

NEWCASTLE, MAINE

LAND USE ORDINANCE

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CHAPTER I GENERAL PROVISIONS

A. AUTHORITY

This Ordinance is adopted under the Municipal Home Rule Powers of the Maine Constitution, Article VIII-A and 30-A MRSA Chapter 141, and Chapter 187.

Specific chapters of this Ordinance are also adopted under specific statutory provisions, including Mobile Home Parks, Chapter VIII, under 30-A MRSA Section 4358; Subdivisions, Chapter V, under 30-A MRSA Section 4404; Residential Growth Management, Chapter IV, under 30-A MRSA Chapter 187, sub-chapter II, Shoreland Standards, Chapter XI, under 38 MRSA Sections 435449, and Floodplain Management, Chapter VI, under PL. 90-488, the National Flood Insurance Act of 1968.

B. PURPOSE

The purpose of this Ordinance is to protect and promote the public health, safety and general welfare by directing and regulating development of the Town. The directions, controls and limitations established in this Ordinance are necessary to ensure orderly, beneficial and environmentally sound change while conserving the traditional character of the Town and appropriate uses within specific areas of the Town. After extensive review and consideration, this Ordinance is intended to fully implement the Newcastle Comprehensive Plan adopted in 1991.

Specific chapters have additional specific purposes as set out therein.

C. EFFECTIVE DATE

Ordinance is effective on its adoption on March 31, 1997, except Chapter XI, Shoreland Zoning which may only become effective on its approval as required by 38 MRSA Section 438-A.

D. APPLICATION

1. This Ordinance shall apply to each new use, structure or activity, or to an alteration or enlargement of a pre-existing use, structure or activity, on or after its effective date.
2. This Ordinance shall also apply to any previously existing year-round use or activity which has been discontinued for more than one-hundred-eighty (180) days, or any previously existing seasonal use or activity which has been discontinued for more than one (1) year.
3. Except in conformance with this ordinance, all earth-moving and construction requires a permit from the Code Enforcement Officer or Planning Board.

If a permit or approval is required under this Ordinance for any structure or use, a person may not begin construction or earth-moving in preparation for construction or use prior to obtaining that permit or approval.

The following earth-moving activities shall be allowed without a Town Permit or Planning Board Approval:

- a. Any type of earth-moving that is part of normal agricultural, forestry, or land management practices.
- b. The removal or filling of material in the grading or filling of a lawn, gardening, and landscaping.
- c. The removal or filling, paving or transfer of material incidental to the alteration or repair of an existing public or private way, except in the Shoreland Zone where Planning Board approval is required.

E. CONFORMITY OF USES AND BUILDINGS

1. A structure may not be erected, enlarged, exteriorly altered, rebuilt, moved or used, or an activity or use undertaken, unless in conformity with this ordinance.
2. A building permit shall not be required for a conforming building for accessory use, not connected to any other building and not exceeding one-hundred fifty (150) square feet in floor area or twenty (20) feet in height.
3. A lawful structure or use existing on November 7, 1972, and made non-conforming by the provisions of this ordinance, or its predecessors, may be continued as a permitted use. Such non conforming structure or use may be changed, altered or enlarged if it is a permitted or special exception use and all new construction complies with all requirements of this Ordinance, except for water and street frontages and minimum lot sizes. A non conforming use may not be enlarged or expanded, except as expressly provided.
4. When a lot of record as of November 7, 1972 is divided by a Use District boundary line, the requirements applying to the larger section (by area) shall be deemed to govern the smaller section beyond such district boundary line, but to an extent not more than fifty (50) feet beyond said district boundary line.
5. In any Zoning District, single lots of records as of November 7, 1972 may be built upon or used notwithstanding area limitations imposed by code requirements provided, however, that any retail or business establishment built upon such lot or lots shall comply with the maximum gross floor area applicable to a single retail or service establishment. Use or construction on such lots or appurtenant thereto shall comply with all other requirements of this ordinance. Such lots shall be in separate ownership and not adjacent to other lots in the same ownership.
6. Recorded lots in single ownership and adjacent to lots in the same ownership, shall comply with all the provisions of this ordinance, except those which are included in subdivisions approved by the Planning Board and properly recorded.

7. A lawful lot, structure or use existing prior to and made nonconforming by the adoption of this Ordinance, may be continued. However, if that lot, structure or use was illegal or non-conforming under the prior Ordinance, and its amendments, it may only be continued if made a lawful non-conforming lot, use or structure under that prior Ordinance. Any change, alteration or enlargement or any new construction shall comply with this Ordinance.
8. Any non conforming use continued as a permitted use shall be presumed extinguished if it is abandoned or not used for a period of one (1) year. The Board of Appeals may find this presumption does not apply because of extenuating circumstances beyond the control of the applicant or undue hardship. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
9. If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Chapter, if all or part of the lots do not meet the dimensional requirements of this Chapter, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with.
 - a. If two (2) or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Chapter.
 - b. If two (2) or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.
 - c. This provision shall not apply to two (2) or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and:
 - (1) Each lot contains at least one-hundred (100) feet of shore frontage, if it has shore frontage and at least twenty-thousand (20,000)

square feet of lot area; or

- (2) Any lots that do not meet the frontage and lot size requirements are to be reconfigured or combined so that each new lot contains at least one-hundred (100) feet of shore frontage and twenty-thousand (20,000) square feet of lot area.

F. OTHER STATUTES AND ORDINANCES

Whenever the requirements of this ordinance are at variance with the requirements of other statutes, codes or ordinances, the most restrictive or more restrictive standard shall govern.

Approval under one chapter or provision of this ordinance does not exempt the applicant with complying with other applicable chapters, or local, state or federal requirements.

G. SEPARABILITY

In the event that any chapter, section, subsection or portion of this ordinance is declared to be invalid, such decision shall not be deemed to affect the validity of any other section, subsections or portions of this ordinance.

H. ADMINISTRATIVE AUTHORITY

Unless a specific provision states otherwise, the Planning Board shall administer the provisions of this ordinance.

An appeal of any Planning Board decision shall be made to the Board of Appeals, and thereafter to the Superior Court, as provided by law.

I. FEES

Unless specifically provided, the Selectmen shall establish the amount of the application fee or other fees required by this ordinance, which amounts shall be sufficient to provide adequate funding to administer and enforce this ordinance. An application must include that application fee.

CHAPTER II 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. In the event that a word defined in this chapter is defined in some other way in another specific chapter, the specific chapter definition shall apply only in that chapter, with the definition set forth in this chapter applying to all other chapters in this ordinance.

Accessory Structure or Use - A use or structure which is incidental and subordinate to the principal use or structure and located on the same lot. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or a 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.

Agricultural Land Management Practices - Those methods and procedures utilized in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.

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

Aggregate of Structures – any combination of structures on the same or abutting lots owned, leased, or used by or for a single entity or affiliated businesses for the same or a similar use.

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.

Alteration - A structural change, rearrangement, change of location, or addition to a building or structure, other than repairs and modification in building equipment, involving more than twenty-five (25) percent increase in the overall floor space or volume of the building or structure at any time or in total since November 7, 1972.

Apartment Building - Three or more dwelling units located in a single structure, with each arranged, intended, or designed to be occupied, by a family living independently of the others.

Applicant - An individual, firm, partnership, corporation, trust or other legal entity that files an application or makes a proposal under this Ordinance.

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 four and a half (4½) feet above ground level, including bark.

Basement - Any area of the building having its floor sub grade (below ground level) on all sides.

Billboard - A structure, either free standing or attached to a building, the surface of which is available for hire as a sign.

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

Buffer - An open, vegetated, and unused area along the property lines of a parcel, adequately protecting or shielding abutting property from adverse effects. It may be occupied only by natural vegetation, a fence, a wall and landscaping for screening purposes. It may occupy front, side or rear set-back space. An access road may cross a buffer.

Buffer strip - An area or belt of land covered with trees or other vegetation that serves to protect a body of water from the adverse effects of development.

Business Use - A commercial use, except for wholesale or industrial use.

Camping Area - An area or tract of land arranged, intended, or designed to be occupied, by two (2) or more families in temporary, independent living quarters, including, but not limited to, tents, recreational vehicles or other shelters.

Canopy (forestry) – 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 annual 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.

Code Enforcement Officer -The person appointed to perform the inspection, permitting, and enforcement duties required by this Ordinance.

Commercial Use - The use of lands, buildings, or structures, other than a “home occupation”, the intent and result of which activity is the production of income from the buying or selling of goods or services, excluding rental of residential buildings or dwelling units and including retail and service establishments.

Community Buildings - A publicly or quasi-publicly owned structure not operated for profit of its owners and dedicated to the public welfare, including, but not limited to, churches, schools, libraries, museums and fraternal organizations.

Condominium - Three or more dwelling units located in a single structure, with each arranged, intended or designed to be occupied by a family, living independently of the others, where the individual units are separately owned.

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

Conversion of Seasonal Dwelling - The conversion of a seasonal dwelling to one suitable for, and intended as, a principle year-round residence, generally accomplished through the installation of insulation, heating system, water supply, and/or sewage disposal system.

Cross-sectional area – the cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

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

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

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

Disability - A disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect,

environmental conditions or illnesses, 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.

Disruption of shoreline integrity - the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

Disturbed Ground - Any area that vegetation has been removed, soil stored, and or so disrupted by construction traffic that could cause erosion to take place.

Diversion ditch - A ditch constructed across the slope to divert water away from the area under development.

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.

Dwelling – a structure arranged, intended or designed to contain one or two independent dwelling units.

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.

Earth-Moving - Any change to the ground caused by individuals or entities to improved or unimproved real estate including, but not limited to the clearing, excavation, processing, storing, adding or removing soil, gravel, earth, or rock or other mineral deposits, mining, filling, dredging, grading, paving, excavating, drilling, damming, diverting water, or any other activity that results in a change to the character, contours or topography of the property. Earth-Moving also includes alteration of a public or private right of way, road, or driveway.

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

Erosion - The wearing away of soil

Erosion Control - The placement of vegetation, such as grasses and wildflowers, and other materials, such as straw, fiber, stabilizing emulsion, protective blankets, etc., on areas disturbed by grading operations. Erosion control measures reduce the loss of soil due to the action of water or wind and minimize water pollution.

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

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

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

Family - One or more persons, whether or not related by blood or marriage, occupying premises and living in 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 One Hundred (100) Year Flood without cumulatively increasing the water surface elevation by more than one foot in height.

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

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

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

Forest Stand - a contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

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

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

1. Of ten or more contiguous acres; or of less than ten (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 ten (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 and inland waters and which cannot be located away from these waters. These uses include, but are not limited to commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat-building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters.

Great Pond - Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Great Pond Classified GPA - Any great pond classified GPA, pursuant to Title 38 MRSA Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

Gross Floor Area – The aggregate of the areas of each floor of a structure or structures, measured between the exterior faces of the exterior walls of the structure at the level of each floor.

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

Growth Permit - A permit to allow the establishment of a principle year-round residence in a new or existing dwelling unit.

Harvest Area - the area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

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

Home Occupation - An occupation or profession which is conducted in a dwelling or accessory building and is clearly incidental to and compatible with the residential use of the property and surrounding residential uses. (See General Standards of Performance, Chapter 12). Heavy manufacturing and medium manufacturing are not permitted as home occupations.

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 camping area 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 is not limited to, gravel pads, parking areas, fire places, or tent platforms.

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

Industrial Use - The assembling, fabrication, finishing manufacturing, storing, packaging or processing of goods, or the extraction of minerals, including light, medium and heavy manufacturing.

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.

Land Management Road - a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Licensed Forester - a forester licensed under 32 M.R.S.A. Chapter 76.

Lot - A parcel of land in single ownership having frontage upon an approved street or private right of way or water frontage.

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.

Manufactured Housing - A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two types of manufactured housing are included. Those two types are:

1. Newer mobile homes constructed after June 15, 1986, which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are fourteen (14) body feet or more in width and are seven hundred and 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 or electrical systems contained in the unit. This term also includes any structure which meets all 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. Modular homes, which the manufacturer certifies are constructed in compliance with 10 MRSA, Chapter 957, and rules adopted under that chapter, meaning structures transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained in the unit.

Manufacturing, Heavy - An industrial use which creates significant exterior or off-premise indications of the use. Heavy manufacturing includes, but is not limited to:

1. Asphalt preparation;
2. Cement or concrete manufacturing or processing;
3. Reprocessing or bulk storage;
4. Tanning and rendering;
5. Bulk fuel wholesale storage or distribution;
6. Energy generation as a primary use.

Manufacturing, Medium - An industrial or manufacturing use which creates significant exterior indications of use, but has a less significant environmental effect than heavy manufacturing and has been traditionally located within the Town. Medium manufacturing includes, but is not limited to:

1. Sand, gravel and mineral extraction;
2. Rock crushing or processing;
3. Lumber and sawmills.

Manufacturing, Light - An industrial or manufacturing use which by its nature does not require extensive heavy equipment or bulk on-site raw materials to operate. Light manufacturing includes, but is not limited to:

1. Laboratory research facilities;
2. Printing or publishing;
3. Warehousing;
4. Wholesale and storage;
5. Building materials storage;
6. General contractors' offices and associated equipment storage;
7. Retail fuel distribution facilities;
8. Sales of bulk building or construction materials;
9. Trade shops, including:
 - Cabinetry;
 - Carpentry;

- Plumbing;
Electrical;
Finish Work; and
Related exterior equipment storage for those uses;
10. Assembly or production of goods or products;
 11. It shall not include uses defined as “Heavy or Medium Manufacturing Uses”.

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

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

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

Mineral Extraction - Any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and transports the product removed away from the extraction site.

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

Mobile Home - A manufactured housing unit built on a permanent chassis and containing all necessary utilities and facilities for a dwelling, which is transported in one (1) or two (2) sections to the site where it is to be occupied. It shall not include a unit which is used as a temporary traveling dwelling in other locations, such as a recreational vehicle. It shall not include manufactured housing.

Mobile Home Park - A parcel of land under unified ownership approved by the municipality for the placement of three (3) or more manufactured houses or mobile homes.

Mobile Home Park Lot - The area of land on which an individual home is situated within a mobile home park and which is reserved for use by the occupants of that home.

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

Native – indigenous to the local forests.

Natural Landscaping - Landscaping composed primarily of organic materials or vegetation indigenous to the area.

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

Non-Conforming Lot - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, as of November 7, 1972, does not meet the area, frontage, or width requirements of the district in which it is located.

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

Non-Conforming Use - A use of buildings, structures, premises, or land which is not permitted in the district in which it is situated, but which was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-Speculative Dwelling - A dwelling unit built or placed for an identified customer who intends to reside in the dwelling unit. A notarized photocopy of a signed contract, or other evidence acceptable to the CEO, shall be required to prove that the dwelling unit is not being built speculatively.

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

Organizational Charter - A document that creates an autonomous legal entity which the landowners control and which undertake the common obligations of providing services to a subdivision.

Parking Spaces – a space used to park a single automobile. A minimum of ten (10) feet by twenty (20) feet shall be allowed for each space.

Permanent or Temporary Piers, Docks, Wharves, or Bridges – 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 more than seven (7) months in any period of twelve (12) consecutive months.

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.

Plunge pool. A stone-lined pool below the elevated outlet of a drainage culvert used to reduce the erosive force of water.

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

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

Principal Year-Round Residence - The dwelling unit which a family uses as a primary domicile for over six (6) months per year.

Professional Office - A place of business where professional services are provided to the public, including medical, legal, dental, architectural, business consulting (including insurance, real estate, and accounting), engineering, and other generally recognized service professions.

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

Public Utilities - Intermediary structures or uses required directly in the delivery of utility services to the general public. It may include pipes, wires, transformers, and pumping stations, but shall not include power generation plants, final treatment sites, transmission or receiving facilities, or office, service, repair, or storage facilities.

Recent Flood Plain Soils - The following soil series as described and identified by the National Cooperative Soil Survey:

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

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

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

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

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

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

Retail Floor Area - The interior selling or service floor area open to the general public, and excluding storage and processing space.

Retail and Service Establishment - A commercial use where goods are sold to the public, services are performed for the public or entertainment is provided for the public. It shall not include retail fuel distribution facilities, sales of bulk building or construction materials and light *and medium* manufacturing. It shall include establishments which prepare food for direct sale to the public such as restaurants or bakeries.

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

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

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

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

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

Seasonal Dwelling - A dwelling unit which is not adapted to year-round habitation due to the nature of its construction such as the absence of sufficient insulation, heating system, water supply or sewage disposal system.

Sediment Basin - An embankment or shallow excavated pit or pond used to impound water in order to collect and store sediment and/or debris.

Sedimentation Control - Physical practices, such as installation of silt fence, stone check dams, sediment traps, etc., that help reduce the likelihood of eroded soil particles suspended in storm water from being deposited in a stream, lake or other body of water.

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 shortest horizontal distance from the property line, edge of right of way, or 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 measured in a straight line between the intersections of the lot lines with the shoreline at a normal high-water elevation.

Shoreland Zone - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

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

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

Sign - A structure, display, logo, device, or representation which is designed or used to display, advertise, or call attention to any thing, person, business, activity, or place, and is visible from a public way. It includes any model, banner, flag, pennant, insignia, device or representation designed or used for such purposes. The word “sign” does not include flag, pennant or insignia of any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, and religious or like campaign, drive, movement or event.

Silt Fence - A pervious woven or non-woven material that is installed across or at the toe of a slope in order to slow the velocity of water and allow sediment to settle out. Silt fence is supported by metal or wooden stakes and is extended under the soil surface to prevent bypass of drainage water.

Speculative Dwelling - A dwelling unit built or placed to sell to the general public and not as part of a contractual arrangement with a known buyer prior to construction of said dwelling unit.

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 one hundred and eighty (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 excavation for basements, footings, piers, or foundations or the erection of temporary forms; nor does it include installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

Street - A public or private vehicular way which affords the principal means of access the abutting properties.

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

Sub region - Those surrounding municipalities in addition to Newcastle whose growth rates were used to arrive at the annual growth rate for Newcastle. Those communities include Damariscotta, Edgecomb, Wiscasset, Alna, Jefferson, Nobleboro, Bristol and South Bristol.

Substantial Enlargement - An expansion of the land area of the development site or the volume of activity by more than twenty five (25) percent, at any time or in total since the effective of this ordinance.

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.

Subsurface drainage structure. Tile, pipe or tubing installed beneath the ground surface to collect and/or convey drainage water.

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

Temporary Check Dam. Small, temporary stone or log barriers constructed across a swale or drainage ditch to filter sediment out of drainage.

Temporary Storage - A trailer or other structure, used for storage and capable of being moved to another location as a self-contained unit facility without substantial modification.

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. 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 Chapter VI Section 14. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting. Reference is to be made to Chapter XI, Section 15.P.

Timber harvesting and related activities - timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

Transient Lodging - A structure used as a hotel, motel, inn, or bed-and-breakfast facility where customers stay no more than two weeks.

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

Unoccupied Space - An open area which, with the exception of an access driveway or parking area, is not covered by an impervious surface or a structure or used for storage of materials, equipment or vehicles.

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 maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

Utilities - Services provided to a structure to allow its use, including electricity, sewage or septic disposal, water, heat, telephone or other utilities.

Variance - A grant of relief by a regulatory body from application of the terms, conditions or requirements imposed by some provision in this Ordinance.

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 a half (4½) 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.

Violation - A failure to comply with some provision of this Ordinance.

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

Water Body - Any great pond, river, stream or tidal area, or other surface water body, whether fresh or salt water, including a natural or manmade pond or lake or other surface waters greater than one (1) acre; a stream, river or other free-flowing drainage outlet, or tidal or sub-tidal lands and waters. A coastal or freshwater wetland, great pond, river, stream or brook, whether seasonal or perennial.

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

Wetland - A freshwater or coastal wetland or other land submerged, partially or occasionally water-logged or water-covered, characterized by predominantly wetland soils or vegetation, including salt water or fresh water swamps, bogs, marshes, flats, or similar areas.

Wetlands Associated with Great Pond and Rivers - Wetland contiguous with or adjacent to a great pond or river, and which, during normal high water, is connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature, less than one hundred (100) feet in width, and which have a surface elevation at or below the normal high-water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.

Windfirm - the ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

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

Yard - An unoccupied space, on the same lot with a building or structure.

