider the elevation of land above sea level and its relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; the conformity to the applicable state and local health and water resources regulations;
- b. Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- c. Will not cause unreasonable burden on an existing water supply;
- d. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- e. Will not cause unreasonable public road congestion or unsafe conditions with respect to use of the public roads existing or proposed;
- f. Will provide for adequate sanitary waste and storm water disposal and will not cause an unreasonable burden on municipal services if they are utilized;
- g. Will not cause an unreasonable burden on the ability of the town to dispose of solid waste if municipal services are to be utilized;
- h. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the department of inland fisheries and wildlife or by the town, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- i. Is in conformance with the comprehensive plan or its successor;

- j. The subdivider has adequate financial and technical capacity to meet the standards of this section;
- k. Whenever situated, in whole or in part, within the watershed of any pond or within two hundred fifty (250) feet of any wetland as defined in Title 38, chapter 3, subchapter I, article 2-B, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water;
- l. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater;
- m. Is or is not in a flood-prone area, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one (1) foot above the 100-year flood elevation;
- n. All potential wetlands within the proposed subdivision shall be identified on any maps submitted as part of the application, regardless of the size of those wetlands. Any mapping of wetlands may be done with the help of the local soil and water Conservation district; and
- o. Any stream or brook within or abutting the proposed subdivision shall be identified on any maps submitted as part of the application. For purposes of this section, "stream or brook" has the same meaning as in Title 38 M.R.S.A. Section 480-B, subsection 9.

(2) Burden of proof. In all instances the burden of proof shall rest upon the person proposing the subdivision.

(3) Conformity with Code. Any proposed subdivision shall be in conformity with all relevant provisions of this Code.

(4) Construction records and inspection.

a. The code enforcement officer shall have the right to enter and inspect the construction site during all phases of the project to ensure compliance with this article.

b. After approval of the subdivision plat and prior to the construction of any of the subdivision's public improvements, the subdivider shall supply the code enforcement officer with a complete set of engineering drawings on mylar or linen showing all streets and surface water drains and all appurtenant work within the subdivision.

c. The subdivider shall provide the code enforcement officer with a complete and accurate list of any changes from the engineering drawings as approved by the planning board prior to the release of the performance bond.

#### **H. Technical and design standards.**

(1) Adoption and amendment of standards: The code enforcement officer may promulgate technical and design standards for subdivisions and site plans. Such technical and design standards or any amendments thereto shall become effective only upon approval of the planning board following a public hearing before the planning board. In approving the technical and design standards, the planning board may make changes with respect to format and text but, to the extent that standards are based upon sound engineering practice, shall not direct changes in the standards themselves. Such standards shall be additional to and consistent with the provisions of this article and shall be necessary and reasonable and shall be in accord with sound engineering practice. The code enforcement officer shall maintain for public inspection current copies of the effective standards.

(2) Street plan:

a. All streets shall be platted along contour elevations which result in minimum grades and greatest visibility whenever practicable, with consideration given for anticipated use of the land.

b. The proposed street layout shall be coordinated with the street system of the surrounding areas. All streets must provide for the continuation or appropriate projection of streets in surrounding areas and provide means of ingress and egress for surrounding acreage tracts.

c. Reserve strips or spite strips for unspecified or unacceptable purposes are prohibited.

d. Street right-of-way widths shall not be less than fifty (50) feet. Proposed subdivisions along existing, or dedicated, or platted streets where rights-of-way are inadequate shall provide additional land to meet the minimum standards.

e. Streets shall not occupy more land than needed to provide access nor create unnecessary fragmentation of the subdivision into small blocks. Streets will be designed to discourage outside traffic from traversing the development.

f. All dead-end streets shall provide for a cul-de-sac or, in the case of a dead-end street which will be extended, a temporary turn-around at the end of the street, subject to the approval of the code enforcement officer.

(3) Street design:

- a. Profiles of each street or way in the subdivision shall be shown on the subdivision plat. They shall be drawn to a longitudinal scale of forty (40) feet to one (1) inch and a vertical scale of four (4) feet to one (1) inch. Such profiles shall include separate profiles of each side line and center line of the street or way. Any buildings abutting on the street shall be shown in standard engineering format as requested by the code enforcement officer.
- b. Street grades in all proposed subdivisions shall be subject to the approval of the code enforcement officer.
- c. The code enforcement officer shall establish the sequence in which work is to be accomplished. Where it is determined by the code enforcement officer that work has been completed prior to the receipt of all approvals required by this article or which is out of sequence or is not in compliance with the standards of this section, the code enforcement officer may issue a stop work order. Work shall recommence only after the stop work order has been lifted by the code enforcement officer. Violation of the stop work order shall be considered an offense.

(4) Street and subdivision names:

- a. Street names for all subdivisions shall appear on the subdivision plat and be subject to approval by the planning board.
- b. Subdivision names for plats shall be subject to approval by the planning board and not duplicate the name of any plat already recorded.

(5) Storm drains:

- a. The design of all storm drains shall be subject to approval by the code enforcement officer.
- b. All subdivisions shall be provided with adequate storm drain systems within the subdivision.
- c. Any natural or manmade areas, systems or facilities designated for stormwater control purposes and intended for town maintenance shall, except for detention or retention ponds or basins and regularly free-flowing watercourses, be structurally enclosed in accordance with the standards of the code enforcement officer, and shall be dedicated with sufficient land for maintenance purposes. Warranty deeds to such areas shall be submitted for acceptance by the selectmen at the same time as the acceptance of streets. All such areas as are not intended for town maintenance shall be permanently protected and maintained by private agreement, deed covenant or restriction, as appropriate, in form approved by the town counsel.
- d. The approval of the plumbing inspector is required for all subdivisions involving the use of septic tanks and drainage fields for sewage disposal.
- e. The subdivider shall be responsible for the construction of all storm drains including manholes, catch basins and any other appurtenances as may be deemed

necessary by the code enforcement officer. All work shall be in accordance with public works specifications state standards.

f. The code enforcement officer shall establish the sequence in which work is to be accomplished. Where it is determined by the code enforcement officer that work has been completed prior to the receipt of all approvals required by this article or which is out of sequence or is not in compliance with the standards of this section, the code enforcement officer may issue a stop work order. Work shall recommence only after the stop work order has been lifted by the code enforcement officer. Violation of the stop work order shall be considered an offense.

(6) Lots:

a. Lot sizes shall conform to the zoning ordinance in Articles 3 (Zoning District Standards), 4 (Shoreland Zoning District Standards), 5 (General Provisions), and 7 (Townwide Performance Standards) of this chapter and the state health code.

b. Where easements for public utilities or storm sewers are contemplated, the lot lines shall be located in such a manner as to facilitate construction of such facilities and the maintenance thereof.

c. Lots which are reserved or laid out for business purposes shall have sufficient width and depth to accommodate the off-street parking and loading facilities required for the type of use and development contemplated, as established in article III of this chapter.

d. Where feasible, side lot lines shall be at right angles to street lines (or radial to curving street lines).

(7) Public open space:

a. In all subdivisions open space may be provided for public open space, recreational and other public areas. Where no public open space or recreational areas exist in close proximity to the subdivision, or where a lack of such areas in the subdivision would require its disapproval under Article 11, subsection G.1., general requirements, the planning board may require provision of land for public open space or recreational purposes. Such lands may be designated for public or private ownership in accordance with the conditions stated in this section, subject to the approval of the planning board.

b. If a tract or parcel is intended for public ownership and is so designated on the subdivision plat, the acceptance of such land shall be first recommended by the various departments and the planning board and sent to the town meeting for final determination.

c. If a tract or parcel is designed or intended to be owned and used in common for recreational or other public or semipublic purposes and such intent is so designated on the subdivision plat, appropriate documents in form approved by the town counsel shall be submitted to the planning board. Such documents shall clearly:

- i. Set forth the nature of the permanent organization under which common ownership is to be established, including its purpose; how it shall be governed and administered; the provisions made for permanent care and maintenance of the common property for its share of the cost of administering and maintaining such common property;
- ii. Set forth the extent of common interest held by the owner of each individual parcel in the tract held in common with others.

(8) Access to shoreline:

- a. In all subdivisions having shore frontage, existing legal rights of public access to the shoreline shall be preserved. The proposed street layout and circulation plan shall be suitably integrated with such existing public access in a manner that reasonably promotes the public use of such access. The proposed street layout and circulation plan shall also be designed to preserve any legal rights to any significant water views and scenic vistas from such rights-of-way.
- b. In all subdivisions having any lots within the shoreland zone, legal rights of private access to waters shall, to the extent reasonably feasible, be established for the benefit of all lots within the subdivision not otherwise having such access.

**I. Required improvements.** Prior to the release of the approved recording plat the subdivider shall file a guarantee as hereinafter provided, and prior to release of such guarantee the subdivider shall have completed all improvements as follows:

(1) All streets shall be graded in conformity with the requirements set out in Article 11, section H.

(2) On all streets and side streets a suitable hard surfaced permanent pavement may be required to be installed meeting state requirements.

(3) Common piping and storm drains shall be constructed prior to the installation of paving with all mains being extended from all lots having sufficient stub outs to avoid subsequent breaking of pavement.

(4) Adequate storm drains shall be constructed subject to the provisions of Article 11, section F. and in accordance with Maine's Best Management Practices.

(5) Permanent markers will be set as prescribed by the code enforcement officer.

(6) Street lighting shall be installed in accordance with the standards of the code enforcement officer.

(7) Erosion control measures shall be taken both during and after construction in accordance with the standards of Maine's Best Management Practices.

**J. Performance and defect guarantees; amount and release.**

(1) The performance guarantee shall be a surety bond, letter of credit or escrow account



with a responsible financial institution. It shall be in the name of the town and shall be approved by the finance director as to financial sufficiency and the corporation counsel as to proper form and legal sufficiency. The performance guarantee may be provided in whole or in part by means of a surety bond given by a contractor to the developer, provided that the town is included in the bond as an additional named insured and that the bond states that the amount provided for in the bond cannot be reduced without the prior written approval of the town. Such a bond shall be reviewed by the finance director as to financial sufficiency and by the corporation counsel as to proper form and legal sufficiency.

(2) Performance guarantees shall be required to ensure the fulfillment of all improvements as required by Article 11, section I and the subdivider shall give to the town, at the time of acceptance of the street, a warranty deed to the property within each street within the subdivision, as well as delivery to the town, at the time of acceptance of streets, of the warranty deeds to all other improvements intended for town maintenance. Such guarantee shall specify the completion of the improvements required in the subdivision and delivery to the town of such deed or deeds within twenty-four (24) months from the date of such guarantee. Furthermore, the performance guarantee shall be released only upon the tendering of a defect guarantee as required in subsections (5) and (6).

(3) The guarantee shall be equal in value to one hundred (100) percent of the estimated cost of the improvements as determined by the code enforcement officer. The guarantor shall not be released from the guarantee except by a release in writing from the selectmen and the planning board.

(4) Upon the satisfactory completion of the subdivision's prescribed improvements, the subdivider shall file a defect guarantee prior to the town's acceptance of any and all streets within the subdivision. The defect guarantee shall ensure the workmanship and the durability of all materials used in the construction of the roadways, storm drainage systems (including man-holes, catch basins and catch basin drains), street lighting, other appropriate landscaping and all other public improvements which may become defective within one (1) year period, all as determined by the code enforcement officer.

(5) The defect guarantee shall be a surety bond, letter of credit or escrow account with a responsible financial institution, equal in value to ten (10) percent of the estimated cost of public improvements. It shall be in the name of the town and shall be approved by the selectmen as to financial sufficiency and the town counsel as to proper form and legal sufficiency. A guarantee which contains appropriate terms and conditions to cover both the performance and defect guarantee provisions as specified in subsections (1) - (4) above is an acceptable form of guarantee.