Yard, Front - A yard space between the front line of the building and the front line of the lot, and extending the full width of the lot.

Yard, Rear - A yard space between the rear lines of the building and the rear line of the lot, and extending the full width of the lot.

Yard, Side - A yard space situated between the building and the side line of the lot, and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

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CHAPTER III SITE PLAN REVIEW

A. APPLICABILITY

This chapter shall apply to all new uses and structures, new construction, or alteration or substantial enlargement to existing uses and structures for commercial or industrial use, or public facilities, requiring a building permit. This chapter does not apply to dwellings, multi-unit residential structures, accessory structures or uses, agricultural uses, forest management activities, or home occupations.

1. This chapter shall also apply to any use which commenced prior to the adoption of this chapter and is discontinued for more than ninety (90) days.
2. This chapter also applies to any seasonal use which commenced prior to the adoption of this chapter and is discontinued for more than one (1) year.

B. APPLICATION PROCEDURE

1. A person seeking Site Plan approval shall file site plans in duplicate with the Planning Board which shall immediately refer copies of such plans to the Code Enforcement Officer.
2. The application shall be accompanied by a fee for processing the application.
3. The Planning Board may hold a public hearing within thirty (30) days of the filing of the completed application with prior public notice.

C. SITE PLAN CONTENT

1. The final plan shall be drawn to a scale of not less than one inch (1") equals fifty feet (50'), and shall contain the following.
 - a. Name and address of owner and applicant.
 - b. Scale and north arrow.
 - c. Location, dimensions, and acreage of parcel to be built upon.
 - d. Existing contours at intervals of not more than ten feet (10') and proposed contours at intervals of not more than five feet (5') for slopes greater than eight percent (8%) within the disturbed area, or for slopes in a disturbed area greater than ten-thousand (10,000) square feet. The Board may require closer contour intervals depending on the nature of the project.
 - e. The size, shape, and location of existing and proposed structures.

- f. The location and dimensions of parking areas, loading and unloading facilities, and points of ingress and egress of vehicles to and from the site to public streets.
 - g. Location of all existing and proposed easements and rights-of-way.
 - h. Location and dimension of pedestrian access ways.
 - i. Location and size of existing and proposed water and sewer mains, culverts and storm drains.
 - j. Location of outdoor lighting.
 - k. Location of natural features such as water courses, marshes, rock outcroppings and stands of trees.
 - l. Landscape Plan showing location and type of plantings and screenings.
 - m. Location and size of signs and advertising features.
 - n. Any other provisions contained in Chapter V, Subdivision, whenever applicable as determined by the Planning Board.
2. A narrative, with supporting data, shall be required to address the environmental suitability of the chosen site to support the proposed development. This may require the use of appropriate qualified professional(s). This narrative shall address the standards as listed in Section D.

D. PERFORMANCE STANDARDS

A Site Plan application shall be approved, unless the Planning Board makes a written finding that the applicant is not able to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application.

- a. The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways will create no hazards to safety.
- b. The location or height of proposed structures and the proposed uses thereof will not be detrimental to other public or private development in the neighborhood.
- c. The provision for on-site landscaping provides adequate protection to neighboring properties from detrimental features of the development.
- d. The proposed use will not impose undue burdens so as to exceed the

capacity of the sewers, sanitary and storm drains, water, solid waste, fire protection, or other public facilities.

- e. The Site plan provides sufficient information to show that storm water will be adequately drained from the site with no adverse impact on other property or publicly owned drainage systems.
- f. Soil erosion and all other adverse impacts on the soil ground water and surface water shall be prevented. Ground water shall not be adversely impacted in quality or quantity.
- g. The provisions for exterior lighting do not create hazards to motorists traveling on adjacent public streets and are adequate for the safety of occupants or users of the site and such provisions will not damage the value and diminish the usability of adjacent properties.
- h. An applicant has provided evidence of adequate financial capability to complete the development as planned.
- i. The proposed development will not create safety hazards and will provide adequate access for emergency vehicles to the site, and to all buildings on the site.
- j. The proposed development will not adversely affect the use and enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, glare or other cause.

E. PERMITS

1. On approval of a proposed use or structure, the Board shall issue a written permit containing any conditions or limitations to the application as presented.
2. After the effective date of this ordinance, no person shall engage in any commercial or industrial use or public facility or construct, alter, or substantially enlarge any structure to which this Chapter applies without first obtaining a permit.

F. GENERAL PROVISIONS

1. The Planning Board may modify or waive any of the above application requirements or Performance Standards when the Planning Board determines that because of the special circumstances of the site or the nature of the project, such application requirements or standards would not be applicable or would be an unnecessary burden upon the applicant and when such waivers would not adversely affect the abutting land owners or the general health, safety, welfare, or environment of the Town, or its people.

2. The Board may significantly modify or waive application requirements and performance standards when:
 - (a) the site or project involves less than five-hundred (500) additional square feet of structure floor area;
 - (b) there are less than five (5) employees in a professional office; or
 - (c) there are no substantial alterations to the exterior or use of a present building, when such modification or waiver would not adversely affect the abutting land owners or the general health, safety, welfare or environment of the Town or its people.
3. The Planning Board shall require proof of ownership of the site or written authority from the owner verifying the applicant's right, title, and interest to develop the site.
4. The Planning Board may require the filing of a Performance Bond or the execution of a conditional agreement with the municipality by the applicant.
5. All construction performed under the authorization of a building permit or certificate of occupancy issued under this chapter must be in conformance with the approved Site Plan.

CHAPTER IV RESIDENTIAL GROWTH LIMITS

A. PURPOSE

1. The Town has recently experienced rapid growth and lacks local ordinances adequate to address such rapid development. The Town has developed a new comprehensive plan that addresses that growth. Continued rapid growth will place additional burdens upon municipal services such as schools, roads, public utilities and solid waste disposal. Although there is not a need for total prohibition of residential development, there does exist a need to limit residential development to a reasonable level, especially in zones with low built infrastructure while allowing somewhat greater growth where services already exist, while other issues related to residential growth are addressed, school expansion is considered, a solution to solid waste disposal is selected, and ordinances are refined by Town Boards including determining new standards for a new zone and a redefined rural zone.
2. The purpose of this Chapter is to protect the health, safety and general welfare of the residents of Newcastle through placing limitations on residential development and meeting the following needs.
 - a. To provide for the immediate housing needs of the Town and sub region by accommodating a fair share of population and housing growth.
 - b. To ensure fairness in the allocation of Building Permits.
 - c. To plan for continued residential population growth of Newcastle and the expansion of community services including, but not limited to, education, fire protection, road maintenance, public utilities, solid waste disposal and health services.

B. APPLICABILITY

This Chapter shall apply, in any zoning district, to all new dwelling units, whether in dwellings, apartment buildings or mobile home parks, or to the conversion of seasonal dwelling units to year-round to be located. No new dwelling unit which fails to meet the requirements of this Chapter shall be constructed or placed within the Town.

C. ADMINISTRATION

1. Maximum Rate of House Building by Zone.

The Town's housing expansion shall be guided so that the actual increase in dwelling units does not exceed the average rate of expansion of the total year-round housing stock within the sub-region which expanded at the rate of twenty-eight percent (28%) per decade during the 1970-1990 period. In consideration of this rate of growth, and the relative different levels of public services, and

infrastructure in different areas of Newcastle, the Town will have two growth caps by zone.

In the Rural District and District A, the total number of new growth permits shall be limited to fifteen (15) new growth permits per year. No single applicant, or applicant under the same or similar ownership, shall be allowed to receive more than six new permits in any year. This limit is for construction in both zones, and is not a per zone limit.

The remaining zones of Newcastle shall be limited to not more than thirty (30) building permits a year with no limits on a single applicant.

2. Application Procedure

- a. All Growth Permit applications shall be submitted in person to the Town Clerk during normal office hours on the form designated Growth Permit Application. A Growth Permit application may not be accepted by mail.
- b. The Town Clerk shall indicate on the application form the date and time the Growth Permit application was received and provide the applicant with a receipt.
- c. The application for a Growth Permit shall be accompanied by a Plumbing Permit application.
- d. The Code Enforcement Officer (CEO) shall ensure that the Growth Permit application forms are complete before issuing a Growth Permit. An incomplete application is not valid.
- e. The CEO shall administer the issuance procedure.
- f. A separate application shall be required for each dwelling unit.
- g. A Building Permit may be issued upon the approval of the Growth Permit provided the proposed structure conforms to all other applicable chapters.

3. Issuance Procedure

- a. Growth permit application may not be accepted by the Town Clerk until ten (10) working days after the date of adoption of this Chapter.
- b. Growth Permits shall be available on the first-come, first-served basis.
- c. Applications for Growth Permits shall be filed with the Town Clerk. The CEO shall issue Growth Permits for all applications if they do not outnumber the supply of Growth Permits for that month based upon the following schedule.

(1) Abrogated.

(2) Abrogated.

(3) If applications exceed supply, permits shall be issued on the basis of the order valid applications were received by the Town Clerk. Those on the list who do not get a permit shall remain on the list. The oldest application on the list shall be granted a permit first.

(4) No person may be on the application list for more than two permits at any one time.

d. Abrogated.

e. Abrogated.

f. Abrogated.

g. If, at the end of the calendar, there are any un-issued Growth Permits still available, one-half (1/2) of them may be carried over to the next year.

4. Expiration of Permits

a. A Growth Permit issued for a non-speculative Dwelling Unit and for the conversion of a Seasonal Dwelling expires nine (9) months from the date of issue, unless the foundation is completed or conversion has begun. The time period may be extended for two (2) additional months by the CEO based upon inclement weather conditions or upon receipt of evidence that the applicant's intentions to build are bona fide and that the construction delay is due to financial or technical problems.

b. A Growth Permit for a Speculative Dwelling Unit is valid for twenty-four (24) months after issuance, in order to allow builders to assemble a sufficient number to construct a group of dwellings at the same time.

c. An expired permit may be reissued in the year in which it expires.

5. Transferability - Growth Permits are not transferable. They shall be valid for construction on the lot and by the applicant specified on the application.

6. Exceptions for Residents

a. A resident who wishes to move from a present dwelling in town into a new single-family dwelling proposed to be built within the Town shall receive the next available permit.

b. A resident is permitted only one accelerated access to a Growth Permit

within a ten year period.

- c. Replacement of an existing dwelling is excluded from this chapter.
- d. Any person who has been domiciled continuously in the town for the six months preceding the application for a growth permit is eligible for this accelerated issuance. A person shall not be considered domiciled in the town if that person has not:
 - (1) physically resided within the town.
 - (2) if registered to vote, registered in town;
 - (3) if owning a motor vehicle, registered that vehicle in town;
 - (4) if owning a dog, licensed that dog in town; and
 - (5) taken all other actions necessary to legally demonstrate the intention to permanently reside in town.

7. Government funding

Dwelling units specifically funded at more than ten percent (10%) by the local, state or federal government or their agencies for the use of the elderly, handicapped or economically disadvantaged, including those financed under Sections 202 and 8 of the Housing and Community Development Act of 1974, are expressly excluded from this chapter.

D. REVIEW

The Planning Board shall review this Ordinance in January of every year to insure that the growth rate has not become inconsistent with the Town's responsibility to assume its fair share of housing growth in the region. If the growth rate has increased or decreased, the Planning Board shall recommend amendments to the Ordinance to reflect such change.

E. VIOLATIONS

- 1. A violation of this Ordinance shall exist when any person, engages in any construction activity directly related to the erection or placement of a dwelling unit, or the conversion of a seasonal dwelling upon any land within the Town without first having obtained a Growth Permit.
- 2. A violation of this Ordinance shall exist when any person sells, leases, rents or occupies such dwelling unit, a dwelling unit has been constructed or placed, the conversion of a seasonal dwelling has been completed or a dwelling unit has been occupied as a primary year-round residence without a permit. It shall be deemed a violation until such permit has been duly issued.

CHAPTER V SUBDIVISION

A. GENERAL PROVISIONS

1. Subdivision - A subdivision shall mean a division of a tract or parcel of land or its equivalent, as defined in 30-A MRSA §4401, sub-§4. The term subdivision for the purposes of this ordinance refers both to the creation of lots and the building of dwelling units.
2. Density Determination, Subdivisions are categorized as either low density or high density based on the concentration of dwelling units and the concentration of resources required and waste products produced, The criteria for determining which density category a proposal falls in is given below:
 - a. Low Density: If each lot of a subdivision or the parcel surrounding each proposed dwelling unit meets the front, side and rear yard setback and minimum lot size standards, acreage and road or water front requirements without a variance and each dwelling unit has an independent sewage treatment system and water supply, the subdivision is a Low Density (L) project.
 - b. High Density: Any subdivision that does not meet the criteria for a Low Density project is a High Density (H) project. Apartment building, condominium, or cluster developments are High Density projects.
3. Size Determination: subdivisions are also categorized by size based on the number of lots or dwelling units being created whichever is greater. Determination is based on the following table:

SIZE DETERMINATION TABLE

RATING	SIZE	MAXIMUM NUMBER of LOTS or DWELING UNITS
Sm	Small	6
M	Medium	18
L	Large	19 or more

B. PROCEDURE

1. A person seeking subdivision approval shall submit the application and Plat Plan to the Planning Board.
2. An application for subdivision approval is not complete until a Final Plat Plan, based on a survey, has been submitted to and accepted as complete. A Final Plat Plan and related materials may be submitted without prior contact, but an Applicant is advised to use the Pre-application Procedure.
3. Prior to submitting an application for subdivision approval and the Preliminary

Plat Plan, the Applicant may appear informally at a regular meeting of the Board to discuss the proposed subdivision.

- a. The Applicant may present to the Board, for informal review and comment, a sketch plan of the proposed sub-division. The sketch plan shall consist of a rough outline of the proposed subdivision, and may be a free-hand, penciled sketch of the parcel, showing the proposed layout of streets, lots, and other features which may be of assistance to the Board in making its determinations.
 - b. No binding commitments may be made between the Applicant and the Board on a pre-application or sketch plan. The purpose of the pre-application meeting is to informally discuss the proposal and the provisions of Town ordinances.
4. On the first submission to the Board of a sketch plan or preliminary plan for a medium or large subdivision, the Applicant shall also submit an alternate "cluster development" plan as permitted by this chapter for Board consideration.
 5. As part of an informal sketch plan review, the Board members may view the site. The Applicant must arrange an inspection of the site with the Board after submission and acceptance of the Preliminary or Final Plat Plan.
 6. When submitting the Preliminary or Final Plat Plan, whichever comes first, the Applicant shall pay to the Town a non-refundable application fee in a reasonable amount as established by the Selectmen.
 7. When submitting the Preliminary or Final Plat Plan, whichever comes first, the Applicant shall pay to the Town a consulting cost fee in an amount equal to fifty dollars (\$50.00) for each proposed lot or dwelling unit (whichever is greater) in the subdivision. That fee shall be in addition to the Application Fee. It shall be deposited in a segregated account and identified to the application. The fee may be used at the Board's direction to provide consulting, engineering, or other professional services to the Board in evaluating the Preliminary and Final Plans. When the balance of the fee is reduced to less than twenty-five percent (25%) of the original fee, The Board may require an additional deposit not greater than one-hundred-fifty dollars (\$150.00) per lot or unit, if it finds that additional professional services may be required by the Board. The total consulting cost fee may not exceed a total of two-hundred dollars (\$200.00) for each lot or unit. Any balance remaining shall be returned to the Applicant.
 8. Upon submission of a sketch plan, the Board shall decide the specific requirements for preliminary Plat Plan submission. If the Board finds the proposed subdivision is a small, low density subdivision, it may waive the requirement for a Preliminary Plat Plan. In which case, the application form shall be submitted with the Final Plat Plan.
 9. The preliminary Plat Plan shall not be less than eight and one-half inches (8½")

by eleven inches (11"), and shall be drawn to a scale of not greater than one inch (1") equals one-hundred feet (100'): The Board may allow plans on a scale of one-inch (1") equals two-hundred feet (200') for subdivisions greater than one-hundred (100) acres, if all details are clearly depicted. At least seven (7) copies shall be provided.

C. PRELIMINARY OR FINAL APPLICATION CONTENTS

The following shall be required on all applications. Appendices A and B and section 5 of this ordinance contain further requirements.

1. The Applicant

- a. Name of Owner
- b. Name of Applicant (if other than owner)
- c. If Applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of Secretary of State's Registration.
- d. Name of Applicants authorized representative.
- e. Name, address, and number of Registered Professional Engineer, Land Surveyor, or Planner.
- f. Address to which all correspondence from the Board should be sent.
- g. The Interest the Applicant has in the parcel to be subdivided (option, land purchase contract, record ownership, etc.)
- h. The interest the Applicant has in any property abutting the parcel to be subdivided.
- i. State whether Preliminary Plat Plan covers entire, continuous holdings of applicant or not.
- j. A copy of the organization charter of the subdivision.

2. Information on Parcel to be subdivided

- a. Location of property: book and page (from Registry of Deeds) and Map and lot (from the Assessors office).
- b. Map survey of tract to be subdivided, certified by a Registered Land surveyor, and tied to the established reference points (attach to application).
- c. Current zoning of property.

- d. Acreage of parcel to be subdivided.
 - e. A soils report, identifying soil types and location soil test areas. Based on soil test results, certain modifications of the Preliminary Plat Plan may be required (attach a copy of soils report to application). There shall be at least one soil test per lot.
 - f. Names of property owners abutting parcel to be subdivided, and on opposite side of any road from parcel to be subdivided (show on plat),
 - g. Indicate the nature of any restrictive covenants to be placed on deeds.
 - h. An archeological site survey report for the parcel or the statement of an appropriate state agency or qualified professional that there is not a high potential of an archeological site on the parcel.
 - i. Identification of significant or unique natural resources, habitats, areas, or environments, including outstanding river segments.
3. Subdivision
- a. Proposed area of subdivision.
 - b. Number of lots
 - c. Date, North point, graphic map scale (show on plat).
 - d. Proposed lot lines with approximate dimensions and suggested locations of building, subsurface sewage disposal systems, and wells (show on plat).
 - e. Location of temporary markers adequately located to enable the Board to locate lots readily and appraise basic lot layout in the field (show on plat).
 - f. Location of parcels to be dedicated to public use, the conditions of such dedication, and the location of all natural features or site elements to be preserved (show on plat).
 - g. A location map, consisting of a Topographical Map, showing the relation of the proposed subdivision to adjacent properties and to the general surrounding area. The location map shall show all the area within two-thousand (2000) feet of any property line of the proposed subdivision (attach to application).
 - h. A soil erosion and sedimentation control plan (attach to application).
4. Optional Information. The Board may also require the following information if it deems it useful or necessary to its consideration of the application:

- a. Location and size of existing buildings, watercourses, and other essential existing physical features (show on plat).
 - b. Location and size of any existing sewers and water mains, and culverts and drains.
 - c. Location, names and widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces (show on plat).
 - d. Contour lines at an interval of not more than five, ten or twenty (5, 10, 20) feet in elevation, unless otherwise specified by the Board, referred to U.S. coastal and Geodetic survey benchmarks if such exists within five hundred (500) feet of the subdivision.
 - e. Typical cross-sections of proposed grading for roadways, sidewalks, and storm drainage facilities (attach to application).
 - f. The approximate route of proposed underground utility wiring or above ground utility poles. Developers are encouraged to plan for and install underground utility wiring.
 - g. Other information not indicated above, as specified by the Board on the application form.
5. Public Safety/Environmental Protection Factors. Based on the requirements in Appendix A, informational statements addressing the specific measures proposed to ensure the public safety and environmental protection are required in the following areas:
- a. Water Supply
 - b. Sewage Treatment
 - c. Soils Conservation Measures
 - d. Road Safety Standards
6. Town and Public Services. Based on requirements in Appendix B, informational statements addressing the below listed services may be required and be used for town budgetary planning purposes. Statements are required for large subdivisions.
- a. Fire protection
 - b. School enrollment and busing

- c. Town water service
 - d. Town sewage treatment service
 - e. Town refuse handling and treatment
 - f. Public roads
7. Issuance of Dated Receipt. On receipt of the Preliminary Plat Plan and the application form, the Board shall issue the applicant a dated receipt.

D. ACTION ON THE PRELIMINARY PLAT PLAN

1. Within thirty (30) days of the date of issuance of the receipt, the Board shall review the Preliminary Plat Plan and shall notify the Applicant in writing either that:
 - a. With the exception of the submission of a Final Plat Plan, the application is complete;
 - b. In addition to the submission of a Final Plat Plan, specific additional materials have to be submitted to make a complete application. The Board shall list the specific additional items that must be submitted.
2. If there are apparent deficiencies with the proposal which require correction before the submission of the final Plat Plan, the Board shall in writing identify these deficiencies. Submission of the Final Plat Plan without correcting these deficiencies shall be grounds for disapproval.
3. On determination that the application is complete, the Board shall notify the Applicant and schedule a public hearing, after public notice. The hearing shall be held within thirty (30) days of determining that an application is complete.

E. SUBMISSION OF A FINAL PLAT PLAN

1. Within six (6) months of approval of the Preliminary Plat Plan, the Applicant shall submit the Final Plat Plan. Failure to submit within the designated period shall end the application.
2. The Final Plat Plan shall consist of one original transparency and three copies of each plan, map or drawing. In addition to the items required on the preliminary plan, the following items shall be required on a Final Plat Plan and application:
 - a. The name, registration number, and seal of the registered land surveyor who prepared the Final Plat (on Plat).

- b. The names and location of all rights-of-way, streets or roads, including, lengths of all straight lines, the deflection of angles, radii, length of curves, and central angles of all curves, and tangent distances and bearings (on Plat).
- c. The designation of all easements, areas reserved for or dedicated to public use and areas reserved by the Applicant (on Plat).
- d. The location, bearings, and length of every line, with all lots to be numbered (on Plat).
- e. The location of permanent markers set at all lot corners (on Plat).
- f. A performance guarantee to secure completion of all required public improvements and written evidence that the selectmen are satisfied with the legal sufficiency of the guarantee.
- g. Copies of any restrictive covenants or similar documents and written evidence that the Selectmen are satisfied with the legal sufficiency of those documents.
- h. If owners are to share commonly owned land within the subdivision or share in the use and maintenance of common water supply, sewage treatment system or road, organization documents of the organization authorized to conduct these functions, and documents specifying owner-s responsibilities and liabilities.
- i. Suitable space to record on the approved plat the date and conditions of approval, if any. This space shall be similar to the following example:

Approved Signed Date _____	Town of Newcastle Planning Board	
	_____	, Chairman
	_____	, Member
	_____	, Member
	_____	, Member
	_____	, Member

Conditions:

- 3. Notification of Completed Subdivision Application. On receipt of the final Plat Plan and all of the required information, the Board shall provide the Applicant with a dated receipt.
- 4. Final Decision. The Board shall, within sixty (60) days of receiving a final Plat Plan, issue a decision either denying or granting approval of the application or granting approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in this ordinance.

On approval of the Plan, the Board shall sign all four (4) copies. The original transparency shall be filed with the Lincoln County Registry of Deeds by the Applicant. One (1) copy shall be returned to the Applicant, one (1) copy shall be retained by the Board, and one (1) shall be filed with the Town Clerk.

The Board shall maintain a permanent record of their action on the Final Plat Plan.

F. GENERAL REQUIREMENTS AND PERFORMANCE STANDARDS

1. The Board shall require perimeter buffer strips, with a minimum of twenty (20) foot depth in low density and small high density subdivisions when the proposed subdivision is located adjacent to commercial or recreational uses.
 - a. The Board may also require interior lot line buffer strips to insure privacy or to encourage tree growth.
 - b. Medium or large high density subdivisions shall establish a perimeter buffer of a minimum fifty (50) foot depth.
 - c. No structure may be permitted in a buffer area.
 - d. The depth requirement may be reduced if the Board finds other adequate protective measures have been incorporated in the application.
 - e. If one border of the buffer involves waterfront, the Board strongly recommends the entire waterfront be established as common property.
2. If structures are planned with basements, the Applicant shall demonstrate that the basements can be appropriately drained by gravity to ground surface or storm drain.
3. The subdivision must conform to all local, State, and Federal statutes, laws and ordinances. If the subdivision meets the definition of subdivision as defined in the Site Location Act, 38 M.R.S.A §482, the Applicant must secure the approval of the Board of Environmental Protection and the Planning Board.

When a subdivision requires approval of the Planning Board and the Board of Environmental Protection, each review may be conducted simultaneously. However, each review is independent, and the Planning Board may deny approval even though the Board of Environmental Protection has granted an approval.

4. No utility installations, no ditching, grading, or construction of roads, no grading of land or lots, and no construction of buildings shall be done on any part of the parcel until a Final Plat Plan has been approved and recorded in the Lincoln

County Registry of Deeds.

5. Plans for road construction, grading and ditching shall be reviewed by the Road Commissioner for his recommendations prior to Board approval. In addition, there shall be at least one (1) on-site inspection by the Road Commissioner during construction, with the assistance of the Applicant's engineer. The Applicant's engineer shall certify completion and compliance with road standards for road construction to the Road Commissioner.
6. The Applicant shall provide for the installation of ditches, catch basins, piping systems or other appurtenances for the conveyance, control or disposal of surface waters. Adequate drainage shall be provided so as to reduce the danger of flooding and erosion.
7. The Board may require the Applicant to provide easements for drainage or other utilities to individual lots when necessary to insure those services can be provided within the subdivision.
8. The Board shall consider the criteria set forth in the Guidelines contained in 30-A M.R.S.A. §4404, and shall determine that they have been, or will be, met.
9. Lots and Density shall be as follows:
 - a. The width, depth, shape and orientation of lots shall be appropriate for the location of the subdivision and for the type of development contemplated. Side lot lines shall be generally perpendicular to the street or to the tangent of the curve of the street unless parcel configuration or lot topography justifies otherwise. The depth of a lot with a front line of less than two-hundred (200) feet shall not exceed the front line length by a ratio of more than three (3) to one (1). A lot of five (5) acres or less may not be odd or flag shaped, in which a narrow strip is used to join or add to a parcel to meet minimum lot size.
 - b. For cluster developments, overall net density shall not be greater than the density that would result from the creation of individual, non-clustered lots. Density shall be calculated by dividing the net residential acreage within the subdivision (including open spaces or common recreational areas) by the number of proposed units.
10. In calculating the area for minimum lot sizes, open space or not residential acreage in a cluster development, the Board shall not include:
 - a. Land below the normal high water mark of a water body.
 - b. Land within the one-hundred (100) year frequency flood plain. In determining the flood plain, the elevation of filled or made land shall not be considered.

- c. Land subject to a right of way or easement preventing construction, including a utility easement.
 - d. Land created by filling or draining a water-body or wetland.
 - e. Land within a Resource Protection District.
 - f. Land with a slope greater than thirty-three percent (33%) from the horizontal.
11. The following open spaces and landscape plan provisions apply:
- a. The Board shall require that a proposed subdivision design preserve existing trees to the extent possible.
 - b. A landscape plan shall show existing and proposed retained wooded areas and trees. Further it shall show the replacement of vegetation, graded contours, water bodies, including those of less than one acre, and scenic, historic, or environmentally desirable areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as much as possible.
 - c. Where the proposed subdivision abuts a water-body, the Board may require the Applicant reserve an area of land abutting the water-body as an open space or recreational area. The instruments of conveyance (deed) shall provide for an access right of way to this reserved land. The cost of maintenance and development of the reserved land shall be borne by the property owners. The manner of providing for the cost of development and maintenance of the reserved open space shall be included in the instrument of conveyance to each property owner of the subdivision.
 - d. In a large subdivision, the Applicant shall provide at least ten percent (10%) of his total area as open space. If the lots exceed the minimum lot size by at least a factor of two (2), or other adequate provision has been made for open space, this requirement may be waived by the Board.
12. A performance guarantee is to be provided as follows:
- a. The Board shall require that the Applicant file at the time of submission of the Final Plat Plan adequate proof of the availability of a performance guarantee. This may be tendered in the form of a certified check payable to the Treasurer of the Municipality, a performance bond running to the municipality and issued by a surety company acceptable to the Municipality, an irrevocable letter of credit from which the Municipality may draw, or an equivalent guarantee. The conditions and amount of such performance guarantee shall be determined by the Board with the approval of the Selectmen. The

amount shall be at least equal to the total cost of furnishing, installing, connecting and completing all public improvements specified on the Final Plat Plan including public or private roads or streets, storm drainage, shared sewage treatment systems and other public utilities or improvements. The performance guarantee shall provide for completion of the improvements within two (2) years of the date of the performance guarantee.

- b. The Board may recommend to the Selectmen, and the Selectmen may grant a maximum extension of twelve (12) months to the performance guarantee period when the Applicant can demonstrate, to the satisfaction of the Board good cause for such extension.
 - c. The Board may recommend to the Selectmen, and the Selectmen may relieve an Applicant from his obligation under the performance guarantee, when all improvements have been satisfactorily completed in accordance with all applicable standards.
 - d. The Board may waive the requirement of a performance guarantee and accept a properly executed conditional agreement with the Municipality. That agreement shall be endorsed in writing on the Final Plot Plan. The endorsement shall state that the Board approved the Final Plot Plan, on the condition that no lot may be sold and no building permit may be issued for construction of any building until the Selectmen shall have certified that all improvements have been made.
 - e. Before construction may begin, the Applicant shall file the performance guarantee with the Town.
13. No changes, erasures, modifications, or revisions shall be made in any Final Plat Plan after approval, unless the plan is first resubmitted and the Board approves the modification.
- a. The Selectmen shall establish the application fees.
 - b. The Planning Board may establish the requirements for plan, application information, notices or hearings as deemed appropriate.
14. The design and construction of all streets and roads shall comply with the state-aid Road specifications, if such streets and roads are to be dedicated to the town or will serve more than twelve dwelling units. The Town may only accept bituminous surfaced roads. All other roads shall be constructed and maintained to private road standards listed below. The Board may require additional road requirements based on the recommendations of the Road Commissioner, Fire Company or School Board. Owner maintenance responsibilities shall be included in the organization charter.

The following minimum standards apply to Private Roads:

Right of Way - Fifty (50) feet wide.

Clearing - Thirty-two (32) feet wide, leaving healthy trees between cleared area and outside edge of right of way.

Excavation - Stumps and rocks over six (6) inches in diameter which will be less than eighteen (18) inches below the finished top must be removed.

Road width culverts - Minimum of eighteen (18) feet on finished top, plus three (3) foot shoulders. Fifteen (15) inch diameter to be placed at stream bed level over prepared base.

Gravel -

1. Sub-grade-Minimum of twelve (12) inches, eighteen (18) inches or more over ledges.
2. Base-Coarse material of minus six (6) inch grade to be applied to a minimum of twelve (12) inches deep.
3. Surface-Screened gravel three-quarter (3/4) inch or crushed aggregate applied two (2) inches in depth, or bituminous.

Ditches - Flow line to be two (2) feet below sub-grade breakpoint. Ditches and embankments to be seeded with conservation grass mix.

Slope - Not to exceed ten percent (10%) slope on any road.

Turn-around - Adequate turn-around at end of dead end roads with diameter of one-hundred (100) feet wherever possible.

Intersection where the private road meets the public road - the point of intersection must be of sufficient width to allow for an unobstructed view and safe turning into traffic lane.

Emergency Vehicles - Each road must be adequate to allow emergency vehicles to safely maneuver.

For small, low density subdivisions, the Board may reduce the clearing and road width requirements, when it determines that a lesser requirement would still clearly assure an adequate and safe roadway for the public and landowners.

15. An Organizational Charter of the subdivision property owners shall be required if more than one dwelling unit:

- (a) Uses the same on site sewerage or water supply system;
 - (b) Uses the same private entrance access roads; or
 - (c) Shares co-ownership of common lands, including required buffers.
- 1) The organization of the entity shall provide equal share ownership, one (1) share for each lot/dwelling unit in the subdivision. Conveyances shall include mandatory assignment of ownership. An organizational charter shall clearly delineate the owners- responsibility and liability to maintain the sewage treatment, water supply, roads and common lands as appropriate.
 - 2) The charter may not be altered with regards to maintenance obligations without approval of the Planning Board.
16. Subdivisions are encouraged to install underground utilities. High density subdivisions must install underground utilities.
17. Included in the organizational charter of a high density subdivision shall be the following annual inspection schedule for the sewerage system:

Annual Inspection Requirements

Size	Not Within 500' of Water Insp./Annum Min/Max Sep	Within 500' of Water bodies Insp. /Annum Min/Max Sep
S	1 9/15 mos	2 4/8 mos.
M	2 4/8 mos	3 3/5 mos.
L	4 2/4 mos.	3 3/5 mos.

Inspection shall be by a licensed soils scientist; and findings shall be documented and submitted to the Code Enforcement Officer. The organization charter must include a statement that repair of the deficiencies will be commenced within fourteen (14) days of the first observation of malfunction. Documented proof of restoration to satisfactory performance shall be submitted to the Code Enforcement Officer. A daily mandatory fine of twenty-five dollars (\$25.00) shall be levied against owners' organization by the Town for noncompliance until the system is rendered serviceable as documented by the Code Enforcement Officer.

18. The following restrictions shall be included in the deed to each property in an approved subdivision and on the final approved plan:
- a. Lots may not be further divided.

- b. Appropriate restrictions on the ratio of dwelling units to lots.
- c. Any maintenance, plowing, planting, lighting, traffic control or improving of private roads will be the responsibility of the Applicant until the property-owners association assumes these functions. The Town assumes no responsibility for these or any other community services within the subdivision.

19. The following provisions apply to a subdivision using cluster development:

a. The purpose of this provision is to allow for innovative concepts of housing development where maximum variations of design may be allowed, provided that the net residential density shall be no greater than permitted otherwise.

b. The basic goals of a cluster development shall be to provide;

- (1) Additional open spaces and recreation areas;
- (2) A pattern of development which preserves trees, outstanding natural topography and geologic features and reduces soil erosion; and
- (3) An efficient use of land resulting in smaller networks of utilities and streets.

c. In addition to all other requirements, the following provisions shall apply:

(1) Dimensional requirements, including setbacks and individual lots sizes, but not height limitations, may be altered consistently with the permitted clustering;

(2) The minimum area of land in a cluster development shall be ten acres;

(3) The plan shall indicate the location of all proposed roads, rights of way, easements, structures, parking areas, footpaths and common open space;

(4) No building shall be constructed on soil types classified by the soil Conservation Service as being poorly or very poorly drained; and

(5) Where abutting a water-body, at least fifty percent (50%) of the shoreline, but not to exceed five-hundred (500) feet, to a depth of a one-hundred (100) feet, as well as reasonable access to it, shall be part of the common land.

d. The following provisions shall apply to commonly held land in the cluster development:

(1) It shall be owned jointly or in common by the owners of the dwelling units by means of an association, or owned by a non-profit corporation which has as its principal purpose the

conservation or preservation of land in essentially its natural condition, or by the municipality.

- (2) Further division of the common land is prohibited.
- (3) Use of the common land shall be regulated by the standards of the resource protection district under Chapter XI, Shoreland Zoning, except that the uses allowed under Table SS-1, paragraph 15, subparagraph A-E, shall also be prohibited.
- (4) The common land shall be shown on the Final Plan with appropriate notation on the plan to indicate that:
 - (a) It shall not be used for future building lots;
 - (b) A part or all of the common open space may be dedicated as provided in this section.

20. If, on the basis of an archeological site survey or other information, the Planning Board determines that there is an archeological site on the parcel, it may limit the development of the parcel to preserve or protect that site or may approve a plan or conditions to provide for appropriate evaluation, excavation or protection of the site.
21. All subdivisions of ten or more lots will require at least fifteen percent (15%) of the aggregate required lot area for natural space which will be contiguous and regulated by the standards of the resource protection district under Chapter XI, Shoreland Zoning, except that the uses allowed under Table SS-1, paragraph 15, subparagraph A-E, shall also be prohibited. This requirement does not apply to a clustered development under paragraph 19.
22. For lots within a subdivision that are located within two-hundred-fifty (250) feet of an Outstanding River Segment, as identified under 30-A MRSA §4401 (the Damariscotta River from the U.S. Route One bridge to the dam at Damariscotta Mills), a principle structure must be set-back from the normal high-water mark a distance that would make that set-back and the length of the lots shore frontage at least a total of five-hundred (500) feet.

APPENDIX A: PUBLIC SAFETY AND ENVIRONMENTAL PROTECTION

1. In a High Density Subdivision, proof of an adequate water supply of tested quality shall be submitted with the final application. This statement should contain as a minimum the number of dwelling units the system is to support, water volume required for this number of dwelling units, the flow volume available and its effect on the supply, and the quality test results of the water available.
2. Proof of one of the following shall be provided:
 - a. In Low Density Subdivisions: proof of at least one acceptable soils test site on each lot.
 - b. In High Density Subdivisions: proof that the proposed system can adequately handle the anticipated volume of effluent. Specifically included must be:
 - (1) Anticipated daily volume of effluent; the volume indicated shall exceed by at least twenty-five percent (25%) the anticipated volume of water indicated in the section above.
 - (2) Maximum daily capacity of the proposed system;
 - (3) Proof of adequate soils capable of handling the maximum capacity volume;
 - (4) Shortest distance from leaching field to open bodies of water and detailed contour charts of the area between the system and the water;
 - (5) Assessment of the likelihood of flooding or saturation of the proposed leaching field due to high water tables; and
 - (6) Written approval of the system by the town plumbing inspector.
3. In a Medium or Large High Density Subdivision, a written statement, prepared by a qualified engineer, stating the adequacy of safeguards against erosion and contamination shall be required, including a list of the specific safeguards incorporated and the rationale for their implementation. Emphasis will be given to this category for projects proposing large areas of impervious surface (structures, paving, etc.) and lots encompassing grades in excess of over seven (7) degrees slope on more than twenty percent (20%) of their surface.
4. For a Large Low Density or Medium or Large High Density Subdivision a written statement by a qualified engineer stating the adequacy of the proposed road design shall be required. This shall include as a minimum the following:
 - a. An estimate of normal traffic intensity levels and the maximum traffic levels the roads can safely handle;

- b. The ability of roads to handle emergency vehicles;
- c. The adequacy of roadbed quality and width including adequacy of proposed drainage conduits;
- d. The safety of all intersections, both internal and meeting existing public roads, including grades and visibility at intersections; and
- e. Possible improvements to the proposed design along with an estimate of the costs and benefits derived. This statement should be endorsed by the Fire Company and the School Board.

APPENDIX B: IMPACT ON TOWN SERVICES

1. A statement prepared by a representative of the Fire Company or other qualified person shall be submitted addressing:
 - a. Ability to provide adequate fire protection to this project using existing equipment and personnel;
 - b. Identifying equipment and capability improvements needed to provide adequate fire protection to this project, including estimated cost of such enhancements;
 - c. Adequacy of road access to the project for emergency vehicles;
 - d. Availability of fire fighting water sources in the project vicinity; and
 - e. Effect of the project on town insurance ratings based on present Fire Company capabilities.
2. A statement prepared by a Town representative on the School Board or other qualified person indicating:
 - a. Expected additional student enrollment due to the project;
 - b. Ability to absorb anticipated additional student enrollment and provide necessary busing of subdivision students with existing assets;
 - c. Additional assets needed to provide above services and associated costs;
 - d. Present per cent capacity at which school facilities are operating and projected one-hundred (100) capacity attainment date; and
 - e. Adequacy of road access for school buses.
3. If town water is to be used, a statement prepared by a representative of the Sanitary District or other qualified person indicating:
 - a. Adequacy of water quantity and pressure to support the subdivision.
 - b. The percent of capacity flow currently being used by lines feeding that area and the projected per cent of capacity after the subdivision is completed.
 - c. Effect on water pressure and availability to the present users.
 - d. Anticipated daily gallon usage for the subdivision.