(6) A performance bond shall also be required to ensure the completion of all improvements as required by Article 11, section I.5., as well as all improvements for the circulation, recreation, landscaping, light, air, drainage and service needs of a planned unit development which are not subject to Article 11, section J.2. For purposes of this subsection, Article 11, sections J.3. and J.4. shall also apply. The planning board may waive all or any portion of this requirement if it determines that the developer has a proven record of satisfactory performance and sufficient financial capability.

(7) The subdivider shall pay a subdivision inspection fee, which fee shall consist of the actual costs, including administrative costs, of inspection by the code enforcement officer of all improvements required by Article 11, section I and this section. Prior to the release of the approved recording plat and at the same time that the subdivider posts a performance guarantee as provided in this section, the subdivider shall pay to the town a deposit toward this subdivision inspection fee, which deposit shall be equal to two percent (2%) of the estimated cost of the improvements. Upon issuance of a release in writing from the selectmen and the planning board as provided in this section and as a condition precedent to release of the performance guarantee as provided in this section, the subdivider either:

- a. Shall pay to the town that amount by which the actual costs of inspection of the required improvements exceed the deposit; or
- b. Shall receive from the town that amount by which the deposit exceeds the actual costs of inspection of the required improvements.

**K. Extension of the guarantee period.**

When the subdivider constructs improvements for which a performance guarantee is required and the public code enforcement officer has reasonable doubt concerning the stability or proper construction of such improvements, the subdivider shall be required to do such further work on the improvements as the code enforcement officer shall order before the improvements will be accepted by the town. If the subdivider's current performance guarantee shall expire before the extent or necessity for such further work can be determined, the subdivider shall be required to extend his or her guarantee covering such improvements, or secure a new guarantee, for such further period and in such amount as the code enforcement officer shall deem necessary.

**L. Sale of partially completed subdivisions.**

The purchasing party or other succeeding owner of a subdivision for which a recording plat has received prior approval shall assume full responsibility for completion of the subdivision's improvements until acceptance of such improvements by the town. The purchaser or other succeeding owner of an unaccepted subdivision shall be required to comply with all the provisions of this article as if it were the original subdivider, and shall become responsible for completing such improvements in the same manner as the original subdivider.

**M. Enforcement, conveyance, markers and recording.**

(1) No person may sell, lease, develop or build upon or convey for consideration, offer or agree to sell, lease, develop or build upon or convey for consideration any land in a subdivision unless the subdivision has been approved by the planning board, and unless a recording plat showing permanent marker locations at all lot corners has been recorded in the county registry of deeds.

(2) The term permanent marker is limited to the following: A granite monument for street monumentation and an iron pin or drill hole in ledge for property delineation, or as otherwise approved by the code enforcement officer. No subdivision plan shall be recorded by the registry of deeds which has not been approved as required by this article. Approval for the purpose of recording shall appear in writing on the recording plat. No public utility or any utility company of any kind shall install services to any lot in a subdivision which has not received planning board approval.

(3) Any person who sells, leases, develops or builds upon or conveys for consideration any land in a subdivision which has not been approved as required by this article shall be punished by a fine of not more than five thousand dollars (\$5,000.00) for each such occurrence. The town may institute proceedings to enjoin any violation of this section.

**N. Appeals.** An appeal from any final decision of the planning board regarding subdivision approval may be taken by the applicant or his authorized agent to superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

**O. Modifications.**

(1) With respect to Article 11, sections H and I, the planning board if it finds that extraordinary conditions exist or that undue hardship may result from strict compliance with these regulations may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the comprehensive plan and the regulations of this article.

(2) The standards and requirements of this article may be modified by the planning board in the case of a plan and program for a planned unit development which in the judgment of the planning board provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the land development plan.

(3) If at any time before or during the construction of the required improvements the subdivider demonstrates to the satisfaction of the code enforcement officer that unforeseen conditions make it necessary or preferable to modify the design of the required improvements, the code enforcement officer may authorize modifications provided that the modifications do not amount to a waiver or substantial alteration of the function of any improvements required by the planning board.

**P. Conditions.** In granting variances and modifications, the planning board and selectmen may require such conditions as will, in their judgment, secure substantially the objectives of the standards or requirement so varied or modified.

**Q. Exemptions.**

(1) This article does not apply to subdivisions approved prior to June 6, 1979, nor to

subdivisions in existence prior to June 6, 1979, nor to subdivisions which have been legally recorded in the registry of deeds prior to June 6, 1979.

(2) A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, unless the intent of such gift is to avoid the objectives of this article, or by transfer of any interest in land to the owner abutting thereon shall not be considered to create a lot or lots for purposes of this article.

## **R. Cluster development**

(1) Conditional Use:

The inclusion of cluster development within a subdivision or portion of a subdivision is allowed only upon the issuance of a conditional use permit by the Planning Board and is subject to any conditions, standards, or requirements the Board may impose.

(2) Purpose:

The purpose of this section is to allow for flexibility in the layout of detached, single family homes within a subdivision, or a portion of a subdivision, that allows for the construction of homes on smaller lots in order to provide expanded housing opportunities in the Town of Long Island while promoting the conservation of common open space within the subdivision for use by subdivision residents and the general public.

(3) Requirements:

(A) The area of land in a proposed cluster development is a single lot of not less than 120,000 square feet;

(B) The proposed development meets all relevant zoning district standards under Article 3, general provisions under Article 5, townwide performance standards under Article 7, and the provisions of Article 11, with the exception of:

- (1) Minimum lot size,
- (2) Maximum lot coverage,
- (3) Minimum lot width,
- (4) Street frontage, and
- (5) Minimum number of lots in a proposed subdivision;

(C) The proposed common open space within the subdivision shall be equal to or exceed 50% of the total acreage in the cluster development subdivision or section of a proposed subdivision;

(D) The number of dwelling units shall be no more than the total acreage allowed to be included in net density calculations, less the land needed for road rights of way, divided by the minimum lot size otherwise required in the residential zone in which the proposed subdivision is to be located;

(E) The cluster development subdivision or portion of the subdivision is designed with a continuous landscaped border which shall contain no structures, although the buffer may contain evergreen shrub, trees, fences, in combination to form a visual barrier.

(F) The extent of soil types and wetlands within the proposed cluster development have been delineated by a Registered Soil Scientist, licensed in the State of Maine, on a soil survey map.

(G) The cluster development carries a requirement for a development neighborhood association. The association shall levy annual charges against all individual property owners for the maintenance of common lands, neighborhood recreational facilities, a common septic system, if applicable, and other purposes as determined by the Planning Board.

#### (4) Application

In addition to the information required under 11.E, an application for cluster development must include a copy of the following documents:

##### (A) Master Plan

(1) identifies the location of all proposed roads, structures, parking areas, footpaths, common open space, and private yard space related to individual dwelling units, utilities, easements, if any, wells and water feeds to dwelling units, septic systems and a secondary location for a common leaching facility, and vehicular access to the common area, if needed;

(2) shows proposed common open space with appropriate notation on the face thereof to indicate that further subdivision of common land is prohibited and shall not be used for future residential building lots, and

(3) provides that a portion or the entirety of the common open space may be dedicated for acceptance by the Town for operation as a municipal recreation facility.

##### (B) neighborhood association

(1) Covenants for mandatory membership in the association, setting forth the owner's rights and interests, that shall be included in the deed for each lot and dwelling;

(2) The maintenance responsibilities for the common lands and the annual levies that shall be charged against all dwelling and lot owners to defray the expenses connected with the maintenance of common facilities and open space; and

(3) deed covenant noting the financial obligation of the owner to pay the pro-rata share of common sewage collection and disposal system maintenance, repair and replacement.

#### (5) Water Supply:

Dwelling units in a cluster/planned unit development may have individual water supplies or may be connected to a common water supply and distribution system, either public or private, at no expense to the public.

(6) Subsurface Wastewater Disposal Systems:

(A) Approval of the subdivider or applicant's application shall be subject to presentation of a completed site evaluation form (HHE-200) in accordance with the State of Maine Subsurface Wastewater Disposal Rules, which provides evidence of adequate soil conditions for sewage disposal.

(B) The Planning Board may allow individual subsurface wastewater disposal systems (SWDS) based on the submission of a hydrogeologic assessment and feasibility analysis which indicates that the cumulative output from the individual systems will not adversely impact groundwater quality nor the functioning of any other home's SWDS.

(C) Individual home septic tanks or a cluster use tank and the associated leaching field system serving the structures within the cluster development shall be entirely located within the cluster development and shall be installed pursuant to rules adapted under Title 22 M.R.S. section 42, and Title 30-A M.R.S. subsection 4211.

(D) The design of a sewage collection and disposal system shall be prepared by a registered professional engineer and be approved by the Maine Department of Human Services; and

(E) The common leaching facility shall be located on a portion of the development large enough to include a replacement disposal area no less than equal in size to the original.

(7) Common Open Space:

On any parcel that includes important natural resources, noted as water shed areas, ponds, seasonal ponds, wetlands, protected animal habitat, protected plants, existing farmland soils, open fields or pasture, or registered tree growth woodland, the dwelling unit layout shall be clustered on so as to minimize impact on those areas.

The common land shall be restricted to recreation, conservation or agricultural purposes. Structures accessory to non-commercial recreational, conservation or agricultural uses may be erected on the common land, subject to approval by the Planning Board.

The subdivider or applicant shall maintain control of such common open space(s) and be responsible for their maintenance and repair until at least 50% but not more than 75% of the lots or houses are sold.

## **ARTICLE 12: FLOODPLAIN STANDARDS**

### **SECTION 1 – PURPOSE AND ESTABLISHMENT**

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

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

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

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

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

The areas of special flood hazard, Zones A, A1-30, AO, AH, and V1-30, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – City of Portland, Maine", dated December 8, 1998 with accompanying "Flood Insurance Rate Map" dated December 8, 1998, which are hereby adopted by reference and declared to be a part of this Ordinance.

### **SECTION 2 - PERMIT REQUIRED**

Before any construction or other development (as defined in Section XIV), including the placement of manufactured homes, begins within any areas of special flood hazard established in Section 1, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer except as provided in Section 7. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Long Island, Maine.

### SECTION 3 - APPLICATION FOR PERMIT

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

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

[Items H-K.3. apply only to new construction and substantial improvements.]

H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:

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

a. in Zones A1-30, AO, AH, and V1-30, from data contained in the "Flood Insurance Study – City of Portland, Maine," as described in Section 1; or,

b. in Zone A:

- (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Section 6.K. and 9.D.; or,
- (2) in the absence of all data described in Section 3.H.1.b.(1), information to demonstrate that the structure shall meet the elevation requirement in Section 6.F.4.b., Section 6.G.4.b., or Section 6.H.4.b.

2. highest and lowest grades at the site adjacent to the walls of the proposed building;



3. lowest floor, including basement; and whether or not such structures contain a basement; and,

4. level, in the case of non-residential structures only, to which the structure will be floodproofed.

I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Section 6;

J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;

K. The following certifications as required in Section 6 by a registered professional engineer or architect:

1. a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Section 6.G.; and other applicable standards in Section 6;

2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zones V1-30, will meet the criteria of Section 6.P.; and other applicable standards in Section 6;

3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Section 6.L.2.a.;

4. a certified statement that bridges will meet the standards of Section 6.M.;

5. a certified statement that containment walls will meet the standards of Section 6.N.

L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

M. A statement of construction plans describing in detail how each applicable development standard in Section 6 will be met.