4. If District sewer hookup is proposed, a statement prepared by a representative of the Sanitary District or other qualified person indicating:
 - a. Adequacy of sewer pipes and processing plant to handle the anticipated volume increase produced by the project; and
 - b. The percent capacity at which the sewer servicing that area and the treatment plant itself are currently operating and the anticipated percent of operating capacity levels there will be after the subdivision is completed.
5. A statement prepared by the Selectmen acknowledging the increased volume of garbage or trash the project will produce and verifying the ability to handle the increased volume of trash or garbage the project would produce.
6. A statement prepared by the Road Commissioner or Selectmen summarizing the effect on public roads adjacent to or arterial to the project, including:
 - a. An estimate of increased traffic intensity levels and the maximum of traffic levels the road can safely handle;
 - b. The ability of the roads to handle increased traffic and emergency vehicles;
 - c. The adequacy of roadbed quality and width including adequacy of proposed drainage conduits;
 - d. The safety of all intersections, including grades and visibility at intersections; and
 - e. Possible improvements to the proposed design along with an estimate of the cost and benefits derived.

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CHAPTER VI FLOODPLAIN MANAGEMENT ORDINANCE

A. PURPOSE & ESTABLISHMENT

Certain areas of Newcastle are subject to periodic flooding, causing serious damage 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 Newcastle, 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 chapter on Floodplain Management Ordinance.

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

The Town of Newcastle 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 MRS, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Newcastle 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 procedures for development activities in the designated flood hazard areas of the Town of Newcastle, Maine.

The areas of special flood hazard, are identified by the Federal Emergency Management Agency in a map entitled "Flood Insurance Rate Map – Town of Newcastle, Maine Lincoln County" (page 1 of 2) and (page 2 of 2) dated May 17, 1977) which is hereby adopted by reference and declared to be part of this ordinance.

B. PERMIT REQUIRED

Before any construction or other development (as defined in Section E of the Floodplain Management Ordinance) including the placement of manufactured homes, begins within any areas of special flood hazard established in Section A of Floodplain Management Ordinance, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer (CEO) except as provided in Section H of Floodplain Management Ordinance. This permit is in addition to any other building permits which may be required pursuant to the codes and ordinances of the Town of Newcastle, Maine.

C. APPLICATION FOR PERMIT

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

1. The name, address and phone number of the applicant, owner and contractor;
2. An address and a map indicating the location of the construction site;
3. 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;
4. A statement of the intended use of the structure a/or development;
5. A statement of the cost of development including all materials and labor;
6. A statement as to the type of sewage system proposed;
7. Specifications of dimensions of the proposed structure and/or development;
(Items C. 8-11.B. applies only to new construction and substantial improvements.)
8. The elevation in relation to the National Geodetic Vertical Datum (NGVD) or to a locally established datum of the:
 - a. Base Flood at the proposed site of all new or substantial improved structures, which in Zone A is determined:
 - (1) From any base flood elevation data from federal, state or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Section G.10 and J.4;
 - (2) From the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - (3) To be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 - b. Highest and lowest grades at the site adjacent to the walls of the proposed building;
 - c. Lowest floor, including basement; and whether or not such structures contain

- a basement; and,
 - d. Level, in the case of non-residential structures only, to which the structure will be flood proofed;
9. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Section G of this Floodplain Management Ordinance
 10. A written certification by a Professional Land Surveyor, registered professional engineer or registered professional architect, that the base flood elevation and grade elevations shown on the application are accurate;
 11. The following certifications as required in Section G of this Floodplain Management Ordinance by a registered professional engineer or registered Professional architect:
 - a. A Flood Proofing Certificate (FEMA Form 81-65, 01/03, as amended), to verify that the flood proofing methods for any non-residential structures will meet the flood proofing criteria of Section C.8.D.; Section G.7.; and other applicable standards in Section G;
 - b. A hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Section G.11.B.1.;
 - c. A certified statement that bridges will meet the standards of Section G.12.;
 - d. A certified statement that containment walls will meet the standards of Section G.13.;
 12. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
 13. A statement of construction plans describing in detail how each applicable development standard in Section G will be met.

D. APPLICATION FEE AND EXPERT’S FEE

A non-refundable application fee of \$25.00 for all minor development and \$50.00 for all new construction or substantial improvements shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

If the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert, an additional fee may be charged. 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. The expert's fee shall be paid in full by the applicant in advance, before the expert commences work. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order.

E. DEFINITIONS

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

Accessory Structure – Means a small detached structure that is incidental and subordinate to the principal structure.

Adjacent grade – Means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of Special Flood Hazard – Means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Rate Map cited in Section A of this ordinance.

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

Basement – Means any area of the building having its floor sub grade (below ground level) on all sides.

Building – See **Structure**.

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

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

Conditional Use – Means 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 H.

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

Elevated Building – Means a non-basement building:

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

In the case of Zone A, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Section G.11.

Elevation Certificate - An official form (FEMA Form 81-31, 02/06, as amended) that:

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

Flood or Flooding – Means:

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

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

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

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

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

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

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

Floodway - See **Regulatory Floodway**.

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

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

Historic Structure – Means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary

of the Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved State program as determined by the Secretary of the Interior, or

(2) Directly by the Secretary of the Interior in states without approved programs.

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

Lowest Floor – Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Section G.11 of this ordinance.

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

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

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

Minor Development – Means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided in Section G.9., mining, dredging, filling, grading, paving, excavation, drilling operations, storage or equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

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

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

100 Year Flood - See **Base Flood**.

Regulatory Floodway - The floodway which is:

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

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

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

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

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 it 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. An alteration of an Historic Structure provided that the alteration will not preclude the structures' continued designation as an historic structure, and a variance is obtained from the community's Board of Appeals.

Variance – Means a grant of relief by a community from the terms of a floodplain management regulation.

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

F. REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICANTS

The Code Enforcement Officer shall:

1. 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 G (Development Standards) have been, or will be met;
2. Utilize, in the review of all Flood Hazard Development Permit applications:
 - a. The Base Flood data contained in the "Flood Insurance Rate map – Town of Newcastle, Maine," as described in Section A.
 - b. 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 C.8.A.; Section G.10; and Section J.4 of this ordinance; and

- c. When the community establishes a base flood elevation in Zone A by methods outlined in Section C.8.A.2., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.
3. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Section A of this ordinance;
4. 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 Water Pollution Control Act Amendments of 1972, 33 USC 1334;
5. Notify adjacent municipalities, the Department of Environmental Protection and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
6. If the applicant satisfies the requirements of this ordinance, approve the issuance of one of the following Flood Hazard Development Permit based on the type of development:
 - a. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time, the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or a registered professional architect based on Part 1 permit construction, "as built", for verifying compliance with the elevation requirements of Section G, paragraphs 6, 7 and 8. 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; and,
 - b. A Flood hazard Development Permit for Flood proofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the flood proofing standards of Section G.7.A., B. and C. The applicant for this permit shall include a Flood proofing Certificate signed by a registered professional engineer or registered professional architect; or,
 - c. A Flood Hazard Development Permit for Minor Development if 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 G.9., mining,

dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or material, 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 H.

7. 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 under the provisions of Section K of this ordinance, and copies of Elevation Certificates, Flood proofing Certificates, Certificates of Compliance and certificates of design standards required under the provisions of Section C, G and I of this ordinance.

G. DEVELOPMENT STANDARDS

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

1. **All Development** – All development shall:
 - a. 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;
 - b. Use construction materials that are resistant to flood damage;
 - c. Use construction methods and practices that will minimize flood damage; and,
 - d. Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
2. **Water Supply** – All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
3. **Sanitary Sewage Systems** - 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.
4. **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.

5. **Water 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 any watercourse.
6. **Residential** - New construction or substantial improvement of any residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section C.8.A.; Section F.2; or Section J.4.
7. **Non Residential** - New construction or substantial improvement of any non-residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section C.8.1.; Section F.2; or Section J.4., or together with attendant utility and sanitary facilities shall:
 - a. Be flood proofed to at least one foot above the base flood elevation utilizing information obtained pursuant to Article C.8.1.; Section F.2; or Section J.4., so that below that elevation the structure is watertight with walls substantially impermeable to 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 registered professional architect that the flood proofing 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 C.11. and shall include a record of the elevation above mean sea level to which the structure in flood proofed.
8. **Manufactured Homes** - New or substantially improved mobile homes located within Zone A shall:
 - a. Be elevated such that the lowest floor (including basement) or the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Section C.8.1.; Section F.2; or Section J.4.;
 - 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 fifty 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 fifty feet long require four additional ties per side).
3. All components of the anchoring system described in Section G.8.C.1 & B. shall be capable of carrying a force of 4,800 pounds.

9. **Accessory Structures** – Accessory Structures, as defined in Section 0, located within Zone A, shall be exempt from the elevation criteria required in Section G.6 & 7 above, if all other requirements of Section G and all the following requirements are met. Accessory Structures shall:

- a. Be 500 square feet or less and have a value less than \$3000;
- b. Have unfinished interiors and not be used for human habitation;
- c. Have hydraulic openings, as specified in Section G.11.B., in at least two different walls of the accessory structure;
- d. Be located outside the floodway;
- e. 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 primary structure; and,
- f. 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.

10. **Floodways** - Encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in a floodway, which in Zone A riverine areas, is the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

1. Will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
2. Is consistent with the technical criteria contained in Chapter 5 entitled

"Hydraulic Analyses", *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/January 1195, as amended).

11. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zone A that meets the development standards of Section G, including the elevation requirements of Section G, paragraphs 6, 7 and 8 and is elevated on posts, columns, piers, piles, "stilts", or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
 - a. Enclosed areas are not "basements" as defined in Section E;
 - b. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either:
 1. Be engineered or certified by a registered professional engineer or architect; or,
 2. Meet or exceed the following minimum criteria:
 - (a) 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;
 - (b) The bottom of all openings shall be no higher than one foot above the lowest grade; and,
 - (c) 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 usable solely for building access, parking vehicles, or storage.
12. **Bridges** – New construction or substantial improvement of any bridge in Zone A shall be designed such that:
 - A. When possible the lowest horizontal member (excluding the pilings or columns) is elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section C.8.A.; Section F.2; or Section J.4.; and
 - B. A registered professional engineer shall certify that:

- (1) The structure design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Section G.10.; and
- (2) 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.

13. Containment Walls – New construction or substantial improvement of any containment wall located with Zone A shall:

- A. Have the containment wall elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section C.8.A.; Section F.2.; or Section J.4.
- 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 registered professional 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 C.11.

14. Wharves, Piers and Docks - New construction or substantial improvement of wharves, piers and docks are permitted in Zone A in and over water and seaward of the mean high tide if the following requirements are met:

- A. Wharves, piers and docks shall comply with all applicable local, state and federal regulations and
- B. For commercial wharves, piers and docks, a registered professional engineer shall develop or review the structural design, specifications and plans for construction.

15. Coastal Floodplains

- A. All new construction located within Zone A shall be located landward of the reach of mean high tide except as provided in Section G.15.B.
- B. 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 G.7. only if permitted as a Conditional Use following

review and approval by the Planning Board, as provided in Section H, and if all the following requirements and those of Section G.1., G.10., and G.11 are met:

1. 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.
2. The structure shall be securely anchored to the wharf or pier to resist floatation, collapse and lateral movement due to effect of wand and water loads acting simultaneously on all building components.
3. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
4. The structure shall have unfinished interiors and shall not be used for human habitation.
5. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or flood proofed to one foot above the base flood elevation.
6. All electrical outlets shall be grounded fault interrupt type. The electrical serve disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

H. CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for conditional uses provided for inn 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.

1. Review Procedure for a Conditional Use Flood hazard Development Permit
 - A. 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.
 - B. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.
 - C. 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.

- D. 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.
- E. 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.

2. Expansion of Conditional Uses

- A. 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.

I. 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:

1. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or registered professional architect, for compliance with Section G, paragraphs 6, 7 or 8.
 2. The applicant shall submit in written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
3. Within ten working days the Code Enforcement Officer shall:
- A. Review the Elevation Certificate and the applicant's written notification; and,
 - B. Upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

J. REVIEW OF SUBDIVISION AND DEVELOPMENT PROPSALS

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

1. All such proposals are consistent with the need to minimize flood damage.
2. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
3. Adequate drainage is provided so as to reduce exposure to flood hazards.
4. 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.
5. 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 area within a Special Flood Hazard Area, are to constructed in accordance with Section G of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing and intent to transfer any interest in real estate or structure, included but no 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.

K. APPEALS AND VARIANCES

The Board of Appeals of the Town of Newcastle 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:

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

laws or ordinances; and,

- c. A showing that the existence of the variance will not cause a conflict with other state, federal or local laws or ordinances; and
- d. A determination that failure to grant the variance would result in "undue hardship", which in this subsection means:

- (1) That the land in question cannot yield a reasonable return unless a variance is granted; and,
- (2) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
- (3) That the granting of a variance will not alter the essential character of the locality; and,
- (4) That the hardship is not the result of action taken by the applicant or a prior owner.

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

4. A variance may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

- a. Other criteria of Section K and Section G.10. are met; and,
- b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

5. A variance may be issued for repair, reconstruction or restoration of Historic Structures upon the determination that:

- A. The development meets the criteria of Section K, paragraphs 1 through 4 above; and,
- B. The proposed repair, reconstruction, rehabilitation or restoration will not preclude the structure's continued designation as Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

6. Any applicant who meets the criteria of Section K, paragraphs 1 through 5,

shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

- A. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25.00 per \$100.00 of insurance coverage;
- B. Such construction below the base flood level increases risks to life and property; and,
- C. The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

7. Appeal Procedure for Administrative and Variance Appeals

- A. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within 30 days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
- B. Upon being notified of the 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.
- C. The Board of Appeals shall hold a public hearing on the appeal within 35 days of its receipt of an appeal request.
- D. The person filing the appeal shall have the burden of proof.
- E. The Board of Appeals shall decide all appeals within 35 days after the close of the hearing and shall issue a written decision on all appeals.
- F. 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.
- G. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take and appeal to Superior Court in accordance with State laws within 45 days from the date of any decision of the Board of Appeals.

L. ENFORCEMENT AND PENALTIES

1. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this ordinance pursuant to Title 30-A MRSA § 4452.
2. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this ordinance.
3. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a Declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:
 - A. The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 - B. A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
 - C. A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
 - D. Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
 - E. A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

M. 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.

N. 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.

O. 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).

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CHAPTER VII DESIGN REVIEW ORDINANCE:

A. PURPOSE

The center of the Town is a mixed residential and business use district which is comprised predominantly of buildings which were constructed before 1930. The village of Sheepscot is a concentration of residences mostly constructed before 1900. Both historic areas include many significant historic buildings representing a variety of architectural styles, other buildings which contribute to the historic setting, and some of contemporary buildings. The purpose of this Ordinance is to promote the educational, cultural, economic and general welfare of the Town as a whole and to specifically provide for the protection and preservation of buildings; structures and places of historic value, and to promote design which is compatible with the present character of these three (3) historic areas of Town.

It is the specific intent of this Ordinance to:

1. Encourage the continued use of existing historically or architecturally important buildings and those which contribute to the character of the Historic areas and discourage their demolition and removal;
2. Prevent inappropriate alterations of buildings of historic value;
3. Assure that new buildings are designed and built in a manner compatible with the character of the Historic areas in terms of scale and visual effect;
4. Assure that changes to contemporary buildings and new construction do not detract from adjacent historic buildings; and
5. Assure the protection and preservation of archeological sites.

B. DEFINITIONS Design Review Only

The definitions provided here apply specifically to this Ordinance, in addition to the definitions that apply throughout the ordinance.

Architectural Significance: A structure embodying distinctive characteristics of a period or method of construction, representing the work of a master architect or builder, or otherwise possessing high artistic values.

Building: It includes structures or places (i.e. cemeteries, parks, etc.) which may not have buildings located on them but which are classified as of historical significance.

District: The Design Review District.

Historical Significance: A structure or place associated with events which have contributed to the formation and development of the Town, associated with the lives of people who have been important to the community, or has made a contribution to the broader patterns of our common history.

Material Change: A modification to the architectural style, general design or general arrangement of the exterior of a structure, including the texture of the building materials or the type and style of windows, doors, light fixtures, other appurtenant structures. An activity that affects the exterior and requires a building permit is included in this definition.

Neighborhood Significance: A structure that contributes to the creation of a physical setting representing a period important in the evolution of the Town. That the physical setting, which is composed of buildings, landscape features and open space, and other natural and architectural features, can transcend the sum of its parts in creating a sense of history.

Some examples of a building with neighborhood significance are: one (1) of a group of similar buildings constructed and/or designed by an individual important to the Town's history, a compatible element in a group of buildings of similar or equally important significant architectural styles; a location (i.e., on a corner lot, on a rise of land, or a curve, on a large parcel of land, as the first building to visually introduce an important group of buildings) which makes it an important element in the neighborhood; a size which gives it a dominant place in the neighborhood.

Reconstruction: Rebuilding, renovating, altering, improving, reconstructing, restoring or other construction of an existing building or part of a building. The reconstruction may or may not be a return to the original design of the building.

Rehabilitation: Upgrading or renovation of a building, previously in a dilapidated or substandard condition, for human habitation or use. Rehabilitation does not necessarily retain the building's original architectural features.

Restoration: The replication or reconstruction of a building's original architectural features. Restoration usually describes preserving historic buildings.

Visually compatible: A relationship between buildings in a neighborhood that, though not looking the same, or even from the same period, are architecturally compatible or consistent and may include a mix of styles, sizes, etc. that blend together well.

C. DISTRICT BOUNDARIES

1. The Design Review District shall consist of three historic areas:

- a. Village Area. The area of the village described as the Village Business District Village Residential District, Village Center District and in Chapter X.

- b. Sheepscot Area. The area of the village of Sheepscot designated at the National Historic District, included on Town Tax Maps 19 and 20, Map 6 Lots 11, 12, 1, 1-A, 2, 2-A, and Map 4, Lots 1 and 1-A.
 - c. Damariscotta Mills Area. The area at Damariscotta Mills included on Town Tax Map 7, Lots 30, 32, 33 and on Map 15, all lots northwest of the Central Maine Power transmission line.
2. As part of each applicant's review the Design review Committee will attempt to classify the approximate age of the owner's building based on the information submitted by the applicant, and or in consultation with the Newcastle Historical Society, or another source deemed appropriate by the committee as follows:
- a. Class A - Buildings existing in 1900 which have major architectural, historical and/or neighborhood significance;
 - b. Class B - All buildings existing in 1900 which have architectural, historical and/or neighborhood significance;
 - c. Class C - Buildings not classified A or B.
3. Three categories - historical, architectural and neighborhood significance - are rated for each building constructed before 1900 and located in the District. A scale of one (1) to five (5) points, with five (5) as the highest number of points, is to be used for each category. The maximum total number of points a building can receive is fifteen (15) and the minimal number of points is three (3). All buildings receiving total scores of twelve (12) to fifteen (15) points are to be rated A. All buildings receiving total scores of seven (7) to eleven (11) points are to be rated B. All other buildings are to be rated C.
4. Buildings may be reclassified upon recommendation of the Design Review Board. A public hearing must:
- a. Be held by the Board on its final proposed recommendations. The owner of each building classified shall be given notice of that recommended classification and the public hearing.
 - b. The Selectmen, on recommendation of the Board may adopt a resolution designating one or more buildings or structures A, B, or C utilizing the following criteria:
 - (1) Architectural, historical and neighborhood significance;
 - (2) Suitability for preservation or restoration.

On adoption of the resolution, the owners and occupants of each newly classified building shall be given written notification of its classification by the Town Clerk.

D. DESIGN CERTIFICATE

In considering applications for permits, the Design Review Board shall use the guidelines of this chapter. A Design Certificate shall be required before a building permit is issued for any of the following:

1. Demolition of a building classified A or B;
2. Moving of a building classified A or B;
3. Material change in the exterior appearance of existing buildings classified as A or B by an addition, reconstruction or alteration;
4. Any new construction of a building, accessory building or appurtenant structure subject to view from a public street or public right of way within the District;
5. Material change in or construction of appurtenant structures, if subject to view from a public street or public right of way within the District;
6. Addition, removal, or material change of any type of lighting, if subject to view from a public street or public right of way within the District;
7. Material change in the exterior appearance of an existing Class C building by addition, reconstruction or alteration, if subject to view from a public street or public right of way within the District; or
8. Changes to existing or new sites on a Class A, B, or C building.

Official Use Only
Certificate # _____
Date Application Received by Board _____

CERTIFICATE OF DESIGN REVIEW APPROVAL

I, _____, the duly appointed, qualified and acting Chair for the Newcastle Design Review Board in Lincoln County and State of Maine, hereby certify that on the _____ day of _____ issues this Design Review Board Certificate to: _____ for the deck/ porch/ addition/ remodel/ home/ business/ barn/ garage/ other located at: _____
Map _____ Lot _____

This Certificate is issued with the following conditions/restrictions:

This certificate should be recorded in the Lincoln County Registry of Deeds within 90 days for your own protection of the project or future projects.

Property Owner Signature

Design Review Board Chairperson Signature

DRBCERT'06

E. ACTION ON APPLICATIONS

1. The application for a Design Certificate shall be submitted to the Town Clerk on forms provided. Each application shall be accompanied by sketches, drawings, photographs, descriptions or other information showing the proposed alterations, additions, changes or new construction as may be required for the Board to make a decision. The Clerk shall give the applicant a dated receipt.
2. The Board shall act on the application within forty-five (45) days of receipt of the application. If the Board does not act within forty-five (45) days, the application is deemed to be approved and a Design Certificate shall be issued.
3. The Board may extend the time, for a specific period, for review of the application if the parties have mutually agreed that more information or discussion is required. A Design Certificate may be issued with conditions. When the Board disapproves an application, its reasons shall be in writing.
4. If an activity also requires a building permit, that permit may not be issued until the Design Certificate is granted.
5. If, on the basis of an archeological site survey or other information, the Board determines that there is an archeological site on the parcel, it may limit excavation or building on that parcel to preserve or protect the site or may approve a plan or conditions to provide for appropriate evaluation, excavation or protection of the site.

F. DESIGN GUIDELINES

1. For buildings Classified as A or B:
 - a. Any building classified as A or B, or any appurtenant structure may only be moved, reconstructed, altered or maintained in a manner that will preserve its historical, architectural and neighborhood significance. When making that determination, recognition shall be given to the design and placement of buildings previously on the site and their past relationship with surrounding buildings.
 - b. Should a property owner want to demolish or remove a building or appurtenant structure classified A or B, a four (4) month notice of the proposed demolition or removal shall be given before a demolition or removal permit is issued.
 1. The owner of the affected building shall cause notice to be published in a newspaper of general circulation in the county at least three (3) times prior to demolition or removal. The first notice shall be published no later than fifteen (15) days after the application for a permit for demolition or removal is filed and

the final notice shall be published approximately fifteen (15) days prior to the date of demolition or removal. The purpose of this section is to afford the Town, interested persons, or historical societies or organizations the opportunity to acquire or to arrange for preservation of such buildings.

2. During this four (4) month period, the Board may negotiate with the owner of the property and with any other properties in an effort to find a means of preserving the property. Such negotiations may include relocation to a new site, recommendation for a historic easement or inducements to interested third parties to purchase the property for the purpose of preserving it.
3. For buildings Classified as C: The construction, reconstruction, alteration, or moving of any building and appurtenant structures classified as "C" shall be generally of such design, size, building material, texture, and location on the lot as will be compatible with other buildings in the Historic areas and particularly those designated "A" or "B".

The intent of this section is not to require that a contemporary or "C" building be constructed or altered to meet a specific architectural style (i.e., colonial, federal, etc.). Rather, compatibility with other buildings shall be determined by factors such as: type and style of buildings previously on the parcel, historical design of the buildings and relationship with surrounding buildings.

3. Design Guidelines for all Buildings

Newly constructed or reconstructed buildings as well as existing buildings and appurtenant structures, which have been altered, repaired or moved, shall be visually compatible with the buildings, squares and places to which they are visually related and specifically with nearby and/or adjacent "A" or "B" buildings in terms of the following factors:

- a. **Scale of the Building.** The scale of a building depends on its overall size, the mass of it in relationship to the open space around it, and the sizes of its doors, windows, arches and balconies. The scale gives a building "presence" that is, it makes it seem big or small, awkward or graceful, overpowering or unimportant. The scale of a building should be visually compatible with its site and with its neighborhood.
- b. **Height.** A sudden dramatic change in building height can have a jarring effect on the streetscape, i.e., the way the whole street looks. A tall building can shade its neighbors and/or the street. The height of buildings should be visually compatible with the heights of the buildings in the neighborhood.
- c. **Proportion of Building's Front Facade.** The "first impression" a building gives is that of its front facade, the side of the building which faces the most frequently used public way. The relationship of the width to the height of the front facade should be visually compatible with that of its neighbors.

- d. Rhythm of Solids to Voids in Front Facades. . When you look at any facade of a building, you see openings such as doors or windows (voids) in the wall surface (solid). Usually the voids appear as dark areas, almost holes, in the solid and they are quite noticeable, setting op a pattern or rhythm. The pattern of solids and voids in the front facade of a new or altered building should be visually compatible with that of its neighbors.
- e. Proportions of Opening within the Facility. Windows and doors come in a variety of shapes and sizes; even rectangular window and door openings can appear quite different depending on their dimensions. The relationship of the height of windows and doors to their width should be visually compatible with the architectural style of the building and with that of its neighbors.
- f. Roof Shapes. A roof can have a dramatic impact on the appearance of a building. The shape and proportion of the roof should be visually compatible with the architectural style of the building and with those of neighboring buildings.
- g. Relationship of Facade Materials. The facades of a building are what give it character, and the character varies depending on the materials of which the facades are made and their texture. Many different materials are used on facades - clapboards, shingles, patterned shingles, and brick - depending on the architectural style of the building. The facades of a building, particularly the front facade, should be visually compatible with those of other buildings around it.
- h. Rhythm of Spaces to Buildings on Streets. The building itself is not the only thing you see when you look at it you are also aware of the space where the building is not, i.e., the open space which is around the building. Looking along a street, the buildings and open spaces set up a rhythm. The rhythm of spaces to buildings should be considered when determining visual compatibility, whether it is between buildings or between buildings and the street setback.
- i. Site Features. The size, placement and materials of walls, fences, signs, driveways and parking areas may have a visual impact on a building. These features should be visually compatible with the building and neighboring buildings.

G. ACQUISITION OF HISTORIC EASEMENTS

The town may acquire, by purchase or donation, historic easements in any area wherever and to the extent that the Town meeting, upon the recommendation of the Design Review Board, determines that the acquisition will be in the public interest. For the purpose of this section, the term "historic easement" means any easement, restriction, covenant or condition running with the land, designed to preserve, maintain

or enhance all or part of the existing state of places of historic, architectural, or neighborhood significance.

H. ORDINARY MAINTENANCE; PUBLIC SAFETY.

1. Nothing in this Chapter may be construed to prevent the ordinary maintenance or repair of any exterior feature in the Historic areas which does not involve a change in design, material, or outer appearance.
2. Nothing in this Chapter shall prevent the construction, reconstruction, alteration, restoration or demolition of any such feature which the Code Enforcement Officer shall certify is required for the safety of the public because of an unsafe or dangerous condition.

I. FEES

The selectmen shall establish the amount of the application fee or other fees required by this Ordinance, which amounts shall be sufficient to provide adequate funding to administer and enforce this Ordinance. All applications will include the application fee in order to be considered.

J. DESIGN REVIEW COMMITTEE

1. **COMPOSITION:** The selectmen shall appoint five (5) persons to serve one year terms. The committee's membership shall comprise of the following: a. Members should be a resident of the Town of Newcastle; b. One Newcastle property owner from each of the design review districts, i.e. Village, Sheepscot, and Damariscotta Mills; and c. One member with demonstrated knowledge, ability experience in the field that involves either architecture, home construction, renovation, restoration of structures; and d. one member of the Newcastle Historical Society.
2. **ALTERNATES:** The selectmen may appoint alternate members as they deem appropriate, which members may vote in the absence of a regular member.
3. **TRAINING:** The committee shall receive appropriate training for a minimum of six hours prior to convening as a committee to hear an applicant's petition for a design review certificate.

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CHAPTER VIII MOBILE HOME PARKS

A. PURPOSE

The purpose of this chapter to promote the orderly development of mobile home parks and to ensure the health, safety and general welfare of the residents of the park and the town.

B. DEFINITIONS for Mobile Home Parks Only

These specific definitions apply to this chapter.

1. **Manufactured housing** means a structural unit or units designed as a dwelling unit and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two types of manufactured housing are included. Those two types are:
 - a. Those units constructed after June 15, 1986, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode 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 or electrical systems contained in the unit. This term also includes any structure which meets all 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
 - b. Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10, chapter 957, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

2. **Mobile Home Park** means a parcel of land under unified ownership approved by the municipality for the placement of three (3) or more manufactured homes.
3. **Mobile Home Park Lot** means the area of land on which an individual home is situated within a mobile home park and which is reserved for use by the occupants of that home. A municipality may require a lot to be designated on a mobile home park plan.

C. PERMITTED LOCATION

A mobile home park may only be located in the Rural District R.

D. APPLICATIONS

Prior to establishing or expanding a mobile home park, an applicant must apply for approval to the Planning Board

1. The application must include four (4) copies of a narrative description and site plan and other plans and elevations as necessary to describe the proposed project, drawn to scale, containing the following information, where applicable:
 - a. Name and address of applicant.
 - b. Name and address of owner of property, if different from applicant.
 - c. A description of the applicants' interest in the property (option, purchase contract, lease, record ownership, etc.).
 - d. The scale of the drawings submitted and a compass rose.
 - e. Boundaries of the tract of land. The Planning Board may require a survey by a licensed surveyor.
 - f. Location of existing and proposed mobile home sites and other structures.
 - g. Location of buildings on abutting properties within three-hundred (300) feet of the property line of the proposed park.
 - h. A list of the names and addresses of all owners of property within one-thousand (1,000) feet of the boundaries of the mobile home park.
 - i. Location of existing public streets, roads and rights-of-way.
 - j. Location of proposed access drives to the lot from public streets or roads.
 - k. Location and arrangement of proposed off-street parking and loading areas

and their appurtenant drives and maneuvering areas.

- l. Location of existing and proposed pedestrian walkways.
 - m. Location of existing and proposed utilities and easements therefore, including sanitary sewerage, water supply, and electricity.
 - n. Location of existing natural drainage and proposed storm drainage facilities, including dimensions of culverts, pipes, et cetera.
 - o. Location, intensity, type, size and direction of all outdoor lighting.
 - p. Location and proposed use of areas for outdoor recreation.
 - q. Location and type of existing and proposed fences, substantial vegetation, and individual trees of six (6) inch diameter and over at a point four and one-half (4½) feet above ground level.
 - r. Contour lines at appropriate intervals to show the effect of existing and proposed grades for areas to be excavated or filled.
 - s. Location and size of signs and all permanent outdoor fixtures.
 - t. Information about Soils Conditions on the Site. If subsurface sewage disposal is proposed, the information shall include evidence of soil suitability according to the State of Maine Subsurface Wastewater Disposal Rules. The Site Plan shall show the location of soil test areas and natural wet areas. If no subsurface sewage disposal is proposed, medium intensity soils survey information about the site shall be included in the application. The Planning Board may require more extensive soils information to adequately review the proposal.
 - u. A groundwater analysis as required by Section 9 of this Ordinance.
 - v. Other information as required by specific provisions of this Ordinance, or requested by the Planning Board to adequately review the proposal.
2. Within thirty (30) days from the date of receipt, the Planning Board shall notify the applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to make a complete application. The Planning Board shall make a determination as to the completeness of the application. Determination by the Planning Board that the application is complete in no way commits or binds the Planning Board as to the adequacy of the application to meet the criteria of this ordinance.
3. The Planning Board may, but is not required, to hold a public hearing on

the proposed mobile home park.

- a. It shall hold that public hearing within thirty (30) days of having notified the applicant in writing that the application is complete.
- b. The decision to hold a public hearing is discretionary, and in making its decision, the Planning Board may consider the size and type of Mobile Home Park, the community impact, and whether any written requests for such a hearing have been received.

4. The Planning Board shall, within thirty (30) days of a public hearing, or within sixty (60) days of having received a complete application, if no hearing is held, or within such other time limit as may be mutually agreed to, issue an order denying or granting approval of the proposed mobile home park, or granting approval on such terms, conditions or limitations as it may deem advisable.

- a. In issuing its decision, the Planning Board shall make a written finding of fact establishing that the proposed mobile home park does or does not meet the provisions of these regulations.
- b. Plans for road construction, grading and ditching must be reviewed by the Road Commissioner for recommendations as part of the Board's consideration.

5. After the effective date of this Ordinance, manufactured housing meeting the safety standards contained in Section 16 of this chapter may be located in an approved mobile home park. No site built home, or manufactured housing unit which fails to meet the safety standards of this chapter, may be located in a mobile home park.

E. MINIMUM DESIGN AND PERFORMANCE STANDARDS

1. No dwelling other than manufactured housing may be located in a mobile home park.
2. Lots in a mobile home park must meet the following lot size, width and density requirements.

a. for lots served by public sewer:

Minimum lot area - sixty-five-hundred (6,500) square feet or the smallest lot size permitted under any other Town Ordinance, whichever is less.

Minimum lot width - fifty (50) feet.

Minimum lot frontage - fifty (50) feet.

b. For a lot served by an individual subsurface sewage disposal system:

Minimum lot area - twenty thousand (20,000) square feet.

Minimum lot width - one hundred (100) feet.

Minimum lot frontage - one hundred (100) feet.

c. For lots served by a central subsurface wastewater disposal system as approved by the Department of Human Services:

Minimum lot area - twelve thousand (12,000) square feet.

Minimum lot width - seventy five (75) feet.

Minimum lot frontage - seventy five (75) feet.

d. Lot frontage shall be measured in a straight line between the intersections of the side lot lines and the front lot line. Where lots front on a curved right-of-way or are served by a driveway, the frontage requirement shall be measured in a straight line perpendicular to the setback line and at the face of the unit.

e. The overall density of the mobile home park shall be the combined area of its mobile home lots plus:

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

(2) The area required for buffer strips, if any;

(3) For areas served by public sewer, an open space area for storage and recreation of at least ten percent (10%) of the combined area of the individual lots; and

(4) The area within the Shoreland Zoning setback.

3. The following lot setbacks shall apply to all homes and accessory buildings:

a. Front setback: twenty (20) feet

b. Side setback: twenty (20) feet

c. Rear setback: ten (10) feet

d. If a lot is on a public road, the setback shall conform with the residential setback requirements applicable to residential dwelling units.

4. All buildings on the lot, including accessory buildings and structures, but excluding open decks and parking spaces may not cover more than fifty percent (50%) of the lot area.

5. The following buffer strips are required:
 - a. A fifty (50) foot wide buffer strip must be provided along all property boundaries that:
 - (1) Abut residential land which has a gross density of less than half of that proposed in the park, or
 - (2) Abut residential land that is zoned at a density of less than half of that proposed in the park.
 - b. No structures, roads or utilities may be placed in the buffer strip except to cross a buffer strip to provide services to the park.
 - c. Within twenty-five (25) feet of any property line and within the buffer strip, visual screening and/or landscaping shall be provided. The visual screening may consist of fences, berms, landscaping (such as shrubs and trees) or natural existing vegetation. This screening must effectively screen at least eighty percent (80%) of the homes from view from the adjacent property and shall be maintained throughout the life of the project.
6. No lot in a mobile home park may be sold without the prior approval of the Planning Board. Any lot sold or conveyed must meet the lot size requirement for a site-built, single family dwelling.
7. Each lot shall be legibly marked on-site for identification, and easily accessible to emergency vehicles (permitting fire apparatus to approach within one-hundred (100) feet).
8. The following provisions apply to the water supply:
 - a. For mobile home parks not served by a public sewer, the application shall include an assessment of the effect of park development on ground water quality. The assessment shall be prepared by a Certified Geologist or Registered Professional Engineer, and shall include the following:
 - (1) A map showing the basic soil types.
 - (2) A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the mobile home park and within two-hundred (200) feet of the mobile home park boundaries.
 - (3) The depth to the water table at representative points throughout the mobile home park.
 - (4) Drainage conditions throughout the mobile home park.

- (5) Data on the existing ground water quality, either from test wells in the park or from existing wells on neighboring properties.
 - (6) An analysis and evaluation of the effect of the mobile home park on ground water resources. The evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at whichever of the following is located closest to the subsurface sewage disposal system:
 - (a) any wells within the park;
 - (b) the mobile home park boundaries; or
 - (c) a point located a distance of one-thousand (1,000) feet from the subsurface sewage disposal system. For mobile home parks within the watershed of a lake, projections of the development's effect on ground water phosphate concentrations must also be provided.
- b. The applicant has the burden of proving that the development or expansion of the park will not pollute a public water supply or aquifer. In addition, the park shall meet the following requirements:
- (1) Projections of ground water quality shall be based on the assumption of drought conditions (assuming sixty percent (60%) of annual average precipitation).
 - (2) A mobile home park may not increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards, or to more than the Secondary Drinking Water Standards.
 - (3) If ground water contains contaminants in excess of the primary standards, and the mobile home park is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated to bring it into compliance with those standards.
 - (4) If ground water contains contaminants in excess of the secondary standards, the mobile home park may not cause the concentration of the parameters in question to exceed one-hundred-fifty percent (150%) of the ambient concentration.
- c. Subsurface waste water disposal systems and drinking water wells must be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards must be included as a note on the Plan.

9. Outdoor lighting must be provided to adequately illuminate internal streets and pedestrian walkways. Lights must be sized and directed to avoid adverse impact on adjacent properties.
10. The following requirements apply to open space for lots served by a public sewer:
 - a. At least fifty percent (50%) of the required open space shall consist of land that is suitable for active recreation or storage.
 - b. All developed open space shall be designed and landscaped for the use and enjoyment of the park residents and shall be maintained for their long term use. Plans for these areas and their maintenance shall be submitted by the developer.
 - c. To the maximum extent possible, undeveloped open space shall be left in its natural state. Improvements to make trails for walking and jogging or to make picnic areas is permitted.
 - d. The developer shall submit, as part of the application, a copy of that portion of the proposed park rules and a plan which specify how the open space is to be used and maintained and what conditions are to apply to its use. The plan shall specify the areas to be dedicated to open space, recreation, and storage.
 - e. Open space shall be maintained and used for its stated purpose.
11. Where a developer elects to create a mobile home park where all land is under one ownership, the park plan shall show lots and the developer shall demonstrate that the development standards are met.
12. The owner or operator of a mobile home park shall be responsible for ensuring the maintenance of all structures and their sites. Park management shall conform to state laws.
13. For each mobile home lot, at least two (2) off-street parking spaces shall be provided and maintained. Each parking space shall contain a minimum area of two-hundred (200) square feet with minimum dimensions of ten (10) feet by twenty (20) feet. This requirement may be waived if a parking lane is provided.

In addition to occupant parking, off-street guest and service parking shall be provided within the boundaries of the park at a ratio of one (1) space for each four (4) mobile home lots. Such parking shall be hard-surfaced.

14. The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution.

15. The following road standards apply:

a. Road Design Standards

(1) Private Roads. Privately owned roads within the mobile home park shall be designed by a Professional Engineer, registered in the State of Maine, and shall be built according to accepted engineering standards.

(2) Roads for Public Acceptance. Roads within mobile home parks which are to be offered for acceptance to the community shall meet the minimum road standards of Chapter V, Subdivision.

(3) Intersection with Public Roads. Mobile home park roads which intersect with public roads shall meet the following standards:

(a) Angle of intersection. The desired angle of intersection is ninety (90) degrees. The minimum angle of intersection is seventy-five (75) degrees.

(b) Grade. The maximum permissible grade within seventy-five (75) feet of the intersection is two percent (2%).

(c) Minimum sight distance. The minimum sight distance in feet shall be ten (10) times the posted speed limit in miles per hour (m.p.h.) on the existing road. Sight distances shall be measured from the driver's seat of a vehicle that is ten (10) feet behind the curb or edge of shoulder line with the height of the eye three and one-half (3 ½) feet above the pavement and the height of object four and one-quarter (4 ¼) feet. Where necessary, the park land bordering the intersection shall be cleared of all growth and sight obstructions to achieve the required visibility.

b. The layout and general development plan for major and minor access streets and driveways within the mobile home park, together with the location and dimensions of access junctions with existing public streets and rights-of-way shall be approved by the Planning Board.

(1) A traffic impact analysis shall be required if the park will generate more than five-hundred (500) trips per day.