#### **SECTION 4 - APPLICATION FEE AND EXPERT'S FEE**

A non-refundable application fee as specified in the Town of Long Island Municipal Fee Schedule for all minor development and for all new construction or substantial improvements shall be paid to the Town Clerk or Code Enforcement Officer and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer, Planning Board, and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to

pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order.

An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

## **SECTION 5 - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS**

The Code Enforcement Officer shall:

A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Section 5 (Development Standards) have been, or will be met;

B. Utilize, in the review of all Flood Hazard Development Permit applications:

1. the base flood and floodway data contained in the "Flood Insurance Study - City of Portland, Maine," as described in Section 1.;

2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Section 3.H.1.b.(1); Section 6.K.; and Section 9.D., in order to administer Section 6 of this Ordinance; and,

3. when the community establishes a base flood elevation in a Zone A by methods outlined in Section 3.H.1.b.(1), the community shall submit that data to the Maine Floodplain Management Program.

C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Section 1 of this Ordinance;

D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;

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

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

1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an “under construction” Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, for verifying compliance with the elevation requirements of Section 6, paragraphs F., G., H., or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,

2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Section 6.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Section 6.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Section 7.

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 Section 10 of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Sections 3, 6, and 8 of this Ordinance.

## **SECTION 6 - DEVELOPMENT STANDARDS**

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

A. All Development - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. use construction materials that are resistant to flood damage;
3. use construction methods and practices that will minimize flood damage; and,
4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during flooding conditions.

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

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

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

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

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

1. Zones A1-30, AO, and AH shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.

2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.

3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:

- a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,

- b. at least three feet if no depth number is specified.

4. Zone A shall have the lowest floor (including basement) elevated:

- a. to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 3.H.1.b.(1); Section 5.B.; or Section 9.D.; or,

b. in the absence of all data described in Section 6.F.4.a., to at least two feet above the highest adjacent grade to the structure.

5. Zones V1-30 shall meet the requirements of Section 6.P.

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

1. Zones A1-30, AO, and AH shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:

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

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

c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 3.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.

3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:

a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,

b. at least three feet if no depth number is specified; or,

c. together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and floodproofing standards of Section 6.G.1.a., b., and c.

4. Zone A shall have the lowest floor (including basement) elevated:

a. to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 3.H.1.b.(1); Section 5.B.; or Section 9.D.; or,

b. in the absence of all data described in Section 6.G.4.a., to at least two feet above the highest adjacent grade to the structure; or,

c. together with attendant utility and sanitary facilities, be floodproofed to one foot above the base flood elevation established in Section 6.G.4.a. or b. and meet the floodproofing standards of Section 6.G.1.a., b., and c.

5. Zones V1-30 shall meet the requirements of Section 6.P.

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

1. Zones A1-30, AO, and AH shall:

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

b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,

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

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

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

(3) all components of the anchoring system described in Section 6.H.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.

2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.

3. Zone AO shall have the lowest floor (including basement) of the manufactured home elevated above the highest adjacent grade:

a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,

b. at least three feet if no depth number is specified; and,

c. meet the anchoring requirements of Section 6.H.1.c.

4. Zone A shall:

a. be elevated on a permanent foundation, as described in Section 6.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Section 3.H.1.b.(1); Section 5.B.; or Section 9.D.; or,

b. in the absence of all data described in Section 6.H.4.a., to at least two feet above the highest adjacent grade to the structure; and,

c. meet the anchoring requirements of Section 6.H.1.c.

5. Zones V1-30 shall meet the requirements of Section 6.P.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A, A1-30, AO, and AH shall either:

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

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 Section 6.H.1.

2. Zones V1-30 shall meet the requirements of either Section 6.I.1.a. and b., or Section 6.P.

J. Accessory Structures - Accessory Structures, as defined in Section 14, located within Zones A, A1-30, AO, and AH, shall be exempt from the elevation criteria required in section 6.F. & G. above, if all other requirements of Section 6 and all the following requirements are met. Accessory Structures shall:

1. have unfinished interiors and not be used for human habitation;

2. have hydraulic openings, as specified in Section 6.L.2., in at least two different walls of the accessory structure;

3. be located outside the floodway;

4. 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,

5. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

## K. Floodways

1. In Zones A1-30 riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's "Flood Insurance Rate Map" unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. In Zones A and A1-30 riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Section 6.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,

b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.

3. In Zones A and A1-30 riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. Enclosed Areas Below the Lowest Floor New construction or substantial improvement of any structure in Zones A, A1-30, AO, and AH, that meets the development standards of Section 6, including the elevation requirements of Section 6, paragraphs F., G., or H. and is elevated on posts, columns, piers, piles, or crawl spaces 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 Section 14;

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:

a. be engineered and certified by a registered professional engineer or architect; or,

b. meet or exceed the following minimum criteria:

(1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;



(2)the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,

(3)openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

3. The enclosed area shall not be used for human habitation; and,

4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

M.Bridges - New construction or substantial improvement of any bridge in Zones A, A1-30, AO, AH, and V1-30 shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and,

2. a registered professional engineer shall certify that:

a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Section 6.K.; and,

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

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

1. Zones A, A1-30, AO, AH, and V1-30 shall:

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

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

c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 3.K.

2. Zones AO and AH shall have adequate drainage paths around containment walls on slopes, to guide floodwater away from the proposed walls.

3. Zone AO shall have the top of the containment wall elevated above the highest adjacent grade:

a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,

b. at least three feet if no depth number is specified; and,

c. shall meet the requirements of Section 6.N.1.b. & c.

O. Wharves, Piers and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A, A1-30, AO, AH, and V1-30, 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.

P. Coastal Floodplains -

1. All new construction located within Zones A, A1-30, and V1-30 shall be located landward of the reach of mean high tide except as provided in Section 6.P.6.

2. New construction or substantial improvement of any structure located within Zones V1-30 shall:

a. be elevated on posts or columns such that:

(1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;

(2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,

(3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.

b. have the space below the lowest floor:

(1) free of obstructions; or,

(2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,

(3) constructed with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

[NFIP flood insurance premiums will be higher for breakaway walls that exceed 299 square feet. The larger the square footage of the enclosure, the higher the cost of insurance. Developers are advised to inquire into flood insurance premiums rates before commencing construction.]

c. require a registered professional engineer or architect to:

(1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the Coastal Construction Manual, (FEMA-55); and,

(2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Section 6.P.2.

3. The use of fill for structural support in Zones V1-30 is prohibited.

4. Human alteration of sand dunes within Zones V1-30 is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.

5. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.

6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Section 6.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Section 7, and if all the following requirements and those of Section 6.A., 6.K., and 6.L. are met:

a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.

b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.

d. The structure shall have unfinished interiors and shall not be used for human habitation.

e. Any mechanical, utility equipment, and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.

f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

## **SECTION 7 - CONDITIONAL USE REVIEW**

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

### **A. Review Procedure for a Conditional Use Flood Hazard Development Permit**

1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.

2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.

3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.

4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.

5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

### **B. Expansion of Conditional Uses**

1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

## **SECTION 8 - CERTIFICATE OF COMPLIANCE**

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

A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer:

1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Section 6, paragraphs F., G., H., or P., and,

2. for structures in Zones V1-30, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Section 6.P.2.

B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.

C. Within 10 working days, the Code Enforcement Officer shall:

1. review the required certificate(s) and the applicant's written notification; and,

2. upon determination that the development conforms to the provisions of this ordinance, shall issue a Certificate of Compliance.

## **SECTION 9 - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS**

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

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

B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.

C. Adequate drainage is provided in order to reduce exposure to flood hazards.

D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Section 6 of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described.

The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

## **SECTION 10 - APPEALS AND VARIANCES**

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

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

A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

B. Variances shall be granted only upon:

1. a showing of good and sufficient cause; and,

2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,

3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,

4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:

a. that the land in question cannot yield a reasonable return unless a variance is granted; and,

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

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

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

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

D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

1. other criteria of Section 10 and Section 6.K. are met; and,
2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

1. the development meets the criteria of Section 10, paragraphs A. through D. above; and,
2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

F. Any applicant who meets the criteria of Section 10, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage; and,
2. such construction below the base flood level increases risks to life and property; and,
3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

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

4. The person filing the appeal shall have the burden of proof.

5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.

6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

## **SECTION 11 - ENFORCEMENT AND PENALTIES**

A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.

B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.

C. In addition to other actions, the Code Enforcement Officer may, upon identifying a violation, submit a declaration to the Administrator of the Federal Insurance Administration requesting a flood insurance denial. The valid declaration shall consist of:

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;

4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

## **SECTION 12 - VALIDITY AND SEVERABILITY**

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



## **SECTION 13 - CONFLICT WITH OTHER ORDINANCES**

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

## **SECTION 14 - DEFINITIONS**

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

**Accessory Structure** – means a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.

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

**Area of Shallow Flooding** - a designated AO and AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood Hazard** - land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Section 1 of this Ordinance.

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

**Basement** - area of a building that includes a floor that is subgrade (below ground level) on all sides.

**Breakaway Wall** - a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**Building** - see Structure.

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

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

**Conditional Use** - a use that, because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Section 7.

**Containment Wall** – wall used to convey or direct storm water or sanitary water from the initial source to the final destination.

**Development** – means any manmade change to improved or unimproved real estate. This includes, but is not limited 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.

Elevated Building - a non-basement building that is:

- a. built, in the case of a building in Zones A, A1-30, AO, or AH, so that the top of the elevated floor, or in the case of a building in Zones V1-30, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, posts, or piers; and,
- b. adequately anchored to not impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A, A1-30, AO, or AH, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Section 6.L. In the case of Zones V1-30, Elevated Building also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Section 6.P.2.b.(3).

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

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

## **Flood or Flooding**

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

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

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

**Flood Elevation Study** - 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.

**Flood Insurance Study** - see Flood Elevation Study

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

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

**Floodplain Management Regulations** - 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.

**Floodway Encroachment Lines** - the lines marking the limits of floodways 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 tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

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

**Historic Structure** - means any structure that is:

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

**Locally Established Datum** - for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), 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 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 Section 6.L. of this Ordinance.

**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 utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

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

**Mean Sea Level** – when related to the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**Minor Development** - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Section 6.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

**National Geodetic Vertical Datum (NGVD)** - the national vertical datum, a standard established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD is 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.

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

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

**Recreational Vehicle** - a vehicle that is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and,

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

**Regulatory Floodway –**

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

b. when not designated on the community's Flood Insurance Rate Map it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

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

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

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

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

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

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

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

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

## **SECTION 15 - ABROGATION**

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

## **ARTICLE 13: ZONING BOARD OF APPEALS**

**13.1 Jurisdiction and authority.** The board of appeals shall have the following jurisdiction and authority: **(Amended May 11, 2019)**

- A. Subject to the provisions of section 13.4, to hear and decide appeals from, and review orders, decisions, determinations or interpretations made by the building authority;
- B. Subject to the provisions of section 13.5, to hear and grant or deny applications for variances from the terms of this article;
- C. To initiate changes and amendments to this Article 13.