(2) For mobile home parks expected to generate two-hundred (200) trips per day or more, there shall be at least two (2) entrances from public streets or roads.

- (3) On-street parking shall be prohibited unless an eight (8) foot parking lane is provided, in which case on-street parking may be permitted on the side of the road where the parking lane is located.
- (4) Curvilinear streets shall be utilized wherever possible. No street within the park shall be more than two-hundred (200) feet without a curve or bend.
- (5) No mobile home lot may have vehicular access directly onto an arterial street.

c. Road widths are to be as follows:

- (1) Two-way park roads shall have a minimum right-of-way of twenty-three (23) feet and a minimum paved surface of twenty (20) feet.
- (2) One-way streets shall have a minimum right-of-way of eighteen (18) feet and a minimum paved surface of fourteen (14) feet.
- (3) Parking lanes shall be a minimum of eight (8) feet in width, if provided.
- (4) Cul-de-sac turnarounds shall have minimum radii of fifty (50) feet at the outer edge of the pavement, exclusive of any parking areas.

16. These standards shall apply to all manufactured housing built before June 15, 1976, or not built according to the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Chapter 70, to be located in a mobile home park. The park owner shall have the burden of proving that these standards are met.

a. Required egress doors shall not be located where a lockable interior door must be used in order to exit.

- (1) Units shall have a minimum of two exterior doors not less than twelve (12) feet from each other as measured in any straight line direction regardless of the length of the travel between doors. One of the required exit doors must be accessible from the doorway of each bedroom without traveling more than thirty-five (35) feet.
- (2) All exterior swinging doors shall provide a minimum twenty-eight (28) inches wide by seventy-four (74) inches high clear opening. All exterior sliding glass doors shall provide a minimum twenty-eight (28) inches wide by seventy-two (72) inches high clear opening. Locks shall not require the use of a key for operation from the inside.

b. Units shall have the following emergency egress facilities:

- (1) Every room designed expressly for sleeping purposes, unless it has an exit door, must have at least one outside window or approved exit device. If an exit window or device is installed, it shall be listed in accordance with procedures and requirements of AAMA 1704-1985.
 - (2) The bottom of the window opening must not be more than thirty-six (36) inches above the floor.
 - (3) Locks, latches, operating handles, tabs and any other window, screen or storm window devices, which need to be operated in order to permit exiting, must not be located in excess of fifty-four (54) inches from the finished floor.
- c. Each interior door, when provided with a privacy lock, shall have a privacy lock that has an emergency release on the outside to permit entry when the lock has been locked by a locking knob, lever, button or other locking devices on the inside.
- d. At least one smoke detector (which may be a single station alarm device) must be installed in the unit in the following locations:
- (1) A smoke detector must be installed on any wall in the hallway or space communicating with each bedroom area between the living area and the first bedroom door unless a door separates the living area from that bedroom area, in which case the detector shall be installed on the living area side as close to the door as practical. Homes having bedroom areas separated by any one or combination of communication areas such as kitchen, dining room, living room, or family room (but not a bathroom or utility room) shall have at least one detector protecting each bedroom area.
 - (2) When located in hallways, the detector shall be between the return air intake and the living area.
 - (3) The smoke detector shall not be placed in a location which impairs its effectiveness.
 - (4) Smoke detectors must be labeled as conforming with the requirements of Underwriters Laboratory Standards No. 217, Third Edition, 1985, as amended for single and multiple station smoke detectors.
 - (5) Each smoke detector shall be installed in accordance with its listing. The top of the detector shall be located on a wall four (4) inches to twelve (12) inches below the ceiling. However, when a detector is mounted on an interior wall below a sloping ceiling, it shall be

located four (4) inches to twelve (12) inches below the intersection on the connecting exterior wall and the sloping ceiling (cathedral ceiling). The required detector(s) shall be attached to an electrical outlet box and the detector connected by permanent wiring method into a general electrical circuit. There shall be no switches in the circuit to the detector between the over-current protection device protecting the branch circuit and the detector. The smoke detector shall not be placed on the same branch circuit or any circuit protected by a ground fault circuit interrupter.

- e. Ceiling interior finish must not have a flame spread rating exceeding seventy-five (75).
 - (1) Walls and ceilings adjacent to or enclosing a furnace or water heater must have an interior finish with a flame spread rating not exceeding twenty-five (25). Sealants and other trim material two (2) inches or less in width used to finish adjacent surfaces within this space are exempt if supported by framing members or by materials having a flame spread rating not exceeding twenty-five (25).
 - (2) Exposed interior finishes adjacent to the cooking range must have a flame spread rating not exceeding fifty (50).
 - (3) Kitchen cabinet doors, countertops, backsplashes, exposed bottoms, and end panels must have a flame spread rating not to exceed two-hundred (200).
 - (4) Finish surfaces of plastic bathtubs, shower units, and tub or shower doors must not exceed a flame spread of two-hundred (200).
 - (5) A burner of a surface cooking unit must not be closer than twelve (12) horizontal inches to a window or an exterior door.
- f. The bottom and sides of combustible kitchen cabinets over cooking ranges to a horizontal distance of six (6) inches from the outside edge of the cooking range must be protected with at least five-sixteenths (5/16) inch thick gypsum board or equivalent limited combustible material. One-inch (1") nominal framing members and trim are exempted from requirement. The cabinet area over the cooking range or cook tops must be protected by a metal hood with not less than a three (3) inch eyebrow projecting horizontally from the front cabinet face. The five- sixteenths (5/16) inch thick gypsum board or equivalent material which is above the top of the hood may be supported by the hood. A three-eighths (3/8) inch enclosed air space shall be provided between the bottom surface of the cabinet and the gypsum board or equivalent material. The hood shall be at least as wide as the cooking range.

- (1) The metal hood will not be required if there is an oven installed between the cabinet and the range.
 - (2) Ranges must have a vertical clearance above the cooking top of not less than twenty-four (24) inches to the bottom of combustible cabinets.
 - g. Carpeting must not be used in a space or compartment designed to contain only a furnace and/or water heater. Carpeting may be installed in other areas where a furnace or water heater is installed, provided that it is not located under the furnace or water heater.
 - h. All units with roofs added after construction will require a professional engineer to inspect the roof to determine that the roof and unit can withstand the rigors of a winter or wind uplifts that may occur.
 - i. A person holding a master license issued by The Oil and Solid Fuel Examining Board must inspect and certify that the heating and fuel system meet the requirements of NFPA-31 - Installation of Oil Burning Equipment as adopted by that Board.
 - j. A person holding a master license issued by The Maine Electricians Examining Board shall inspect and certify that the electrical system is safe and meets the National Electrical code in effect at the time the unit was constructed.
17. All water carried sewage shall be disposed of by means of one of the following:
- a. A public sewer system. Any mobile home park located within five-hundred (500) feet of an existing public sewer must connect to that existing public sewer if the municipal system has the capacity to accept the volume of sewage to be produced by the mobile home park.
 - b. A centralized private sewer system approved by the Department of Human Services, serving each mobile home lot in the mobile home park.
 - c. Individual subsurface sewage systems meeting the requirements of the State Plumbing Code.
18. The mobile home park must contain pedestrian walkways that link all units and all service and recreational facilities. Walkways must be adequately surfaced and lit. A portion of the road surface may be reserved for walkways provided the roadway width is increased accordingly. Walkways must be a minimum width of three (3) feet.
19. A storm drainage plan must be prepared by a professional engineer showing ditching, culverts, storm drains, easements, and other proposed improvements sufficient to accommodate a twenty-five (25) year storm.

20. At least three-hundred (300) cubic feet of enclosed tenant storage facilities must be conveniently provided near each mobile home lot for the storage of materials and equipment.
21. The park must provide permanent electrical, water and sewage disposal connections to each mobile home in accordance with applicable state and local rules and regulations.

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CHAPTER IX ZONES

A. ZONING DISTRICTS

For purposes of this chapter, the Town is hereby divided into zoning districts.

1.	Village Center	VC
2.	Village Residential	VR
3.	Village Business	VB
4.	District A	DA
5.	District B	DB
6.	Rural	R
7.	Light Industrial	LI
8.	Commercial	C
9.	Maritime Activity	MA
10.	Resource Protection	RP
11.	Wildlife Habitat Overlay	WH
12.	District D	D

B. ZONING MAP

The zoning districts and Shoreland zone of the Town are shown on a map entitled “Newcastle Land Use District Map”, dated April 1, 2012, prepared by Northern Geomantics of Hallowell, Maine and certified by the Town Clerk, with all explanatory matter thereon, is hereby made a part of this chapter.

1. Field verification of any distance indicated on the map from the normal high-water line of the water body or the upland edge of the wetland or the 100-year floodplains when associated with rivers and adjacent to tidal waters in the Shoreland zone is required to determine the actual boundary of the zone.
2. Regardless of the existence of other printed copies of the zoning map which, from time to time, may be made or published, the official zoning map filed in the municipal office of the Town shall be the final authority as to the current zoning status of the land and water areas, buildings and other structures in the Town.
3. Where no District Boundaries are indicated in Subparagraph C of this Chapter, below, the Map shall control and define the Zones of Newcastle.

C. ZONING DISTRICT BOUNDARIES

The following criteria shall control:

1. District boundary lines are the center lines of streets or other rights-of-way including waterways or lines paralleling such center lines at distances written on the map.

2. Where no dimensions are indicated, the graphic scale of the map shall be used.
3. Where uncertainty exists with respect to the boundary of any district, the following rules shall apply:
 - (a) Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such district boundaries;
 - (b) Where district boundaries are indicated as approximately following the center lines of roads, streets, highways, streams, rivers or other public/semi-public rights-of-way, such center lines shall be construed to be such boundaries;
 - (c) Where uncertainty exists in determining the precise location of any district boundary line, the planning board shall interpret the intent and purpose of the zoning map.

The **Village Center District VC** is that part of the Newcastle village from the Business Route 1 bridge to the “private way” south of Map 12, Lot 22 around the curve of Business Route 1, including also 150 feet west of the centerline of Mills Road and Business Route 1, south of the Academy Hill Road Intersection to a depth of 150 feet from the centerline of the roads. Specifically, this includes much of Map 12, Lots 22, 30, 31, 31A, 32, 32A, 33, 35 and 36 and Map 13, Lots 16, 34, 35, 37, 38, 38A, 69, 71, 83. It also includes the portions of Map 12, Lot 23 and 24 and Map 13, Lots 16 and 68 that are within 150 feet of the centerline of Maine Street or of Academy Hill and excluding the portions of all those lots deeper than 150 feet from the centerline of the respective roads.

The **Commercial District C** is located along U.S. Route One for two-thousand (2,000) feet in the southwesterly direction and twenty-five-hundred (2,500) feet in the northeasterly direction from the intersection with the Sheepscot Road, to a depth of one-thousand (1,000) feet on the southern side and five (500) feet on the northern side from the edge of the right-of-way of U.S. Route One.

The **Light Industrial District LI** is located on the southeasterly side of U.S. Route 1 to a depth of two-thousand (2,000) feet from the edge of the right-of-way, from the junction of the Lynch Road for a distance of thirty-five-hundred (3,500) feet northeasterly along U.S. Route 1.

The **Maritime Activity District MA** is that area on the river side of Pleasant Street, at Map 11, Lots 40 and 40-A only that comprises the land of Riverside Boat Company.

The **Resource Protection District RP** is that part of the Town that is located in any part of the Shoreland zone as identified on the Shoreland zoning map, or elsewhere

which contains endangered species as identified by the Department of Fisheries and Wildlife or unique natural sites as identified on the zoning map.

The **Wildlife Habitat Overlay District WH**, is an overlay district in other districts that is a D-2 or D-3 deer yard area or other significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife.

Repealer: The map entitled "Newcastle Land Use District Maps", dated February 1997 prepared by Maine Mapping Service of Damariscotta, Maine and certified by the Town Clerk in 1997 is hereby declared as superseded and shall no longer be deemed in force.

Repealer: The map entitled "Newcastle Land Use District Maps", dated April 2009 prepared by Northern Geomatics of Hallowell, Maine and certified by the Town Clerk in 2009 is hereby declared as superseded and shall no longer be deemed in force.

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CHAPTER X - DISTRICT STANDARDS

SUBCHAPTER 1: REGULATIONS FOR ALL ZONES

The following Maximum Floor Area Regulation applies to all use districts;

1. Maximum structure gross floor area for a “single retail or service establishment”: notwithstanding any other provision of this Code, no single retail or service establishment, whether located in a single structure, a combination of structures, single tenant space, or aggregate of structures or tenant spaces in an aggregate of structures, shall exceed 35,000 square feet of gross floor area. All adjacent retail or service establishments which share a common check stand, management, controlling ownership or storage areas shall be considered a “single retail or service establishment” and their aggregate square footage of floor area shall be used to determine compliance with the standards of this Code. This maximum gross floor area restriction shall apply to all new, retail or service establishments and to all expansions of existing retail or service establishments.

2. In all districts except Newcastle Village Districts; off-street parking shall be provided. It may include garage space and driveways, but not access roads up to twenty (20) feet in width. A minimum number of parking spaces provided for any single retail or service establishment shall not exceed 175 spaces. All adjacent retail or service establishments which share a common check stand, management, controlling ownership or storage areas shall be considered a “single retail or service establishment” and their aggregate number of parking spaces shall be used to determine compliance with the standards of this Code. Minimum parking area requirement standards shall be as follows:

Applicable date: Notwithstanding 1 M.R.S.A. § 302, upon becoming, this amendment is applicable retroactively to January 29, 2005.

Effective Date: This amendment becomes effective on the date of enactment by the Newcastle Town Meeting March 27, 2006.

A. PURPOSES

The purposes of this chapter are to assign zones to protect valuable present properties from encroachment from other activities, to allow each type of activity space to expand in like manner and to form a harmonious whole for the Town.

Table of Land Uses

All land activities as indicated in Table DS-1, Land Uses in Newcastle Zoning Districts, shall conform to all the applicable land use standards below. The district designation for a particular site shall be determined from the zoning map overlay on the parcels of land recognized by the assessors of Newcastle on the official Tax Maps.

CHAPTER X - DISTRICT STANDARDS

TABLE DS-1

District (see previous page)	Village Center	Village Residential	Village Business	District A	District B	District D	Rural	Light Industrial	Commercial	Maritime Activities	Resource Protection	Wildlife Habitat
Permitted uses/ District Abr.	VC	VR	VB	DA	DB	D	Rural	LI	C	MA	RP	WH
Dwellings, not mobile	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	SE	note1 0
Mobile Homes	No	No	No	No	No	Yes	Yes	Yes	Yes	No	SE	note 10
Apartments, Max 6 units	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	SE	note 10
Condominiums, Max 6 units	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	SE	note 10
Accessory Buildings Home Occupations & Bed & Breakfasts of 4 rooms or less	PB Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	SE	note 10
Agriculture Forest & Timber Managment	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	SE	note 10
Sale on farm of farm produce	No	No	No	No	No	Yes	Yes	Yes	Yes	No	SE	note 10
Camping (5acre minimum)	No	No	No	No	No	Yes	Yes	Yes	Yes	No	SE	note 10
Community&Public Buildings	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	SE	note 10
First Floor Commercial use required	Yes Note 1h	No	No	No	No	No	No	No	No	No	No	No note 10
Professional Offices	Yes	SE	Yes	No	No	SE	SE	SE	AS	Yes	No	note 10
Retail&Service establishment	Note 1e	SE	Yes	No	No	SE	SE	SE	AS	Yes	No	note 10
Transient Lodging	Yes	SE	Yes	No	No	No	No	No	No	Yes	No	note 10
Light Manufacturing Medium Manufacturing	Note 1a	No	No	No	No	SE	SE	SE	AS	note 10	No	note 10
Mobile Home Park	No	No	No	No	No	SE	SE	No	No	No	No	Note 10
Water related uses	Yes	No	No	No	No	No	No	No	No	Yes	No	Note 10
Permitted Use Standards		Note2		note 4		Note 5A	Note5	Note6	Note7	Note8	note9	note 10
Minim Lot Size Public Sewer	Note 1c	10,000	10,000	2 acre	1acre	1acre	1acre	0	0			

District (see previous page)	Village Center	Village Residential	Village Business	District A	District B	District D	Rural	Light Industrial	Commercial	Maritime Activities	Resource Protection	Wildlife Habitat
Minim Lot Size Septic	Note 1c	20,000	10,000	2acres	1acre	1acre	1acre	0	0			
Minim Lot per Princ Bl Sewer	Note 1c	10,000	10,000	2acres	1acre	1acre	1acre	0	0			
Min Lot per Princ Bl Septic	Note 1c	20,000	10,000	2acres	1acre	1acre	1acre	0	0			
Minim Lot per Dwl sewer	Note 1b	10,000	10,000	2 acres	1acre	1acre	1acre	0	0			
Minim Lot per Dwl septic	Note 1c	20,000	10,000	2acres	1acre	1acre	1acre	0	0			
Minim Street Frontage	0'	100'	0	200'	100'	100'	100'					
Minim Front Yard Set Back	5'	30'	30	30'	30'	30'	30'					
Minim Side&Rear Yard Setback	15'	15'	15'	50'	15'	15'	15'					
Building Maxim Height	3 Str.	3 Str.	3Str	3Str	3Str	3Str	3Str	none	none	3Str		
Minim Water setback	All Districts see Chap XI Shoreland Standards											
Minim Shore Frontage	Note 1f All Districts see Chap XI Shoreland Standards											
Special Exception Standards	Note 1g	Note2	-	None	None	Note7	Note7					
Minim Frontage	Note 1c	-	-	-	-			200	200			
Mimim Lot Size	-	1acre	1acre	-	-	1acre	1acre	-	-			
Front Yard Setback	-	50'	50'	-	-	50'	50'	50'	50'			
Side Yard Setback	-	30'	50'	-	-	50'	50'	-	-			
Adequate Parking Required	-	Yes	-	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Manufacturing Setback	-	-	-	-	-	Note 5A	Note5	-	-	-	-	0

Key to Table DS-1

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

No – Prohibited

PB – Requires permit issued by the Planning Board

CEO – Requires permit issued by the Code Enforcement Officer

SE – Requires Special Exception permit issued by the Board of Appeals

AS – Additional Standards apply, see respective notes below

Abbreviations:

Minim = minimum

Max = maximum

Lot size or lot = area in square feet

Septic = Private Septic System

PincB = Principal Building

Unit = dwelling units allowed per building

DWL = dwelling

3 str = 3 stories maximum, not to exceed forty (40) feet

None = no special exceptions allowed

Adequate Parking = adequate on-site parking will be provided as per Chapter XIII E. of this Code

Yard = required setback space including all buildings and parking.

Front Yard = required setback space at front or both fronts on corner lot (see Chapter XIII J).

Side Yard = required setback space at rear, or side of lesser street.

“Public Buildings” includes public utilities and public recreation facilities.

For all districts minimum setback from the water shall be as established in Chapter XI, Shoreland Standards.

NOTES

Note 1. Village Center District

(1)(a) Light Manufacturing is not allowed except for retail shops where on-site production of items is incidental to retail sales.

(1)(b) Minimum lot size per dwelling unit on sewer: (i) Single and multi-family residences: 7,500 square feet. (ii) To encourage commercial uses on the ground floor

frontage of structures in the Village Center District, a density bonus is given for buildings with mixed commercial and residential use, defined as the entire ground floors or parking; upper floors shall be residential. In such buildings the minimum lot size is 3,600 square feet per dwelling unit in the residential portion. The commercial portion may be converted to residential units only by complying with (1)(b)(i), above.

(1)(c) All lots must be on and make use of public sewer.

(1)(d) Special Exceptions are not allowed in the Village Center District.

(1)(e) Retail and Service establishments are allowed, but all franchise or national brand identified retail stores, regardless of size, are required to follow the LSD standards of Chapter XIII P. Drive through retail sales are prohibited.

(1)(f) For parcels within the state Shoreland Zone, the uses in the table are permitted subject to the additional use standard: Minimum shore frontage per building: one hundred (100) feet.

(1)(g) On-site parking is required. For single and multi-family residences and non-mixed commercial use: parking as required by Chapter XIII E, except (i) for apartments and condominiums, additional visitor parking shall be one (1) space for each otherwise required four (4) spaces; (ii) a parking bonus for mixed commercial and residential use, as defined above, is given by requiring 60% of the sum of the normal parking requirements for the residential and commercial uses that would be required by Chapter XIII E. One dedicated parking space per residential unit shall be included in the number of parking spaces required; (iii) each space shall conform to the following minimum standards:

Parking Angle	Stall Width	Skew Width	Stall Depth
90	9'		18'5"
60	8'6"	10'5"	16'
45	8'	12'9"	17'5"
30	8'	17'	12'
Parallel	9'	n/a	20'

(iv) no parking shall be sited between the front façade of any new principal buildings and the primary abutting streets; (v) parking and driveways are allowed within the sideyard setback.

Note 2. Village Residential District. VR

Special exceptions are limited to those allowed in the table; to obtain a special exception the following minimum standards must be met:

- (1) All permitted use standards not superseded shall apply.
- (2) Only buildings existing on April 1, 1986, may be used, with aggregate additions or new construction not to exceed fifty percent (50%) of the foundation square footage on that date.
- (3) No outside sales or storage of material or equipment is permitted.
- (4) The aggregate of paved and building area does not exceed fifty percent (50%) of the lot surface.
- (5) Except for transient lodging, the hours of operation including truck deliveries are limited to the period from 6:00 AM to 10:00 PM.

(6) Natural landscaping designed to maintain the residential nature of the area shall be provided.

(7) Sign size may not exceed six (6) square feet for each use unit, with a maximum of twelve (12) square feet for all signs on each lot.

(8) The applicant shall provide proof of adequate water and sewerage to support the proposed use and that the proposed use will not impair the water supply or water quality for existing uses.

(9) Adequate on-site parking will be provided as per Section XII of this Code.

Note 3. Village Business District. VB

Special exceptions are allowed as follows, only in that portion of the District located along Main Street between the Route One overpass and the railroad tracks, and are limited to the following uses:

(1) Light Manufacturing.

To obtain a special exception, the following minimum standards must be met (also note acreage and required yards in table):

(a) The aggregate of paved and building area does not exceed fifty percent (50%) of the lot surface.

(b) If a residence is located within two hundred fifty (250) feet of a manufacturing business, the hours of manufacturing are limited to the period from 6:00 AM to midnight.

(c) Natural Landscaping shall be provided to screen manufacturing facilities, equipment and bulk materials.

(d) Sign size may not exceed one hundred (100) square feet aggregate for the lot. Signs may not be self-illuminated.

(e) The applicant shall provide proof of adequate water supply and sewerage to support the proposed use and that the proposed use will not impair the water supply or water quality for existing uses.

Note 4. District A. DA

Minimum road frontage, each: two hundred (200) feet per first principal structure with fifty (50) additional feet for each dwelling unit or principal structure in excess of one (1).

Note 5. Rural District. R

Camping areas are allowed on sites of at least five (5) acres.

Sale of farm produce is allowed on farm premises.

Special exceptions are allowed as in Table DS-1, the following minimum standards must be met:

(1) All permitted use standards must apply unless herein superseded.

(2) The following minimum lot sizes apply:

(a) Minimum lot size: one (1) acre

(b) Minimum lot size for each lot in a mobile home park:

(i) Served by a public sewer: sixty five hundred (6,500) square feet

(ii) Served by a central on-site subsurface waste water disposal system: twelve thousand (12,000) square feet.

(iii) All others: twenty thousand (20,000) square feet

(3) Mobile home parks are allowed as special exceptions subject to the provisions of Chapter VIII.

(4) For mobile home parks, the roads within the park shall conform to the road standard for Subdivisions, Chapter V, if intended to be offered to the Town as a public way, or to the road construction standards of the Manufactured Housing Board, if retained as private ways.

(5) The mobile home park owners shall provide documentation demonstrating an adequate and appropriate administrative and management organization for the park, with adequate sources of funding to maintain common facilities, including road and utility maintenance and road snowplowing.

(6) No manufacturing use is permitted in an area or structure located within five hundred (500) feet of another use district that does not allow that use either by permitted use or special exception Use, except that along U.S. Route One, that setback from the District A zone shall be three hundred (300) feet.

(7) Setbacks including all buildings and parking are as follows:

(a) For manufacturing structures a minimum of fifty (50) feet front, side and rear yard setbacks, with an additional ten (10) feet setback for each additional one thousand (1,000) square feet of building area over two thousand (2,000) square feet, up to a maximum of a one hundred fifty (150) foot setback.

(b) Along U.S. Route 1, for manufacturing structures and their parking, the setback shall be two hundred (200) feet from the centerline of U.S. Route One.

(c) For all other lots:

(i) Front yard setback: fifty (50) feet

(ii) Side and rear yards setback : fifty (50) feet

(8) The aggregate of paved and building area may not exceed fifty percent (50%) of the lot surface.

(9) If a residence is located within two hundred (250) feet of the area or structures of a manufacturing business, the hours of manufacturing are limited to the interval from 5:00 AM to midnight.

(10) Natural landscaping shall be provided to screen manufacturing facilities, equipment and bulk storage, and mobile home parks, within the outside twenty five (25) feet of the fifty (50) foot setback strip.

(11) The applicant shall provide proof of adequate water supply and sewerage to support the proposed use and that the proposal will not impair

the water supply or water quality of existing uses.

(12) Adequate on-site parking will be provided as required by this ordinance.

(13) On each lot existing on the date of enactment of this ordinance, access to Route One shall be limited to access roads no closer than five hundred (500) feet from any other access road on that lot, except as exist on the date of enactment. Interior road easements to that access road shall meet the minimum setback.

Note 5A. District D. D

Camping areas are allowed on sites of at least five (5) acres.

Sale of farm produce is allowed on farm premises.

Special exceptions are allowed as in Table DS-1, the following minimum standards must be met:

(1) All permitted use standards must apply unless herein superseded.

(2) The following minimum lot sizes apply:

(a) Minimum lot size: one (1) acre

(b) Minimum lot size for each lot in a mobile home park:

(i) Served by a public sewer: sixty five hundred (6,500) square feet

(ii) Served by a central on-site subsurface waste water disposal system: twelve thousand (12,000) square feet.

(iii) All others: twenty thousand (20,000) square feet

(3) Mobile home parks are allowed as special exceptions subject to the provisions of Chapter VIII.

(4) For mobile home parks, the roads within the park shall conform to the road standard for Subdivisions, Chapter V, if intended to be offered to the Town as a public way, or to the road construction standards of the Manufactured Housing Board, if retained as private ways.

(5) The mobile home park owners shall provide documentation demonstrating an adequate and appropriate administrative and management organization for the park, with adequate sources of funding to maintain common facilities, including road and utility maintenance and road snowplowing.

(6) No manufacturing use is permitted in an area or structure located within five hundred (500) feet of another use district that does not allow that use either by permitted use or special exception Use, except that along U.S. Route One, that setback from the District A zone shall be three hundred (300) feet.

- (7) Setbacks including all buildings and parking are as follows:
- (a) For manufacturing structures a minimum of fifty (50) feet front, side and rear yard setbacks, with an additional ten (10) feet setback for each additional one thousand (1,000) square feet of building area over two thousand (2,000) square feet, up to a maximum of a one hundred fifty (150) foot setback.
 - (b) Along U.S. Route 1, for manufacturing structures and their parking, the setback shall be two hundred (200) feet from the centerline of U.S. Route One.
 - (c) For all other lots:
 - (i) Front yard setback: fifty (50) feet
 - (ii) Side and rear yards setback : fifty (50) feet
- (8) The aggregate of paved and building area may not exceed fifty percent (50%) of the lot surface.
- (9) If a residence is located within two hundred (250) feet of the area or structures of a manufacturing business, the hours of manufacturing are limited to the interval from 5:00 AM to midnight.
- (10) Natural landscaping shall be provided to screen manufacturing facilities, equipment and bulk storage, and mobile home parks, within the outside twenty five (25) feet of the fifty (50) foot setback strip.
- (11) The applicant shall provide proof of adequate water supply and sewerage to support the proposed use and that the proposal will not impair the water supply or water quality of existing uses.
- (12) Adequate on-site parking will be provided as required by this ordinance.
- (13) On each lot existing on the date of enactment of this ordinance, access to Route One shall be limited to access roads no closer than five hundred (500) feet from any other access road on that lot, except as exist on the date of enactment. Interior road easements to that access road shall meet the minimum setback.

Note 6. Light Industrial District. LI

a. The uses in the table are permitted, subject to obtaining a special exception for the use. The minimum standards in the Rural District must be met and the following minimum standards must be met:

- (1) All permitted use standards apply unless herein superseded.
- (2) The following minimum lot sizes apply for a lot in a mobile home park:
 - (i) Served by a public sewer: sixty five-hundred (6,500) square feet
 - (ii) Served by a central on-site subsurface wastewater disposal system: twelve thousand (12,000) square feet
 - (iii) All others: twenty thousand (20,000) square feet

b. The following additional standards for special exception uses shall also apply in this district.

- (1) Minimum road frontage: two hundred (200) feet
- (2) Minimum setback: fifty (50) feet from the edge of the Route One right-of-way. This area is to be kept in natural landscaping with the access/egress road at right angles to Route One.
- (3) Along U.S. Route 1, for manufacturing structures and their parking, the setback shall be two hundred (200) feet from the centerline of U.S. Route 1.
- (4) The aggregate of paved and building area may not exceed fifty percent (50%) of the lot surface.
- (5) If a residence is located within two hundred (250) feet of the area or structures of a manufacturing business, the hours of manufacturing are limited to the interval from 6:00 AM to midnight.
- (6) Natural landscaping shall be provided to screen manufacturing facilities, equipment and bulk storage, and mobile home parks, within the outside twenty-five (25) feet of the fifty (50) foot setback strip.
- (7) The applicant shall provide proof of adequate water supply and sewerage to support the proposed use and that the proposal will not impair the water supply or water quality of existing uses.
- (8) Adequate on-site parking will be provided as per Section XI of this ordinance.

Note 7. Commercial District. C

The uses in the table are permitted subject to the additional use standards below:

- (1) Minimum setback: fifty (50) feet from the edge of the Route One right-of-way. This area is to be kept in natural landscaping with the access/egress road at right angles to Route One.

Note 8. Maritime Activity District. MA

- (1) All uses that are functionally water-dependent uses are permitted in Maritime Activity District, except heavy manufacturing use.
- (2) Permitted Use Standards
 - a. Operation may not allow outside the premises offensive odors or noise, which would be unacceptable or unusual in traditional maritime communities.

- b. The additional use standards of the Light Industrial District shall also apply to Professional Offices, Retail and Service Establishments, Light Manufacturing and Medium Manufacturing.
- (3) Minimum setback from the water shall be as established in Chapter XI, Shoreland Standards, Section 15.B.
- (4) Minimum shore frontage per dwelling unit: one hundred fifty (150) feet.

Note 9. Resource Protection District. RP

The following uses are permitted in Resource Protection:

Forest management activities consistent with state harvesting regulations.

- (1) The following uses are permitted by Special Exception:
 - a. All permitted uses in Rural District R are special exception uses.
 - b. All permitted uses in Commercial District C are special exception uses.
- (2) To obtain a special exception, the following minimum standards must be met:
 - a. The permitted use standards applicable to the specific use in Rural District R or Commercial District C are to apply;
 - b. The use may not unreasonably interfere with or damage the protected natural resources of the district;
 - c. The use shall be consistent with resource management plans that minimize any negative effect on wildlife or natural resources, as reviewed by the appropriate state agency; and
 - d. Timber harvesting shall be consistent with state harvesting regulations.

Note 10. Wildlife Habitat Overlay District. WH

The Wildlife Habitat Overlay District is an overlay district in other districts that is a D-2 or D-3 deer yard area or other significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife.

(1) Permitted and Special Exception Uses.

Uses that would be permitted or special exception uses in that district if it were not for the Wildlife Habitat Overlay District are allowed, provided that in addition to the district's requirements, the proposed use has been reviewed by the Department of Inland Fisheries and Wildlife, and wildlife management recommendations have been delivered to the landowner.

(2) Timber harvesting shall be a special exception, to be allowed if consistent with State harvesting regulations and the resource protection standards within the state Shoreland district, or to deviate from those standards, the written plan of a Department of Inland Fisheries and Wildlife biologist.

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CHAPTER XI SHORELAND STANDARDS

1. **Purposes.** The purposes of this Chapter are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.
2. **Authority.** This Chapter has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
3. **Applicability.** This Chapter applies to all land areas within two-hundred-fifty (250) feet, horizontal distance, of the
 - normal high-water line of any great pond or river,
 - upland edge of a coastal wetland, including all areas affected by tidal action, or
 - upland edge of a freshwater wetland,

and all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

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

4. **Effective Date.** This Chapter, which was adopted by the municipal legislative body on June ___ 2009, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Chapter, or Chapter Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Chapter or Chapter Amendment, within forty-five (45) days of his/her receipt of the Chapter, or Chapter 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 Chapter, or Chapter Amendment, if the Chapter, or Chapter Amendment, is approved by the Commissioner.

Effective Date of Sections 15(O) and 15(O-1). Section 15(O) is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time Section 15(O-1) shall become effective. Until such time as Section 15(O) is repealed, Section 15(O-1) is not in effect.

5. **Availability.** A certified copy of this Chapter 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 Chapter shall be posted.
6. **Severability.** Should any section or provision of this Chapter be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Chapter.
7. **Conflicts with Other Chapters.** Whenever a provision of this Chapter conflicts with or is inconsistent with another provision of this Chapter or of any other Chapter, regulation or statute administered by the municipality, the more restrictive provision shall control.
8. **Amendments.** This Chapter may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.
9. **Districts and Zoning Map**
 - A. **Official Shoreland Zoning Map.** The areas to which this Chapter is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Chapter:
 - (1) Resource Protection
 - (2) Limited Residential
 - (3) Limited Commercial
 - (4) Maritime Activities
 - (5) Stream Protection
 - B. **Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.
 - C. **Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.

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

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

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

12. Non-conformance.

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

B. General

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

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

C. Non-conforming Structures

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

- (a) Legally existing non-conforming 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 all other applicable standards contained in this Ordinance are met.
- i. Expansion of any portion of a structure within 25 feet, horizontal distance, 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.
 - ii. 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 or wetland setback requirement.
 - iii. For structures located less than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total floor area for all portions of those structures within that 75-foot distance is 1,000 square feet, and the maximum height of any portion of a structure that is within 75 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 20 feet or the height of the existing structure, whichever is greater.
 - iv. For structures located less than 100 feet, horizontal distance, from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total floor area for all portions of those structures within that 100-foot distance is 1,500 square feet, and the maximum height of any portion of a structure that is within 100 feet, horizontal distance, of a great pond is 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet, horizontal distance from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the floor area and height limits of division (iii).

For the purposes of Section 12(C)(1)(a), a basement is not counted toward floor area.

- (b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure, it shall not be considered to be an expansion of the structure.

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

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

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

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

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
- (3) Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the

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

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

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

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

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

D. Non-conforming Uses

- (1) Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1)(a) above.
- (2) Resumption Prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
- (3) Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(4) above.

E. Non-conforming Lots

- (1) Non-conforming Lots: A non-conforming lot of record as of the effective date of this Chapter 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 Chapter 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 Chapter, if all or part of the lots do not meet the dimensional requirements of this Chapter, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that 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 April 2, 1994, and recorded in the registry of deeds, 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 Chapter.

- (3) Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Chapter, if any of these lots do not individually meet the dimensional requirements of this Chapter 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 April 2, 1994, and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

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

13. Establishment of Districts

A. Resource Protection District. The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial, General Development I, or Commercial Fisheries/Maritime Activities Districts need not be included within the Resource Protection District.

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

- (2) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- (3) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- (4) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
- (5) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.
- (6) Certain other land areas which have been recommended for protection in the Comprehensive Plan for the Town of Newcastle because they represent important wildlife habitat or natural sites of significant scenic and esthetic value deserving of protection from development, all as noted on the Town of Newcastle's Official Shoreland Zoning Maps.

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

C. Limited Commercial District. The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the General Development Districts. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

D. General Development I District. The General Development I District includes the following types of existing, intensively developed areas:

- (1) Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:

- (a) Areas devoted to manufacturing, fabricating or other industrial activities;
- (b) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
- (c) Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.

(2) Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

E. General Development II District. The General Development II District includes the same types of areas as those listed for the General Development I District. The General Development II District, however, shall be applied to newly established General Development Districts where the pattern of development at the time of adoption is undeveloped or not as intensively developed as that of the General Development I District.

Portions of the General Development District I or II may also include residential development. However, no area shall be designated as a General Development I or II District based solely on residential use.

In areas adjacent to great ponds classified GPA and adjacent to rivers flowing to great ponds classified GPA, the designation of an area as a General Development District shall be based upon uses existing at the time of adoption of this Ordinance. There shall be no newly established General Development Districts or expansions in area of existing General Development Districts adjacent to great ponds classified GPA, and adjacent to rivers that flow to great ponds classified GPA.

F. Maritime Activities District. The Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses, Section 14, and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:

- (1) Shelter from prevailing winds and waves;
- (2) Slope of the land within 250 feet, horizontal distance, of the shoreline;
- (3) Depth of the water within 150 feet, horizontal distance, of the shoreline;
- (4) Available support facilities including utilities and transportation facilities; and
- (5) Compatibility with adjacent upland uses.

The Town of Newcastle identifies the Maritime Activity District, as established by the Newcastle Land Use Ordinance Chapter IXC(3), as a Maritime Activities

District. This District is that area on the river side of Pleasant Street, at Map 11, Lots 40 and 40-A only that comprises the land of Riverside Boat Company.

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

H. Village Center District. The Town of Newcastle also identifies the Village Center District, as established in the Newcastle Land Use Ordinance Chapter IXC(3), which is that part of the Village Business District that is located on the southerly side of Main Street along the Damariscotta River shore from the Park to the Damariscotta River Bridge.

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

TABLE SS-1. LAND USES IN THE SHORELAND ZONE

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

Key to Table SS-1:

- Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)
- No - Prohibited
- PB - Allowed with permit issued by the Planning Board.
- CEO - Allowed with permit issued by the Code Enforcement Officer
- LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

- | | |
|--------------------------|---|
| RP - Resource Protection | GD General Development I and General Development II |
| LR - Limited Residential | MA - Maritime Activities |
| LC - Limited Commercial | SP - Stream Protection |

Table SS-1 Notes

- ¹In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.
- ²Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.
- ³In RP not allowed in areas so designated because of wildlife value.
- ⁴Provided that a variance from the setback requirement is obtained from the Board of Appeals.
- ⁵Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).
- ⁶See further restrictions in Section 15(L)(2).
- ⁷Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.
- ⁸Except as provided in Section 15(H)(3).
- ⁹Single family residential structures may be allowed by special exception only according to the provisions of Chapter XI, Section A-1(E), Special Exceptions. Two-family residential structures are prohibited.
- ¹⁰Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.
- ¹¹Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
- ¹²Permit not required but must file a written "notice of intent to construct" with CEO.

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

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

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

A. Minimum Lot Standards

(1) The minimum lot standards are:	Minimum Lot Area in Square Feet	Minimum Shore Frontage in Feet
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	30,000	150
(ii) Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200

Note: The Village Business District and Village Center District Standards in Chapter X of the Newcastle Land Use Ordinance provide for greater residential densities in those areas served by municipal water and sewer systems. It is the intent of this ordinance that in those districts, those standards shall apply.

(b) Governmental, Institutional, Commercial or Industrial per principal structure		
(i) Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for Village Center and Maritime Activities	40,000	200
(ii) Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for Village Center and Maritime Activities	SEE Maritime Activities and Village Center District Standards in Chapter X of the Newcastle Land Use Ordinance	
(iii) Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Village Center and Maritime Activities	60,000	300
(c) Public and Private Recreational Facilities		
(i) Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	40,000	200

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

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

- (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- (5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use except in Village Center District which shall meet the standards of Chapter X.