### **13.2 Administrative Procedures.**

- A. Creation; composition. There shall be a board of appeals of five (5) members and two alternates who will vote in the absence of one (1) or two (2) regular members. Members and/or alternates of the board shall be residents and/or property owners of the town and shall not be officers or employees of the town and per Title 30-A M.R.S.A. § 2526, must be 18 years old, a resident of the State and a U.S. Citizen. **(Amended May 14, 2016)**
- B. Appointment; terms. The members and/or alternates of the board of appeals shall be appointed by the selectmen for terms of three (3) years. Terms shall be staggered so that the terms of no more than three (3) members and/or alternates shall expire in any calendar year. Such members and/or alternates shall serve until their successors are duly elected and qualified provided, however, that such service shall not extend to over (120) hundred twenty (120) days after expiration of their term.
- C. Compensation. Members and/or alternates of the board of appeals shall serve without compensation.
- D. Vacancies. Permanent vacancies on the board of appeals shall be filled by the selectmen in the same manner as other appointments under this article, for the unexpired term of a former member and/or alternate whose place has become vacant.
- E. Removal of members and/or alternates. Any member and/or alternate of the board of appeals may be removed for cause by the selectmen at any time; provided, however, that before any such removal, such member and/or alternate shall be given an opportunity to be heard in his own defense at a public hearing.
- F. Chair. The members and/or alternates of the board of appeals shall annually elect one (1) of their number as chair to preside at all meetings and hearings and to fulfill the customary functions of that office. In the absence of the chair, the secretary shall act as chair and shall have all the powers of the chair.
- G. Secretary. The members and/or alternates of the board of appeals shall annually elect one (1) of their number as secretary. The secretary shall act as chair in the absence of the chair



and shall fulfill the duties provided by statute and this article and have such other duties as may from time to time be provided by the rules of the board.

H. Records and decisions.

- (a) The transcript of testimony, if any, together with the minutes of the secretary and all exhibits, papers, applications and requests filed in any proceeding before the board of appeals and the decision of the board shall constitute the record.
- (b) Every decision of the board of appeals shall include findings of the fact, shall refer to the evidence in the record and the exhibits, plans or specifications upon which such decision is based, shall specify the reason or reasons for such decision, and shall contain a conclusion or statement separate from the findings of fact setting forth the specific relief granted or denying relief.
- (c) The secretary shall cause notice of any decision of the board to be delivered or mailed to the applicant, and planning board within five (5) days of such decision.

I. Conflicts. No member and/or alternate of the board of appeals shall participate in the hearing or disposition of any matter in which s/he has an interest. Any question of whether a member and/or alternate has a conflict of interest sufficient to disqualify that member and/or alternate shall be decided by a majority vote of the members and/or alternates, except the member and/or alternate who is being challenged; where such a vote results in a tie, the challenged member and/or alternate shall be deemed disqualified.

J. Appeals. An appeal from any final decision of the board of appeals may be taken by any aggrieved party to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

K. Successive applications. Whenever any application, appeal or other request filed pursuant to this article has been finally denied on its merits, a second application, appeal or other request seeking essentially the same relief, whether or not in the same form or on the same theory, shall not be brought within one (1) year of such denial unless, in the opinion of the officer or board before which it is brought, substantial new evidence is available or a mistake of law or fact significantly affected the prior denial.

L. Violations. In addition to any other remedies available, the board of appeals after notice and hearing may revoke any variance or other relief granted under this article when the provisions of this article or the conditions under which the relief was granted have not been complied with.

### **13.3 Conduct of Hearings.**

A. Meetings, hearing, and procedures.

- (1) Regular meetings of the board of appeals shall be held at the call of the chair or as

provided by the rules of the board. Special meetings shall be called by the chair at the request of any two (2) members and/or alternates of the board or at the request of the selectmen. All meetings and hearings of the board shall be open to the public.

- (2) The board of appeals shall adopt its own rules of procedure for the conduct of its business not inconsistent with the statutes of the state and this article. Such rules shall be filed with the secretary and with the town clerk. Any rule so adopted which relates solely to the conduct of hearings, and which is not required by the statutes of the state or by this article, may be waived by the board upon good cause being shown.

B. Quorum and necessary vote. No business shall be transacted by the board of appeals without a quorum, consisting of three (3) members and/or alternates, being present. Except as expressly provided herein, the concurring vote of at least three (3) members and/or alternates of the board shall be necessary to authorize any action, to grant any request or application or to sustain any appeal.

C. Public hearings.

- (1) Setting hearing. For all matters properly brought before the board of appeals, the board shall select a reasonable time (not to exceed 60 days from receipt of a completed application) and place for a public hearing following the submission of the subject application.

- (2) Notice. The secretary shall give notice of such public hearings in the form and manner and to the persons herein specified. The notice shall include the time and place of such hearing, a description of the contents of the matter to be heard and the address or location of the property involved. Where notice by mail is required, it shall be mailed at least seven (7) days in advance of the hearing date by regular United States mail. Notices shall be given to each of the following as specified:

- (a) In all cases, to all residents of the town by publication in a newspaper of general circulation in the town at least once, not more than thirty (30) nor less than five (5) days before the date of the hearing, and by mail to each of the following persons, each of whom shall be made a party of record in each case: The applicant, the selectmen and the planning board;

- (b) In the case of hearings related to a use variance, - or a nonconforming use, involving a particular parcel or tract of land, by mail to the owners of all the property within five hundred (500) feet of such parcel or tract; **(Amended May 11, 2019)**

- (c) In the case of hearings related to variances or appeals other than use variances, by mail to the owners of property directly abutting, and directly across a street from the subject property;

- (d) For purpose of this section, the owners of property shall be considered to be the parties listed by the assessor's records as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the board.

(3) Conduct of hearings:

- a. Rights of all persons. Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney, and may submit documentary evidence, provided, however, that the board shall exclude irrelevant, immaterial and unduly repetitious evidence.
- b. Rights of parties. The applicant and any interested party shall in addition have the following rights:
  - i. To present witnesses on their own behalf and offer rebuttal evidence;
  - ii. To cross-examine all witnesses testifying in opposition to their position through the chair; and
  - iii. To examine and introduce any documents produced at the hearing.
- c. Board rules to govern. All other matters pertaining to the conduct of hearings shall be governed by the provisions of the relevant state statutes, this article, and the rules promulgated by the board of appeals.

**13.4 Appeals.**

A. Authority. The board of appeals shall hear and decide appeals from and review orders, decisions, determinations or interpretations or the failure to act of the code enforcement officer.

B. Procedure:

- (1) Notice of appeal. An appeal may be taken to the board of appeals by any person affected by a decision of the code enforcement officer. Such appeal shall be taken within thirty (30) days of the action complained of by filing with the code enforcement officer a notice of appeal specifying the grounds thereof. A payment of a nonrefundable filing fee, as established from time to time by the selectmen to cover administrative costs and costs of hearing, shall accompany notice of appeal. The code enforcement officer shall forthwith transmit to the board of appeals all of the papers constituting the record upon which the action appealed from was taken.
- (2) Public hearing. A public hearing shall be set at a reasonable place and time (not to exceed 60 days from receipt of a completed application for appeal), advertised and conducted by the board of appeals in accordance with this Article 13 (Zoning Board of Appeals).
- (3) Action by the board of appeals. Within thirty (30) days following the close of the public hearing, the board of appeals shall render a decision on the appeal in the manner and form specified in this Article 13 (Zoning Board of Appeals). The failure of the board to act within thirty (30) days shall be deemed an approval of the appeal unless mutually extended in writing by the appellant and the board. Within five (5) days of such decision or failure to act notice thereof shall be mailed by the secretary to each party.
- (4) Right to grant variance in deciding appeals. In any case where the notice is accom-

panied by an application for variance in accordance with section 13.5.B.1, the board of appeals shall have the authority to grant, as part of the relief, a variance, but only in strict compliance with each provision of section 13.5 hereof.

- (5) Conditions and limitations on rights granted by appeal. Any right granted by the board of appeals on appeal shall be subject to the same conditions and limitations as if secured without the necessity of an appeal.

### **13.5 Variances.**

- A. Authority. Except as otherwise expressly provided in Section 13.5.D, the board of appeals may authorize variances from the provisions of this article as meet the requirements of this division including but not limited to use variance, dwelling unit conversion, space and bulk such as lot size, density and side yard, parking, loading and signs.
- B. Procedure:
  - (1) Application. Application for a variance shall be submitted to the code enforcement officer. A payment of a nonrefundable application fee, as established from time to time by the selectmen to cover administrative costs and costs of a hearing, shall accompany each application. The application shall be in such form as prescribed by the code enforcement officer and contain at least the following information and documentation:
    - a. The name and address of the applicant and his or her interest in the subject property and a copy of the deed;
    - b. The name and address of the owner, if different from the applicant;
    - c. The address or location of the subject property;
    - d. The present use and zoning classification of the subject property;
    - e. Where the site plan approval is required by article 10 (Site Plan Review) of this chapter, a preliminary or final site plan as defined by article 10 (Site Plan Review) of this chapter;
    - f. The relief sought from the board of appeals.
  - (2) Public hearing. A public hearing shall be set at a reasonable place and time (not to exceed 60 days from receipt of a completed application for a variance), advertised and conducted by the board of appeals in accordance with Article 13 (Zoning Board of Appeals) of this chapter.
  - (3) Action by board of appeals. Within thirty (30) days following the close of the public hearing, the board of appeals shall render its decision granting or denying the variance, in the manner and form specified by article 13 (Zoning Board of Appeals). The failure of the board to act within thirty (30) days shall be deemed an approval of the variance unless mutually extended in writing by the applicant and the board. Within seven (7) days of such decision or the expiration of such period, the secretary shall mail notice of such decision or failure to act to the applicant.

### C. Variances Permitted.

1. Use variances. Except as provided in Section 13.5.C.2 through 4 herein, the board of appeals may grant a variance only when strict application of the ordinance to the applicant and the applicant's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

- 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.

### 2. Disability Variances

Notwithstanding the provisions of Sections 13.5.C.1, 13.5.C.3, 13.5.C.4, and 13.5.5.D of this section, the board may grant a variance to an owner of a residential dwelling for the limited purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety and effectiveness of the structure. For the purpose of this subsection, with a disability and disability shall have the same meaning as person with a physical or mental disability as defined in subsections 7-A and 7-B of section 4553 of Title 5 of the Maine Revised Statutes Annotated. **(Amended May 8, 2010)**

### 3. Limited Setback variance for single-family dwellings

The board of appeals may grant an applicant a setback variance for the location or relocation of a single-family dwelling if the owner demonstrates that strict application of the zoning ordinance to the owner and the owner's property would cause undue hardship. The term undue hardship as used in this subsection means:

- a. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- b. The granting of a variance will not alter the essential character of the locality; and
- 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 abutting property; and

- e. That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

A variance under this subsection is strictly limited to permitting a variance from a setback requirement for a single-family dwelling that is the primary year-round residence of the applicant. Except as follows, a variance under this subsection may not exceed 20% of any setback requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage. A variance under this subsection may exceed 20% of a setback requirement, except for minimum setbacks from a wetland or water body required within shoreland zones by rules adopted pursuant to Title 38, chapter 3, subchapter I, article 2-B of the Maine Revised Statutes Annotated, if the applicant meets all of the criteria under this subsection and has obtained the written consent of all affected abutting landowners.

#### 4. Limited Variance from dimensional standards.

Applicants may obtain a variance from the dimensional standards of a zoning ordinance when strict application of the ordinance to the applicant and applicant's property would cause a practical difficulty as hereafter defined and when the following conditions exist:

- 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 produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- c. The practical difficulty is not the result of action taken by the petitioner or a prior owner.
- d. No other feasible alternative to a variance is available to the petitioner;
- e. The granting of a variance will not unreasonably adversely affect the natural environment; and
- f. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

As used in this subsection, dimensional standards means and is limited to the ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection, practical difficulty means that the strict application of the ordinance to the property precludes the ability of the applicant to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

A variance under this subsection is strictly limited to permitting a variance from dimensional requirements. Except as follows, a variance under this subsection may not exceed 20% of any dimensional requirement. A variance under this subsection may exceed 20% of a setback requirement if the applicant meets all of the criteria under this subsection, has obtained the written consent of all affected abutting landowners and the variance is not prohibited under subsection D.

**(Amended May 13, 2006)**

D. Specified variances prohibited:

- (1) No use variance for a use permitted in medium density residential districts shall be permitted in low-density residential districts. No use variance for a use permitted in business districts shall be permitted in any residential district.
- (2) No variance shall be granted which would result in a use or development of the lot or parcel in question which would not be in harmony with the general purpose and intent of this article or the comprehensive plan of the town; which would be materially detrimental to the public welfare or materially injurious to the enjoyment, use or development of property or improvement permitted in the vicinity; or which would materially impair an adequate supply of light and air to properties and improvements in the vicinity, substantially increase congestion in the public streets, increase the danger of flood or fire, or endanger the public safety.
- (3) No variance shall be granted which would be greater than the minimum variance necessary to relieve the undue hardship of the applicant.
- (4) Except for appeals concerning nonconforming dwelling units in existence and use prior to April 18, 1984, no variance shall be granted which would permit the alteration of a structure to accommodate any additional dwelling unit as a conditional use without meeting the requirements which would otherwise be a condition precedent to such conditional use treatment.

E. Conditions on variances; variances less than requested. Reasonable conditions and safeguards relating to construction, character, location, landscaping, screening and other matters may be imposed upon the premises benefited by a variance as considered necessary to prevent injurious effects upon other property and improvements in the vicinity or upon public facilities and services. Such conditions shall be expressly set forth in the resolution granting the variance and in the notice informing the applicant thereof. Violation of such conditions and safeguards shall be a violation of this article. A variance less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.

F. Limitations on variances. No variance permitting the erection or alteration of a building shall be valid for a period longer than six (6) months, or such other time as may be fixed at the time granted not to exceed two (2) years, unless a building permit for such erection or alteration is issued and construction is actually begun within that period and is thereafter diligently pursued to completion. One (1) or more extensions of said expiration dates may be granted if the facts constituting the basis of the decision have not materially changed and the two-year period is not exceeded thereby. No variance relating to the establishment or maintenance of a use not involving a building or structure shall be valid for a period longer than six (6) months, or such other time as may be fixed at the time granted not to exceed two (2) years, unless an occupancy permit is issued and a use commenced within such period; provided, however, that one (1) or more extensions of said time may be granted if the facts constituting the basis of the decision have not materially changed, and the two-year period is not exceeded thereby.

G. Recording of variances. No variance shall be valid unless, within thirty (30) days of final approval of the variance, a certificate describing the variance has been recorded by the applicant for the variance in the registry of deeds as required by 30 M.R.S.A. Section 4963.

H. **Shoreland variance requests to be sent to DEP.** A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals. **(Amended May 8, 2010)**



## ARTICLE 14: PLANNING BOARD

### **14.1 Created**

There is hereby created a planning board.

### **14.2 Composition.**

There shall be a planning board of seven (7) members. Members of the planning board shall be residents or property owners of the Town of Long Island and per Title 30-A M.R.S.A. § 2526, must be 18 years old, a resident of the State and a U.S. Citizen. **(Amended May 14, 2016)**

### **14.3 Fees (Repealed May 14, 2011 – now under Municipal Fees)**

### **14.4 Conditional uses (Added May 11, 2019)**

A. Authority. The Planning Board may, subject to the procedures, standards and limitations set out in this section, approve the issuance of a conditional use permit authorizing development of conditional uses listed in this ordinance.

B. Procedure:

(1) Application. Applications for conditional use permits shall be submitted to the Long Island Planning Board. A nonrefundable application fee, as established from time to time by the selectmen to cover administrative costs and costs of a hearing, shall accompany each application. The application shall be in such form and shall contain such information and documentation as shall be prescribed from time to time by the code enforcement officer but shall in all instances contain at least the following information and documentation:

- a. The applicant's name and address and his or her interest in the subject property and a copy of the deed;
- b. The owner's name and address if different than the applicant;
- c. The address, and lot number as shown in the town tax records;
- d. The zoning classification and present use of the subject property;
- e. The particular provision of this ordinance authorizing the proposed conditional use;
- f. A general description of the proposed conditional use;
- g. Where site plan approval is required by article 10 (site plan review), a copy of a site plan application that has been determined by the planning board to be complete as defined by Article 10 (site plan review).

### **(2) Conduct of hearings**

a. Rights of all persons. Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney, and may submit documentary evidence, provided, however, that the board shall exclude irrelevant, immaterial and unduly repetitious evidence.

b. Rights of parties. The applicant and any interested party shall in addition have the following rights:

- I. To present witnesses on their behalf and offer rebuttal evidence;
- ii. To cross-examine all witnesses testifying in opposition to their position through the chair, and
- iii. To examine and introduce any documents produced at the hearing

c. Board rules to govern. All other matters pertaining to the conduct of hearings shall be governed by the provisions of the relevant state statutes, this article, and the rules promulgated by the planning board.

(3) Public hearing. A public hearing shall be set at a reasonable place and time (not to exceed 60 days from receipt of a completed application for conditional use), Notice of the date, time and place of such hearing shall be published in a newspaper of local circulation at least ten (10) calendar days before the hearing. At least ten (10) calendar days before the public hearing, the applicant must provide notice to include a copy of the application to all persons owning or occupying properties within five hundred (500) feet of the site proposed for the conditional use being applied for by certified mail, the applicant must then submit a list of all property owners notified and copies of return receipts to show that notices were received by all property owners.

(4) Action by the Planning Board. Within thirty (30) days following the close of the public hearing, the Planning Board shall render its decision, in a manner and form specified by Article 14(Planning Board) granting the application for a conditional use permit, granting it subject to conditions as specified in subsection (D), or denying it. The failure of the board to act within thirty (30) days shall be deemed an approval of the conditional use permit, unless such time period is mutually extended in writing by the applicant and the board. Within five (5) days of such decision or the expiration of such period, the secretary shall mail notice of such decision or failure to act to the applicant.

C. Conditions for conditional uses:

(1) Authorized Conditional Uses. A conditional use permit may be issued for any use listed as a conditional use in the regulations applicable to the zone in which it is proposed to be located.

(2) Standards. Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the board determines that:

a. There are unique or distinctive characteristics or effects associated with the proposed conditional use;

b. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area; and

c. Such impact differs substantially from the impact which would normally occur from such a use in that zone.

D. Conditions on conditional use permits. The Planning Board may impose such reasonable conditions upon the property or owner benefited by a conditional use as may be necessary to prevent or minimize adverse effects therefrom upon other property in the neighborhood. Such conditions shall be expressly set forth in the Board decision authorizing the conditional use permit and in the permit. Violation of such conditions shall be a violation of this article.

E. Effect of issuance of a conditional use permit. The issuance of a conditional use permit shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals which may be required by the codes and ordinances of the town, including but not limited to a building permit, a certificate of occupancy, subdivision approval and site plan approval.

F. Limitations on conditional use permits. No conditional use permit shall be valid for a period longer than six (6) months from the date of issue, or such other time as may be fixed at the time granted not to exceed two (2) years, unless the conditional use has been commenced or is issued and construction is actually begun within that period and is thereafter diligently pursued to completion; provided, however, that one (1) or more extensions of said time may be granted if the facts constituting the basis of the decision have not materially changed, and the two-year period is not exceeded thereby. A conditional use permit shall be deemed to authorize only the particular use for which it was issued and such permit shall automatically expire and cease to be of any force or effect if such use shall for any reason be discontinued for a period of twelve (12) consecutive months or more.

G. Appeals from board decisions. Appeals from any decision of the Planning Board regarding a conditional use permit shall be to the Board of Appeals.

**ARTICLE 15: WIRELESS COMMUNICATION FACILITIES**  
**(Repealed & Replaced April 5, 2000)**

- 15.1 Purpose.** These standards are designed and intended to balance the interests of the residents of the Town of Long Island, wireless communications providers and wireless communication customers in the siting of wireless communications facilities within the town. Beyond the objectives described in The Land Use Ordinance, these wireless Communication Facilities standards are also intended to:
- a. Implement a municipal policy concerning the provision of wireless telecommunications services, and the siting of their facilities;
  - b. Establish clear guidelines, standards and time frames for the town to regulate wireless communications facilities;
  - c. Ensure that all entities providing Wireless Communications Facilities within Long Island comply with the ordinances of Long Island;
  - d. Permit the Town of Long Island to continue to fairly and responsibly protect public health, safety and welfare;
  - e. Encourage the siting of Wireless Communications Facilities to co-locate, thus minimizing adverse visual impacts on the community;
  - f. Support the goals and policies of the comprehensive plan, especially the orderly development of the town with minimal impacts on existing residential uses;
  - g. Protect the scenic and visual characteristics of the community, as identified in the Long Island comprehensive plan, to the greatest extent possible;
  - h. Provide for the removal of towers and associated structures that are no longer being used for wireless communications purposes; and
  - i. Minimize any potential adverse effect of a Wireless Communication Facilities on property values.
- 15.2 Definitions.** The following terms are applicable for reviewing an application for wireless communication facility and ensuring that applicable standards are met.
- a. **Alternative Tower Structure (ATS)**- Clock towers, bell steeples, light poles, water towers, electrical transmission line towers, and similar alternative mounting structures that camouflage or conceal the presence of antennas or towers associated with a Wireless Communication Facility.
  - b. **Antenna/Antenna Array**- A device used in communication that transmits or receives radio or electromagnetic frequency signals. A system of one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency (RF) signals through electromagnetic energy. These include, but are not limited to omnidirectional

antennas (whip or rod), directional antennas (panel) and parabolic antennas (dish or disc).

- c. **Antenna Support Structure-** Any pole, telescoping mast, tower tripod, or other structure that attaches to a tower and supports one or more antenna(s).
- d. **Designated Scenic Resource-** A specific location, view, or corridor as identified as a scenic resource in Long Island's Comprehensive Plan or by a state or federal agency that consists of (1) a three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object such as a mountain, resulting in a narrow corridor or a group of objects such as a mountain range resulting in a panoramic view corridor; or (2) lateral terrain features such as valley sides or woodland as observed to either side from a viewpoint on a public way or within a public recreational area.
- e. **Equipment Facility-** Any structure used to contain ancillary equipment for a wireless communication facility, including cabinets, shelters, a build out of an existing structure, pedestals and other similar structures.
- f. **FAA-** Federal Aviation Administration
- g. **FCC-** Federal Communication Commission
- h. **Height, Wireless Communications Facility Tower or Alternative Tower Structure (ATS)-** The vertical distance measured from the lowest point within twenty-five (25) feet of the base of the structure on the ground to the highest point of the tower or ATS, including the base pad, all antennas and other attachments. When towers are mounted upon buildings or other structures, the total vertical height is measured from the lowest point within twenty-five (25) feet of ground level of the building or structure to the highest point of all appurtenances on the tower.
- i. **New Tower-** A wireless communication tower that is constructed after the adoption of these standards.
- j. **Normal Maintenance-** The regular, routine maintenance of a WCF including but not limited to changing light bulbs, plowing and maintaining the existing access road and gate, fence repair and maintenance, maintenance of the buffer, replacing an existing antenna with a functionally equivalent antenna, and changing or repairing electronic components contained within an existing building (not a WCT) to similar electronic components that do not increase the broadcast capacity of the WCF in excess of the exemption standards contained in FCC Bulletin #65. This definition specifically includes

painting provided that the painting is done in accordance with the standards established in Section 7(b) (1) of this Division 29.

This definition specifically excludes widening an access road, increasing tower height, replacing light fixtures and increasing the broadcast capacity of a WCF in excess of the exemption standards contained in FCC Bulletin #65.

- k. **Wireless Communications-** Any personal wireless services as defined in the Federal Telecommunications Act of 1996 which includes FCC licensed commercial wireless telecommunications services including, but not limited to, telecommunications services, radio or television signals, or any other spectrum-based transmissions/receptions, cellular, personal communications services (PCS), specialized mobile radio (ESMR), paging, radio, television and similar services that currently exist or that may in the future be developed.
  - l. **Wireless Communication Facility-** A facility that transmits, receives, distributes, provides or offers wireless communications together, with the facility's associated antennas, microwave dishes, horns, cables, wires, conduits, ducts, lightning rods, electronics and other types of equipment for the transmission, receipt, distribution or offering of such signals, wireless communication towers, antenna support structures, and other structures supporting said equipment and any attachments to those structures including guy wires and anchors, equipment buildings, generators, parking areas, utility services, driveways and roads and other accessory features.
  - m. **Wireless Communication Tower- Co-Located-** A Wireless Telecommunications Tower or ATS supporting one or more antennas/antenna array(s) and owned or used by more than one public or private entity. A Co-Located Tower may include two (2) or more antenna array(s) serving the same company provided that the applicant can demonstrate to the Planning Board that separate levels are a practical necessity.
  - n. **Wireless Communication Tower (WCT)-** A structure designed and constructed specifically to support an antenna array that provides Wireless Communication. A tower may be a monopoly, self-supporting (lattice) tower, guy-wire support tower or other similar structure, and includes all supporting lines, cables, wires, and braces.
- 15.3. Review and approval authority.** No construction, alteration, repair or change shall occur on any Wireless Communication Facility without written approval from the Long Island CEO or Planning Board as follows:
- a. Normal Maintenance, as defined in this Article 15, is allowed without a permit from the CEO or Planning Board.
  - b. No construction, alteration, repair or change shall occur on any Wireless Communication Facility unless all required permits are obtained including, but not limited to, any federal or state permits.

- c. Planning Board review and approval is required for the following;
  - 1) Any WCF that does not exist as of the adoption of these standards (3/20/99).
  - 2) An additional antenna or antenna array(s) or increase in broadcast capacity in excess of the exemption standards contained in FCC Bulletin #65 on any WCF not previously and specifically approved by the Planning Board.
  - 3) Any alteration to an existing NCWCT that requires Planning Board review as established in Section 9 entitled "Alterations to Existing Facilities"
  - 4) Any increase to the tower height not previously and specifically approved by the Planning Board.
  
- d. A building permit, in accordance with the standards established in Section 4 entitled "Building Permit Requirements". must be obtained from the Long Island CEO for the following;
  - 1) Construction of a WCF that does not exist as of the adoption of these standards
  - 2) Any alteration to an NCWCT except normal maintenance (see definition).
  - 3) Any WCF application approved by the Planning Board.

**15.4 Building Permit Requirements.** The Long Island CEO shall ensure that the following requirements are met prior to the issuance of a Building Permit for a WCF.

- a. Submission Requirements: The following shall be submitted to the CEO by the applicant:
  - 1) Names, addresses, phone numbers and other means of contacting companies and persons that will function as contacts for the required inspections and monitoring of the WCF.
  - 2) Any applicable plans or information deemed necessary by the CEO to issue a permit for the WCF in accordance with these standards. This may include plans and information from a professional engineer at the applicants expense.
  - 3) For any permit request to construct a Co-Located WCT in excess of the maximum height permitted for a single use tower, the applicant will submit to the CEO executed agreements documenting commitments to co-locate from the number of co-locators approved by the Planning Board.
  - 4) For any permit request to construct a Co-Located WCT in excess of the maximum height permitted for a single use WCT, the applicant must submit antenna arrays for each anticipated co-locating entity.
  - 5) For any permit request involving an existing NCWCT, the applicant shall supply

information regarding the estimated construction cost of the tower prior to the proposed alterations and the estimated construction cost of the tower after the proposed alterations. For the purposes of determining the estimated construction cost for this section, the cost shall be based on a complete rebuild of the existing tower excluding the cost of any electronic equipment and antenna/antenna array(s).

- b. The Long Island CEO shall not issue a permit for the construction of a new Wireless Communication Facility or any change to an existing Wireless Communication Facility that requires Planning Board review until the Planning Board has approved the facility and all applicable conditions have been met.
- c. The CEO shall not issue a building permit for a WCF unless all required permits are obtained and filed with the town including but not limited to any applicable federal or state permits or licenses.
- d. In the event that an applicant proposes to add capacity, the Long Island CEO may issue a permit for additional antenna(s), antenna array(s) or broadcast capacity if the facility has been previously and specifically approved by the Planning Board for the requested changes. The Planning Board approval must specifically state that this capacity is allowed and the allowed time period during which CEO may issue a permit for the additional capacity. Any increase in broadcast capacity in excess of the exemption standards contained in FCC Bulletin #65 must be previously and specifically approved by the Planning Board.
- e. The CEO shall have the authority to use professional and technical services to review proposed plans and to inspect the construction of an approved project. The applicant shall pay all costs incurred for these review and inspection services.
- f. If inspections and/or proof of insurance is required by the Planning Board, all necessary forms and inspection schedule(s) shall be submitted.
- g. If the Planning Board required a performance guarantee and) or abandonment removal bond for the proposed WCF, the amount and type of the bond(s) as required by the Planning Board shall be received and found acceptable by the CEO prior to the CEO taking action on any building permit application.
- h. For any NCWCT, the CEO shall keep records of the repairs made to each Tower to determine whether or not Planning Board review is required as established in section (9) below entitled Alterations to Existing Facilities. In order to ensure that the information provided by the applicant for this standard is accurate, the CEO shall have the authority to require third party review of the information submitted by the applicant, as authorized below in Section (5)(d) entitled “Third Party Authority”.



## 15.5 Planning Board Review

- a. In all cases, the burden of proof shall be on the applicant to demonstrate to the Planning Board that the required standard (s) have been met.
- b. Procedure The applicant shall submit all of the items listed below in Section (5)(f) entitled "Submission Requirements" for all applications to the Long Island CEO. If an applicant proposes a new tower, items 1 through 3 in Section (6)(a) entitled "New Tower Requirements- Submission Requirements" must also be submitted to the CEO. The applicant must submit, in writing, request(s) for any waivers to the submission requirements.

Once the CEO has determined that the application is complete, the Planning Board shall review the submitted materials at the next available regular Planning Board meeting. Once the Planning Board has determined that there is sufficient information to make a determination as to whether or not co-location is a feasible option possible, the Planning Board shall make the determination as outlined below in "Co-Location Determination". When the Planning Board has resolved the co-location, the applicant shall submit the required submissions in the Planning Board and the Board shall review the application as established in Section (5)(e) below entitled "Planning Board Review Guidelines".

- c. Co-location determination In accordance with the purposes stated above, Long Island's Wireless Communication Facility standards strongly encourage co-location on existing tower structures, on ATS's on new towers on existing tower sites, or modifying an existing WCT to accommodate additional antenna/antenna array (s) or increased broadcast capacity. Proposals for the siting of WCF's or antennae on existing towers or ATS'; or at locations that presently have WCT's are favored over proposals for construction of new towers on sites where towers do not presently exist.

The Planning Board review process guides WCF applicants towards co-location and requires the applicant to prove, among other factors, that their proposed antennas or facilities cannot be accommodated by existing tower structures. The Planning Board shall have the authority to determine whether or not co-location is a reasonable, practical and feasible option based on the following;

- 1) Required submissions stated below in Section (5)(f) entitled "Submission Requirements" for all applicants.
- 2) The purposes for these WCF standards stated above in Section 1 entitled "Purpose".
- 3) The Planning Board's interpretation of the information provided by the applicant in submissions 1 through 3 required below in Section (6)(a) entitled "New Tower Requirements- Submission Requirements".

The Planning Board shall determine, by a vote, whether or not co-location will be required. If the Planning Board determines that co-location will not be required, the application can be considered under Section 6 entitled "New Tower Requirements."

- d. Third Party authority. The Planning Board shall have the authority to require that information and documentation relating to the required submissions, review third-party professional at the expense of the applicant to ensure that the requirements of this section and the zoning ordinance are met and maintained. The qualified third party shall, at the request of the Planning Board, verify the accuracy of the information presented by the applicant to the Board. This third party authority shall specifically include verification of the information, facts, and costs associated with determining whether or not co-location is a feasible option.

The Planning Board shall have the authority to choose the third party or parties deemed necessary by the Planning Board to review the application. The Planning Board may require a peer review. If the Planning Board determines that such peer review is insufficient, the Planning Board shall have the authority to require a more comprehensive and independent review. The cost of the peer review or independent review shall be borne by the applicant.

- e. Planning Board Review Guidelines. The Planning Board may require that the applicant submit documentation, in writing, that the guidelines established below will be met and maintained. The Planning Board will be guided in its consideration of a WCF application by the following parameters;
- 1) All standards contained in Article V of this ordinance entitled Site Plan including but not limited to "Criteria and Standards" and "Performance Standards".
  - 2) All standards contained in Section 7 of these WCF standards entitled "Performance Standards".
  - 3) The height of the proposed tower, alteration or other necessary structure does not exceed that which is essential for its intended use.
  - 4) The proximity of the tower and impact to residential development or zoning districts shall be minimized.
  - 5) The nature of uses on adjacent and nearby properties shall be reviewed and the impact of the WCF minimized.
  - 6) The WCF shall minimize changes to the existing natural topography to the maximum extent feasible and shall take into consideration the surrounding topography.
  - 7) The WCF shall utilize the surrounding tree coverage and foliage as a buffer. Removal of mature trees shall be strongly discouraged.

- 8) The design of the WCF including the tower, antenna, antenna array(s) and any functionally dependent structures shall have the effect of reducing or eliminating visual obtrusiveness.
- 9) The WCF shall minimize visual impacts on view sheds, ridge lines, and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures.
- 10) The proposed WCF facility will not unreasonably interfere with the view from any public park, natural scenic vista, historical building, major view corridor, shoreline or Designated Scenic Resource.
- 11) The proposed facility is not constructed in such a manner as to result in unnecessary height, mass, and guy-wire supports with documentation having been provided and reviewed regarding the design capacity and/or the remaining co-location capacity of the tower/facility.
- 12) The time period that the applicant is permitted to complete the project shall be determined by the Planning Board.
- 13) Based on information submitted by the applicant, the Planning Board shall ensure that mitigation measures have been utilized to screen antennas and towers from view from public rights-of-way or scenic vistas, either via landscaping, fencing or other architectural screening.
- 14) Based on information submitted by the applicant, the Planning Board shall ensure that creative design measures have been employed to camouflage facilities by integrating them with existing buildings and among other uses.
- 15) Based on information submitted by the applicant, the Planning Board shall ensure that other technically feasible sites have been investigated and, if available, the proposed facility has been relocated in order to minimize the effect of the location on visually sensitive areas such as the shoreline zone, pace areas.
- 16) An inspection schedule acceptable to the Planning Board shall be established.
- 17) A performance guarantee and/or removal guarantee in accordance with Section 8 entitled "Additional Standards & Criteria" may be required by the Planning Board.
- 18) The WCF will not unreasonably or significantly affect or de-value neighboring property(s).
- 19) The Planning Board shall consider the vantage points chosen by the applicant as part of the visual analysis required in Section 6 entitled New Tower Requirements. If the Planning Board determines that additional vantage points should be considered, the applicant shall complete the visual analyses for these locations for the Board's consideration.

f. Submission requirements for all applications

- 1) All relevant submissions, as determined by the Planning Board, contained in Article V of this ordinance entitled Site Plan.
- 2) A proposal to construct or modify a wireless communication tower must include evidence of a commitment from a duly licensed entity to utilize the tower to provide wireless communication services. All wireless communication entities that are contracted to locate on the tower must join as applicants.
- 3) Written approval by all applicable state and federal agencies, including but not limited to the FAA and FCC, including a description of any conditions or criteria for the approval, or a statement from the agency that no approval is required.
- 4) An inventory of all of the provider's existing and approved towers, antennas or sites within the Town of Long Island and locations in surrounding communities where wireless telecommunications are proposed to be utilized in conjunction with the facility proposed in the application. Service area maps or network maps of the applicant's existing and proposed facilities in Cumberland, Androscoggin, York, Sagadahoc and Lincoln Counties.
- 5) Identify any other telecommunication facilities existing or proposed on the site.
- 6) Details of all existing or proposed accessory structures including buildings, parking areas, utilities, gates, access roads, etc.

## **15.6 New Tower Requirements**

### **a. Submission Requirements.**

- 1) Evidence that written notice was sent, by pre-paid first class United States mail, to all other such tower and alternative tower structure owners and licensed wireless communication providers in the Town utilizing existing towers and ATS's and to owners of such towers and ATS's within a 1 mile search radius of the proposed tower. This notice shall state the applicant's siting needs and request information the co-location capabilities of the existing or previously-approved facilities. Evidence that this notice requirement has been fulfilled shall include a name and address list, copy of the notice that was sent, and a statement, under oath, that the notices were sent as required.
- 2) Evidence that existing or previously approved towers and alternative tower structures within the Town and search area cannot accommodate the communications equipment (antennas, cables, etc.) planned for the proposed tower. Such evidence should be documentation from a qualified and licensed professional engineer that:
  - a) Planned necessary equipment would exceed the structural capacity of existing and approved towers and alternative tower structures, considering the existing and approved towers and alternative tower structures, and the existing and approved towers cannot be reinforced or enlarged to accommodate planned or equivalent equipment at a reasonable cost;
  - b) Planned equipment will cause electromagnetic frequency interference with other

- existing or planned equipment for that tower or alternative tower structure, and the interference cannot be prevented at a reasonable cost;
  - c) Existing or approved towers and alternative tower structures do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or approved; or
  - d) Other documented reasons that make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved towers and alternative tower structures.
- 3) Evidence that the proposed tower cannot be co-located on existing or previously approved tower sites. Evidence should include an assessment of whether such tower sites could be changed to accommodate the proposed tower, and a general description of the means and projected cost of shared use of the existing or approved tower site.
- 4) A report from a Registered Professional Engineer in the State of Maine that describes the tower, the technical reasons for the tower design and the capacity of the tower, including the number (s), type (s), and volume (s) of antenna (s) that it can accommodate and the basis for the calculation of capacity.
- 5) A letter of intent that commits the tower owner and his or her successors in interest to:
  - a) respond in a timely, comprehensive manner to a request for information from a potential co-location applicant
  - b) negotiate in good faith for shared use by third parties that have received an FCC license or permits; and,
  - c) allow shared use if an applicant agrees in writing to pay reasonable charges.
- 6) Proof of financial capacity to build, maintain, and remove the proposed tower must be submitted.
- 7) Photos showing site vegetation, existing and adjacent structures, views of and from the proposed site, topography, and land uses on the proposed parcel and on abutting properties
- 8) Landscaping plan reflecting location of proposed areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed.
- 9) Elevation drawings, cross-sectional area or silhouette, of the facility, drawn to scale, and showing all measurements, both linear and volumetric, showing front, sides and rear of the proposed facility including all fencing, supporting system for transmission

cables running between the tower and accessory structures, control panels, antennas, and existing structures and trees. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

- 10) Detail of the tower base or method of attachment to a structure. If the facility will be attached to an existing building or structure, provide measurements and elevations of the structure.
- 11) A visual analysis, which may include photo montage, field mock up, or other techniques, that identifies the potential visual impacts, at design capacity, of the proposed facility. This visual analysis shall include sufficient information for the Planning Board to determine how the proposed site will visually change. The analyses should include before and after analysis of the site from adjacent public views and roads as well as from adjacent vantage points. Consideration shall be given to views from the shoreline and public areas as well as from private residences and from archaeological and historic resources including historic districts, areas and structures, specifically those listed in the National Register of Historic Places or those that are eligible for such listing. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historic Preservation Officer in his/her review capacity for the FCC. The overall analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable communication facilities in the area, and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed Wireless Communication Service.
  - b. Location- Any Wireless Communication Tower not existing as of the date of adoption of this ordinance shall conform to the following standards.
    - 1) Wireless communication facilities shall not be sited in areas of high visibility unless the Planning Board finds that no other location is technically feasible. If the facility is to be sited above the ridge line it must be designed to minimize its profile by blending with the surrounding existing natural and man-made environment to the maximum extent possible using available materials, natural buffers, and the Tower location site.
    - 2) No facility shall be located so as to create a significant threat to the health or survival of rare, threatened or endangered plant or animal species.
    - 3) WCF's are allowed in the IR-1 Zoning District provided that the base of

any tower is located on land that is at least ninety (90) feet above mean sea level as of the adoption of these standards. The Planning Board shall not have the authority to waive this standard.

- 4) Towers are specifically prohibited from the following zoning districts; Commercial, Industrial, IR-2, and any Shoreland Zone. The Planning Board shall not have the authority to waive this standard.

c. Tower Height. Any Wireless Communication tower not existing as of the date of adoption of this ordinance shall conform to the following standards.

- 1) Towers shall not exceed thirty (30) feet above the existing mature tree line immediately adjacent to the tower. The Planning Board shall have the authority to determine the height of the existing mature tree line based on information provided to the board by the applicant and, if deemed necessary, verified by the Planning Board.
- 2) Only the minimum height necessary to accomplish the technical needs of the applicant shall be approved by the Planning Board.
- 3) Towers shall not exceed a height of seventy five (75) feet, except that where evidence of acceptable design and co-location is provided, the Planning Board may approve an additional twenty-five (25) feet of tower height per each additional wireless communication service co-locator, not to exceed a maximum tower height of one hundred and twenty-five (125) feet. The Planning Board shall not have the authority to waive this standard.
- 4) Installing antennas on alternative tower structures is permitted provided that the resulting ATS height does not exceed a maximum height of one hundred twenty five (125) feet and that the tower does not extend more than (35) feet higher than the present highest point of the building or structure. The Planning Board shall not have the authority to waive this standard.

d. Space and Bulk Requirements. Any Wireless Communication Facility not existing as of the date of adoption of these standards (4/5/00) shall conform to the following standards:

- 1) Mounting and Dimensions- The mass and dimensions of antennas on a

tower or alternative tower structure shall be governed by the following criteria:

- a) Whip antennas shall not exceed 20' in length for an individual antenna, and shall be limited to two (2) per mount, with no more than three (3) mounts at a given level.
  - b) Microwave dish antennas. The aggregate diameters of microwave dish antennas mounted within a 20' vertical section of a tower with no single dish being more than 8' in diameter and 5' in depth, unless otherwise required per the path reliability and/or tower structural studies.
  - c) Panel antennas. The horizontal centerline of all panel antennas of a single carrier must be aligned in the same horizontal plane, with each antenna not to exceed 8' in length nor 2' in width.
  - d) Antenna Mass per user. The mass of antennas, including required antenna support structures, on a tower shall not exceed five hundred (500) cubic feet per array, with no one dimension exceeding fifteen (15) feet per array. The mass shall be determined by the appropriate volumetric calculations using the smallest regular rectilinear, cuboidal, conical, cylindrical, or pyramidal geometric shapes encompassing the perimeter of the entire array and all of its parts and attachments.
- 2) Lot Area: A new wireless communications tower shall not be constructed on a lot that does not conform to the minimum lot area required in the zoning district even if such lot is a lawful non-conforming lot of record.
  - 3) Access- The Planning Board shall have the authority to review and approve the access to the tower site. If the Planning Board determines that there may be future development on the access road to the tower, it may require a fifty (50) foot Right of Way. Road access to the telecommunication site shall be the minimum size necessary to allow safe access.
  - 4) Setbacks.
    - a) The center of the tower base shall be set back from all structures by a distance of at least one hundred (100%) percent of the total tower height. Equipment facilities and other non-residential structures deemed functionally dependent by the Planning Board for the WCF



may be permitted within the fall-down zone if desired by the applicant, if guy wires are used, they shall meet applicable building setback from the property line.

- b) If the site is leased, a fall-down zone easement, approved by the Planning Board and recorded in the Registry of Deeds, may be acceptable. Such fall-down easements shall prohibit any structures, existing or in the future, within the area 100% of the total tower height. Easements on several parcels may be acceptable provided that the fall-down easements cover the area within one hundred 100% percent of the total tower height.
- c) Equipment facilities shall meet the required District setback.
- d) There shall be no setback requirements for antennas mounted on alternative tower structures. The standard District setbacks shall continue to apply for and equipment facilities, where applicable.

**15.7 Performance Standards.** All applications requiring Planning Board review shall meet and maintain the following performance standards to the maximum extent possible as determined by the Planning Board.

a. Structural Design Standards

- 1) Any new single-use tower shall be designed to structurally support a minimum of two (2) additional antenna arrays.
- 2) Communication towers shall be designed and installed in accordance with the most current standards of the Electronic Industries Association (EIA) Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.
- 3) The applicants engineer shall provide documentation showing that the proposed WCT meets or exceeds the most current standards of the American National Standards Institute ANSI/EIA/T1A-222 for Cumberland County relative to wind and ice loads when the tower is fully loaded with antennas, transmitters, and other equipment as described in the submitted plan.
- 4) For towers or antennas placed on buildings or alternative tower structures, the applicant shall also provide written certification from a structural engineer that the building or ATS itself is structurally capable of safely supporting the tower, antennas, their accompanying equipment and ice and wind loads.
- 5) A proposal to construct a new Co-located WCT taller than the maximum evidence that the tower can structurally support a minimum of two (2) antenna arrays for each anticipated co-locating entity. (Section (6)(c) entitled “Tower Height”)

- 6) Radiation Emission Standards. The design, siting and operation of the tower and any related structures must assure that all potentially hazardous radiation are controlled or contained, and that radiation levels are at safe levels as determined by applicable State and Federal standards.

b. Aesthetics

- 1) Except where dictated by federal or state requirements, the Planning Board may require that a proposed tower be camouflaged or designed to blend with its surroundings. This may include, but is not limited to, having a galvanized finish, being painted "flat" blue gray or in a skytone above the top of surrounding trees and earthtone below treetop level.
- 2) Equipment facilities shall be adjacent to the tower base unless an alternative location will be less visually obtrusive or topographic considerations require an alternative location.
- 3) Equipment facilities shall be no taller than one story in height and shall be created to look like a building or facility typically found in the area.
- 4) If lighting is required by State or Federal regulations, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties and views.
- 5) Antenna arrays and microwave dishes located on an alternative tower structure shall be placed in such a manner so as to be as indistinguishable as possible from the current appearance of the existing structure as viewed from the current appearance of the existing structure as viewed from the ground level adjacent to the ATS. If, however, circumstances do not permit such placement, the antenna array and dishes shall be placed and colored to blend into the architectural detail and coloring of the host structure.
- 6) The Planning Board may require special design of the facilities where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures, views and/or community features).
- 7) If more than one tower is proposed on a single lot or parcel, they shall be together as technically possible.
- 8) Buffering Requirements. Vegetative buffering must be provided to screen, at ground level, the tower including any accessory buildings and structures from adjacent land uses. The preservation of existing mature vegetation, especially trees, is strongly encouraged by the Planning Board. If existing vegetation at the time of the application does not provide adequate buffering, as determined by the Planning Board, to minimize visual impact of the structure, the Planning Board may require the applicant to provide, at the applicant's expense, a visual impact analysis by a

qualified professional, who will provide a written recommendation to the Planning Board for approval.

All telecommunication facilities shall maintain the required setbacks as undisturbed vegetated buffers, except for the access road. The Planning Board may require additional plantings in the buffer area(s) to enhance the quality and effectiveness of the buffer area to serve as a visual screen. The size and quantity of plantings shall be subject to Planning Board approval.

c. Safety/Security

- 1) Sufficient anti-climbing measures and other security measures preventing access to the site shall be incorporated into the facility, as needed, to reduce the potential for trespass and injury.
- 2) Manually operated or motion detecting security lighting is permitted.
- 3) A chain-link (security) fence at least eight feet in height from the finished grade shall be provided around any tower.
- 4) Access to tower(s) shall be through a lockable gate. Roof mounted towers are exempt.

**15.8 Additional Standards and Criteria**

- a. Performance Guarantee. Any application that required Planning Board review and approval may be required to post a performance guarantee for the development, construction, or modification to the WCF. The Planning Board shall determine whether or not a performance guarantee is required based on the Board's assessment of the potential of the project to cause the Town to incur expenses, such as to stabilize the site if the project is not completed.

The amount of the guarantee shall be sufficient to return the land to a condition as near to the original pre-construction condition as possible as determined by the Planning Board. The amount of the guarantee shall be determined by the Planning Board based on estimates from independent contractors. The type of guarantee shall be approved by the Town Selectpersons. The guarantee shall be released only as authorized by the Planning Board.

- b. Guarantee for Removal of Abandoned Wireless Communication Facilities.

The applicant for a new tower shall post a performance guarantee in the form of a continuous corporate surety bond or an escrow account in favor of the Town equal to 125% of the estimated demolition and removal cost of the tower and associated facilities

if abandoned at any time by the applicant. Estimates of demolition and removal costs shall be provided by an independent contractor and shall not be based on services being provided by town employees and town equipment.

The amount of the guarantee shall be approved by the Planning Board and shall be sufficient to return the land to a condition as near to the original re-construction as possible as determined by the Planning Board. All above ground structures, equipment, foundations, guy anchors, utilities and access roads or driveways specifically constructed to service the tower, structures, equipment or utilities shall be removed, and the land returned to a condition as near to the original pre-construction condition as possible. The type of the guarantee shall be approved by the Board of Selectpersons. The Board of Selectpersons shall have the authority to require either a certified check payable to the Town of Long Island, a savings account passbook issued in the name of the Town or a faithful performance bond running to the Town of Long Island and issued by a surety company authorized to do business in Maine and acceptable to the Board of Selectpersons.

All performance guarantees shall be on a continuous basis, with any provision for cancellation to include that a minimum 30 day notice of cancellation or non-renewal be sent by certified mail to the Town of Long Island. The performance guarantee covering such removal shall be for a minimum term of five years. It must contain a mechanism, satisfactory to the Planning Board, for review of the cost of removal of the structure every five years, and a mechanism for increasing the amount of the guarantee should the revised cost estimate so necessitate.

c. Removal and Storage of Materials

- 1) All used structural and electronic components shall be removed and properly disposed of once they have exceeded their useful life and are no longer in use. This standard includes, but is not limited to, removing used guy wires, used fence parts, and structural components for towers.
- 2) Outside storage of materials shall not be permitted except as specifically approved by the Planning Board.

## **15.9 Alterations to Existing Facilities**

Alterations to New or Existing Conforming Wireless Communication Towers. Any Conforming Wireless Communications Tower and its related buildings may perform normal maintenance and repairs without a permit from the CEO. Planning Board review and approval in accordance with the standards established in subsection 5 of this Article entitled "Planning Board Review" is required if any of the following changes are proposed;

- 1) Any increase in the number or size of antenna(s)/antenna array(s) or broadcast capacity in excess of the exemption standards contained in FCC Bulletin #65.
- 2) Any increase in tower height.
- 3) Any change to tower lighting or existing buffering.
- 4) Any change to the access road or the size (square feet or volume) of any structure on site.

#### **15.10 Inspections.**

- a. Inspections of towers by either a Registered Professional Engineer in the State of Maine or a qualified third party mutually agreed upon by the applicant and the Long Island CEO shall be performed to insure structural integrity. Such inspections shall be performed as follows:
  - 1) Monopole towers-at least once every seven years following completion of construction. The inspection shall take place between the sixth and seventh year of the repeat sequence.
  - 2) Self-supporting towers-at least once every five years following completion of construction. The inspection shall take place between the fourth and fifth year of the repeat sequence.
  - 3) Guyed towers-at least once every three years following completion of construction. The inspection shall take place between the second and third year of the repeat sequence.
- b. The inspection report shall be submitted to the CEO within thirty (30) days of its receipt by the tower owner. Based upon the results of the inspection, the CEO, may require repair or demolition of the tower.
- c. The cost of such inspections, reports, repairs or demolition required under this Section of the Ordinance shall be borne entirely by the tower owner. Required repairs shall be completed within ninety (90) days or less as required by the CEO for safety reasons.
- d. Failure to provide required inspection reports in the required time schedule shall be deemed prima facie evidence of abandonment.

#### **15.11 Removal of Abandoned Wireless Communication Facilities.**

- a. The owner of a wireless communication facility shall notify the Code Enforcement Officer of the date of cessation of use of the facility or any component(s) thereof within one month from the date of such cessation. If the owner fails to give the notice required by this paragraph, the Code Enforcement Officer shall make a determination of such date, which determination shall be conclusive.
- b. Any WCF or component thereof that is not operated for a continuous period of twelve

(12) months shall be considered abandoned. The owner of an abandoned WCF or component thereof shall remove it within ninety (90) days of receipt of notice from the Code Enforcement Officer of determination of abandonment.

- c. The applicant shall be required to post a performance guarantee in accordance with standards established in Section 8 entitled “Additional Standards & Criteria”.
- d. If there are two or more users of a single tower or WCF, then this provision shall not apply until all users cease using the tower or WCF.
- e. If all antennas above a manufactured connection on a tower are removed, the resulting unused portions of the tower shall subsequently be removed within six (6) months.
- f. The replacement of all or portions of a WCF previously removed requires a new site plan approval as established in Section 5 entitled “Planning Board Review”.

**15.12 Waiver Provision.** The Planning Board may waive any of the submission requirements based upon a written request of the applicant submitted at the time of application. A waiver of any submission requirement may be granted only if the Planning Board finds in writing that due to special circumstances of the application, the information is not required to determine compliance with the standards of this Ordinance. The Planning Board must additionally determine that such modification or waiver would not adversely affect properties in the vicinity or the general safety and welfare of the Town. The burden of proof regarding any such modification or waiver rests solely with the applicant and must be shown to be consistent with federal and state law and with the purposes of this Ordinance.

**ARTICLE 16: DRIVEWAY STANDARDS**  
**(Adopted May 10, 2014, Amended May, 14, 2022)**

**16.1 Purpose.** This ordinance is adopted by the Town of Long Island to establish standards for the construction of new and or relocation of existing driveways. for residential use.

**16.2 Definitions.** The following words and phrases shall have the designated meaning unless a different meaning is expressly provided or the context clearly indicates a different meaning.

**Commercial Driveway-** A driveway the primary purpose of which is to provide access from a public way to a commercial use.

**Culvert Replacement-** The repair, relocation, replacement or removal of an existing culvert or associated drainage improvements that serve a driveway.

**Driveway-** A private or joint or commercial drive. road, field road, Paper street, or other avenue used primarily for vehicular travel that runs through any land and that connects or will connect to a public way. For purposes of this definition driveways shall also include the apron area where a driveway connects with a public or private way and any associated drainage improvements, including but not limited to, drainage ditching and culverts and related structures or other structures or improvements that control or influence storm water run off.

**Driveway Relocation-** A proposed change in the general location, grade, design, length, or drainage of an existing driveway where the driveway connects to a public way.

**Field Road-** An avenue of vehicular travel used exclusively for agricultural, silvicultural or horticultural purposes or to access other land areas exclusively for such purposes.

**Residential Driveway-** A driveway the sole purpose of which is to provide access from a public or private way to a single or multi-family dwelling.

### **16.3 Application Requirements and Procedures.**

**A. Permit Required.** All new building construction requires a driveway permit. For the purposes of this section it shall include addition and or renovations that include relocating drive ways. This permit shall be part of the overall building permit process with the Code Enforcement Officer (CEO).

**B. Information Required.** The information required for the permit shall consist of the standards set forth section 16.4 of this ordinance.

**C.** Applicant shall submit a plot plan showing the location, dimensions and set backs of proposed driveway.

### **16.4 Driveway Standard.**

**A. General Design.** Driveways shall be located and designed in profile and grade to afford safe and convenient access to and from public and private ways and to maintain and preserve the integrity of adjoining ways. They shall have a clear line of site to and from adjoining public and private ways, with proper erosion controls, so that stormwater run-off or associated debris will not flow onto public or private ways or adjacent properties, and with proper measures to prevent damage or erosion to the public or private way or adjacent properties. As conditions to Driveway Permits applicant will be required to site all driveways and employ all necessary and appropriate construction, erosion and stormwater control and techniques for improvement to these ends. Driveway apron areas connecting with public ways shall not extend into the public way.

**B. Residential Driveways.** Single lane driveways shall not be less than twelve feet (12') in width and not less than twenty feet (20') in length and must set back from property lines a minimum of five feet (5').

**C. Culvert and Erosion Control Installations and Standards.** When it has been determine by the road commissioner or CEO that culverts are need for drainage and erosion control then they shall be installed accordingly for proper drainage and the natural flow of storm water run off. Culverts shall be constructed of galvanized steel or plastic and must meet any load, dimensional material standards require for the use intended. Culverts shall be a minimum of twelve inches (12") in diameter and of suitable length which extends a minimum of twelve inches (12") beyond the edge of the drive way and set to a depth which provides for proper water flow.



**C.1 Backfill and Cover Material.** Culverts must be protected and covered with gravel suitable for road construction. The minimum cover, measured from top of sub-grade material to the top of the culvert, shall be six inches (6’)

**C.2 Maintenance Responsibility.** Applicants are solely responsible for the cost and installation of any culvert and drainage improvements required by a Driveway permit. The Town, as part of its road maintenance programs will thereafter maintain properly installed and approved culvert located in the public right-of-way.

**D. Fire and emergency services.** Driveways shall be designed to be constructed so as to be sufficient to permit the delivery of municipal fire and emergency services. After construction, the property owner is responsible for maintaining the driveway to allow for municipal fire and emergency services.

**16.5 Enforcement.** The CEO will enforce the provisions of this ordinance under the authority and procedures set forth in Title 30 –A §4452 M.R.S.A or otherwise available under Maine Law. The CEO may issue stop-work orders regarding installation of improvements or construction that is carried out without a Driveway permit, inconsistent with the terms of this ordinance or in violation of the conditions of a drive way permit.

**16.6 Conflict with other Standards.** The provisions of this ordinance are not intended to interfere with or conflict with applicable rules, standards, ordinances, regulations, permitting procedures or provisions of law. Where this ordinance is inconsistent with another rule, standard, Ordinance, regulation, permitting procedure or provision of law, the more restrictive requirement shall apply.