B. Principal and Accessory Structures

- (1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development I District the setback from the normal high-water line shall be at least twenty five (25) feet, horizontal distance, and in the Village Center and Maritime Activities District there shall be no minimum setback, except for residential and other structures not associated with water dependant uses, which shall be set back seventy-five (75) feet from the normal high water mark. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- (b) For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.
- (c) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as

far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

- (d) The Planning Board is authorized to increase the required setback of a proposed structure, as a condition to permit approval, if necessary to accomplish the purposes of this ordinance. Instances where a greater setback may be appropriate include, but are not limited to: areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.
- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
- (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
- (4) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the General Development District adjacent to tidal waters and rivers that do not flow to great ponds classified GPA, and in the Village Center and Maritime Activities District, where lot coverage shall not exceed seventy (70) percent.
- (5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
 - (a) The site has been previously altered and an effective vegetated buffer does not exist;
 - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - (b) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - (c) The total height of the wall(s), in the aggregate, are no more than 24 inches;

- (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
- (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
- (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (iii) Only native species may be used to establish the buffer area;
 - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;
- (6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

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

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

- (4) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with 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.
- (5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- (6) New permanent piers and docks 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.
- (7) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (8) Except in the General Development Districts and 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.

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) 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.

- (3) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (4) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- (5) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- (6) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

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

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

G. Parking Areas

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Maritime Activities District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development I District and Maritime Activities District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
 - (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - (b) Internal travel aisles: Approximately twenty (20) feet wide.

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

- (1) Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

Section 15 (H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to

permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

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

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

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
 - (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
 - (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

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

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

J. Storm Water Runoff

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

K. Septic Waste Disposal

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

L. Essential Services

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

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

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(3) below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
- (3) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one

hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

- (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
 - (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (4) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture

- (1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback

provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

O. Timber Harvesting

(1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:

(a) Within the strip of land extending 75 feet inland from the normal high-water line in a shoreland area zoned for resource protection abutting a great pond there shall be no timber harvesting except to remove safety hazards.

(b) Beyond the 75 foot strip referred to in Section 15(O)(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.

(2) Except in areas as described in Section 15(O)(1) above, timber harvesting shall conform with the following provisions:

(a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:

(i) Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

(ii) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5,000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.

(b) Timber harvesting operations exceeding the 40% limitation in Section 15(O)(2) (a) above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of

Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.

- (c) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
- (d) Timber harvesting equipment shall not use stream channels as travel routes except when:
 - (i) Surface waters are frozen; and
 - (ii) The activity will not result in any ground disturbance.
- (e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- (f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- (g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

O-1. Timber Harvesting – Statewide Standards [Effective on effective date established in Section 4(B)]

- (1) Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.

- (2) Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 15(O-1)(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.
- (a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
- (b) Adjacent to great ponds, rivers and wetlands:
- (i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and
- (ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.
- (3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:
- (a) Option 1 (40% volume removal), as follows:
- (i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;
- (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
- (iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a freshwater or coastal wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.
- (b) Option 2 (60 square foot basal area retention), as follows:
- (i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of

which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;

(ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

(iii) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.

(c) Option 3 (Outcome based), which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

(4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.

(a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.

(b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.

(c) Setbacks:

(i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be

increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.

- (ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (5) Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15(O-1)(7) of this rule.
- (a) Land management roads and associated ditches, excavation, and fill must be set back at least:
 - (i) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater or coastal wetland;
 - (ii) 50 feet, horizontal distance, from the normal high-water line of streams; and
 - (iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams
 - (b) The minimum 100 foot setback specified in Section 15(O-1)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15(O-1)(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
 - (c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.
 - (d) New land management roads are not allowed within the shoreland area in a Resource Protection District, unless, prior to construction, the landowner or the

landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15(O-1)(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
 - (f) Road closeout and discontinuance. Maintenance of the water control installations required in Section 15(O-1)(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
 - (g) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 15(O-1). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
 - (h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15(O-1)(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
 - (i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.
- (6) Crossings of waterbodies. Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.
- (a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the

following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 15(O-1): The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.

- (b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15(O-1). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15(O-1).
- (c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
- (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
- (e) Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
 - (i) a map showing the location of all proposed permanent crossings;
 - (ii) the GPS location of all proposed permanent crossings;
 - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
 - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
- (f) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15(O-1)(6)(g) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
 - (i) concentrated water runoff does not enter the stream or tributary stream;
 - (ii) sedimentation of surface waters is reasonably avoided;
 - (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
 - (iv) fish passage is not impeded; and,
 - (v) water flow is not unreasonably impeded.

Subject to Section 15(O-1)(6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

- (g) Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:
- (i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.
 - (ii) Temporary bridge and culvert sizes may be smaller than provided in Section 15(O-1)(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:
 - 1. use of temporary skidder bridges;
 - 2. removing culverts prior to the onset of frozen ground conditions;
 - 3. using water bars in conjunction with culverts;
 - 4. using road dips in conjunction with culverts.
 - (iii) Culverts utilized in river, stream and tributary stream crossings must:
 - 1. be installed at or below river, stream or tributary stream bed elevation;
 - 2. be seated on firm ground;
 - 3. have soil compacted at least halfway up the side of the culvert;
 - 4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
 - 5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.
 - (iv) River, stream and tributary stream crossings allowed under Section 15(O-1), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.
 - (v) Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil

lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.

- (h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
 - (i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15(O-1)(6)(i) below.
 - (ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
 - (iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
 - (i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
 - (ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.
 - (iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:
 1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
 2. it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the river, stream or tributary stream channel; or
 3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(7) Slope Table

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 15(O-1), but in no case shall be less than shown in the following table.

Average slope of land between exposed mineral exposed soil and the shoreline (percent) and shoreline	Width of strip between mineral soil (feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

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

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

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

(2) Except in areas as described in Section P(1), above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

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

(b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified

GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

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

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

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

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

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

The following shall govern in applying this point system:

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

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

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

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 15(P)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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

- (4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).

Q. Erosion and Sedimentation Control

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to

the permitting authority for approval and shall include, where applicable, provisions for:

- (a) Mulching and revegetation of disturbed soil.
 - (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - (c) Permanent stabilization structures such as retaining walls or rip-rap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
- (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

R. Soils. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and

evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

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

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

- U. Cluster Development.** The provisions for cluster development in Chapter V, Subdivisions, may be applied when appropriate in the Shoreland Zone.

CHAPTER XII – EROSION, SEDIMENTATION CONTROL AND STORM WATER MANAGEMENT

A. EROSION AND SEDIMENT CONTROL

Erosion of soil and soil particles by water, wind, ice or gravity can occur whenever the surface of the ground is disturbed by a development activity. Erosion control practices are intended to prevent the onset of erosion while sedimentation control practices are necessary to compensate for erosion control practices that are not effective.

Erosion can be minimized by:

- Diffusing storm water where possible rather than concentrating it in ditches and culverts
- Where water cannot be diffused, directing it to culverts and stabilized ditches of adequate capacity and diverting it around disturbed areas
- Minimizing the area of exposed soil at any time
- Minimizing the creation of steep "cut" or "fill" slopes during construction but where unavoidable, stabilizing slopes as soon as possible after disturbance
- Preserving natural vegetative buffers between construction areas and water bodies
 - Maintaining maximum setbacks between construction and water bodies
 - Mulching bare soil immediately after disturbance
 - Reseeding as soon as possible

All projects Over 100 sq/ft of disturbed ground that requires a building permit from the Code Enforcement Officer or review and approval by the Planning Board shall conform to the requirements of Section I or 11, below, as applicable.

SECTION I.

Section I projects are classified as a project where there is ground disturbance of more than 100 sq/ft and less than or equal to 40,000 square feet of cumulative disturbed ground including where soil is stored.

The applicant shall submit an Erosion and Sedimentation Control Plan prepared in conformance with Section II projects or in conformance with the following requirements.

1. The Erosion and Sedimentation Control Plan shall include graphic and written plans and shall conform to the development standards in Section I.C, below.
 - A. The graphic plan shall include the following:
 - i. Grades or direction of slope on the site; slopes over 25% shall be identified

- ii. Areas that will be re-graded or where vegetation will be removed or disturbed
 - iii. Locations of temporary erosion control measures such as silt fence, sediment basins, check dams or diversion ditches
 - iv. Locations of permanent erosion control measures such as grassed or rip rapped ditches, plunge pools, ponds, berms or subsurface drainage structures
 - v. Areas that will be mulched and reseeded
 - vi. Locations where topsoil will be stockpiled
 - vii. Locations and composition of buffer strips to water bodies
 - viii. Existing and proposed culverts and sizes
- B. The written plan shall include the following:
- i. Description of plans for temporary seeding in conformance with U.S.D.A. standards or Appendix A, or recommendations from a certified professional in erosion and sediment control.
 - ii. Description of plans for permanent seeding in conformance with U.S.D.A. standards or Appendix B, or recommendations from a certified professional in erosion and sediment control.
 - iii. Description of plans for temporary mulching in conformance with U.S.D.A. standards or Appendix C, or recommendations from a certified professional in erosion and sediment control.
 - iv. Description of plans for temporary runoff control such as silt fencing or diversion ditches in conformance with U.S.D.A. standards or recommendations from a certified professional in erosion and sediment control.
- C. The Erosion and Sedimentation Control Plan shall meet the following development standards:
- i. A site shall be developed in such a way as to minimize erosion.
 - ii. Areas to be stripped or re-graded shall be protected by temporary erosion control measures.
 - iii. Temporary seeding and mulching shall be applied as soon as possible to exposed areas being developed but in no case more than 1 week from the time they were last actively worked.
 - iv. Until a disturbed area is stabilized, sediment in water shall be trapped in a sediment basin or similar erosion control structure.
 - v. Within 15 days of reaching final site grades, permanent seeding and erosion control shall be completed for all areas to be re-vegetated.
 - vi. On slopes greater than 25%, there shall be no grading or filling within 100 feet of the normal high-water mark except to protect the shoreline and prevent erosion.
 - vii. The applicant is responsible for maintenance of all aspects of temporary and permanent erosion control.
 - viii. Topsoil and fill stockpiles shall be at least 50 feet from all water bodies

and protected by suitable erosion control measures.

SECTION II - PROJECTS

Section II are classified as projects where there is ground disturbance of greater than 40,000 square feet of cumulative disturbed ground including where soil is stored.

An erosion and sedimentation control plan shall be prepared in accordance with the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, latest revision, prepared by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The plan shall be prepared either by a professional civil engineer or by a Certified Professional in Erosion and Sediment Control (CPESC). At a minimum, the following items shall be discussed and provided:

1. The name, address, and telephone number of the applicant.
2. The name, address, and telephone number of the person responsible for implementing the plan.
3. A vicinity map showing the location of water bodies that may be affected by erosion and sedimentation from the project.
4. Existing and proposed drainage patterns, including drainage channels that drain to surrounding water bodies.
5. A sequence of work that outlines how the project will be constructed and specifically addressing how soil disturbance will be minimized during the construction process.
6. Clear definition of the limits of work and any buffer areas that will remain undisturbed and an indication of how these areas will be protected during construction.
7. Description of temporary and permanent erosion control practices that will be used.
8. Identification of the locations of the temporary and permanent erosion control practices.
9. Identification of how, where and when collected sediment will be disposed.
10. Dust control measures.

11. Inspection and maintenance procedures, including schedule and frequency by the person responsible for implementing the plan.
12. Description of when and how temporary and permanent erosion and sedimentation control practices, as applicable, will be removed.

The Planning Board or CEO may require the review and endorsement of this plan by the Knox-Lincoln Soil and Water Conservation District at the applicant's expense.

Appendix A Temporary Seeding

Temporary seeding is for areas that will not be fine-graded for up to one year and is to be applied as follows:

1. Establish erosion and sedimentation control as shown in the graphic and written plans.
2. Loosen soil to a depth of 2 inches
3. Apply 13.8 lbs. of 10-1 0-10 fertilizer and 138 lbs. of limestone per 1,000 sqft. An equivalent mix may be substituted based on the results of soil testing.
4. Apply seed and temporary mulch (see Appendix C) as follows (for hydro seeding, increase seed rate by 10%). If seeding during these time periods is not possible, applicant must submit a written plan in conformance with requirements for temporary mulching in Appendix C.

Seeding Dates	Seeds	Pounds/1,000 sqft.	Seeding Depth
April 1 - July 1	oats	1.8	1"-1.5"
	annual ryegrass	0.9	.25"
May 15 - Aug. 15	Sudan grass	0.9	.5"-1"
Aug.15 -Sept. 15	winter rye	2.6	1"-1.5"
	oats	1.8	1"-1.5"
	perennial	0.9	.25"
Sept. 15 - Oct.1 st	winter rye	2.6	1"-1.5"

The applicant may propose alternative seeding in conformance with the recommendations of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices latest revision, prepared by the Knox Lincoln County Soil and Water Conservation District and the Maine Department of Environmental Protection.

Appendix B Permanent Seeding

Permanent seeding is for areas that require permanent vegetative cover to stabilize the soil or where rough-graded areas will not be fine-graded for more that one year and is to be applied as follows:

1. Establish erosion and sedimentation control as shown in the graphic and written plans.
2. Loosen soil to a depth of 4 inches.
3. Apply 18.4 lbs. of 10-20-20 fertilizer and 138 lbs. of limestone per 1,000 sqft. An equivalent mix may be substituted based on the results of soil testing.
4. Remove surface stones 2" and larger and other debris. Till soil until a fine seedbed is prepared and ensure it is not compacted prior to seeding.
5. Apply seed and temporary mulching (see Appendix C) between spring and 45 days prior to first killing frost except dormant seeding, which is applied after first killing frost and before snowfall. If seeding during these time periods is not possible, applicant must submit a written plan in conformance with the requirements for temporary mulching in Appendix C. For hydro seeding, increase seed rates by 10%.
6. If mowing is required, apply mix of 0.46 lbs. creeping red fescue, 0.46 lbs. tall fescue and 0.05 lbs. redtop per 1,000 sqft. except for camping and parking areas, shaded nature trails, lawns and high maintenance areas in which case apply 2.30 lbs. of creeping red fescue per 1,000 s.f. For gravel pits, sand dunes or tidal areas, refer to applicable best management practices in Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, latest revision, prepared by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection.

7. If mowing is not required, apply the following mixes:

Location	Seed Mix per 1,000 square feet	
Slopes and banks, gullied and eroded areas, Fresh water shorelines	reed canary grass	.46 lbs.
	redtop	<u>.11 lbs.</u>
		.57 lbs.
Drainage ditches, channel banks, diversions, ski slopes, woodland access roads, logging yards, skid trails	creeping red fescue	.45 lbs.
	redtop	.05 lbs.
	flat pea	<u>.69 lbs.</u>
		1.19 lbs.
Soil banks	tall fescue	.46 lbs.
	flat pea	<u>.69 lbs.</u>
		1.15 lbs.
Sod waterways and spillways	creeping red fescue	.46 lbs.
	redtop	.05 lbs.
	tall fescue	<u>.46 lbs.</u>
		.97 lbs.

8. The applicant may propose alternative seeding in conformance with the recommendations of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices.

Appendix C Temporary and Permanent Mulching

Temporary Mulching

Hay or straw mulch shall be applied to areas that have been temporarily or permanently seeded or which cannot be seeded during the growing season. Straw mulch only is to be used for areas where the mulch must be maintained for more than 3 months. The mulch shall cover 75-90% of the ground surface area and shall be applied at a rate of 2 bales per 1,000 sqft. A rate of 4 bales per 1,000 sq ft. is to be used for winter protection within the watersheds of phosphorous-sensitive lakes and ponds.

Mulch that is applied to slopes over 15%, waterways, and disturbed areas within 100 feet of a water body or wetland or that is to be used for fall and winter erosion control, shall be anchored by stapling light-weight paper, netting, jute, wood-fiber or plastic netting to the soil surface. For all other areas, apply wood cellulose fiber with a hydro seeder at a rate of 17 pounds per 1,000 sqft. or use a chemical mulch.

2. Permanent Mulching

Wood chip, crushed stone or gravel mulching shall be applied to areas subject to erosion or which are unsuited for plant establishment and growth but are not within concentrated flow areas. Wood chips are limited to slopes no steeper than 3:1 and shall be applied green or air-dried at a rate of 500-900 lbs. per 1,000 sqft. Washed gravel or crushed stone with an aggregate size of 0.25"-2.5" shall be applied at a rate of 9 cubic yards per 1,000 sqft.

3. Alternative Mulching

The applicant may propose alternative mulching in conformance with the recommendations of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, latest revision, prepared by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection.

B. Storm water Management

This section of chapter XII shall become effective on its adoption March 27, 2001

The direct discharge of storm water from ditches, swales and developed sites to streams and lakes can contribute to water pollution because storm water can contain

Sediments nutrients, hydrocarbons and other harmful substances. Storm water can also damage roads, ditches, culverts and other drainage structures that are not designed or sized to accommodate storm flows. These problems can worsen when an undeveloped woody site is cleared for development since storm water that was previously intercepted by vegetation and absorbed into the ground is allowed to flow more freely across and off of the site.

The closer post-project storm water flows are kept to pre-project conditions in terms of volume, rate, timing and pollutant load, the less likely that storm water will damage the site or public or private property or cause harm to water bodies.

All projects that require a building permit from the Code Enforcement Officer or review and approval by the Planning Board shall conform to the requirements of this Section. This ordinance shall not apply to projects that store or disturb less than 100 sq/ft of soil.

Level I. Projects

The following standards apply to residential projects that require a building permit, that disturb, and or store soil, but not projects that disturb more than 20,000sq/ft in the shore land zone. All other projects that require a building permit are Level II projects.

The lot shall be developed to accommodate a wooded 25-foot wide vegetated storm water buffer. Storm water from the developed portion of the site shall be directed by sheet flow to the buffer. This buffer need be located only on the down slope side(s) of the lot and is to be continuous with no openings parallel to the slope. If, due to lot orientation, a driveway or other opening must be located within the buffer, it shall be sited so that drainage from the developed portion of-the-site, including the driveway, can still be directed by sheet flow into the buffer. The buffer requirement shall be met by one of the following.

- I. If the buffer is presently wooded, removal of trees and Other vegetation within the buffer cannot result in any cleared openings or disturbance of the existing forest floor except for removal of dead trees and safety hazards. Or if the trees are removed the buffer may be transformed as ii, iii, iv below.
- ii. If the buffer is non-wooded, it must be allowed to revert to woods or be planted with shrubs or similar landscaping which minimizes disturbance of ground vegetation and leaf lifter.
- iii. If the non-wooded buffer is, to be maintained as a field, the width of the buffer is to be increased to 50 feet and mowing limited to no more than twice per year.
- iv. Berms, detention basins or other alternatives as approved by the Code Enforcement Officer may be

used instead of vegetated buffers if they are designed to intercept and diffuse drainage without channeling it. The Code Enforcement Officer is authorized to request the review and endorsement of any such alternatives by the Knox-Lincoln Soil and Water Conservation District, the cost of which shall be borne by the Applicant.

- b. Existing swales or drainage courses that carry water through the site is to remain undisturbed to the maximum extent possible. Culverts, stream crossings and other alterations may be permitted if the flow of water is unimpeded as it leaves the property in a manner similar to pre-project conditions.
- c. All disturbed portions of the site, including buildings, lawns and driveways are to be graded to encourage sheet flow of drainage into the buffer areas and not into roadside ditches. Any drainage which must be directed to roadside ditches shall be minimized.
- d. Following completion of lot development, the Code Enforcement Officer or his designee shall inspect the lot to verify that the requirements of the storm water Standard have been met. Should the Code Enforcement Officer determine that the lot is not in compliance with the storm water Standard, he shall (see section K of chapter 13.for enforcement)
- e. The Code Enforcement Officer may approve modifications to the storm water Standard if the applicant can demonstrate that the intent of storm water Standard will be complied with. In making this determination, the Code Enforcement Officer is authorized to request the review and endorsement of the Knox-Lincoln Soil and Water Conservation District. The cost of such assistance shall be borne by the applicant.

Level II projects.

Level II projects are projects that require site plan review, subdivision review, and disturb and/or store more than 20,000 square feet cumulatively of soil. Also including any project in the Shoreland zone that disturb or stores more than 20,000 square feet of soil cumulatively.

A storm water management plan shall be prepared by a registered professional engineer and be designed so that the post-development storm water runoff does not exceed the pre-development storm water runoff for the 24-hour duration: 2, 10 and 25-year frequency storm events. The storm water plan shall be prepared in accordance with storm water Management for Maine: Best Management Practices, latest edition,

prepared by the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The storm water plan shall include the following information for the pre- and post-development conditions: drainage area boundaries, hydrologic soils groups, ground cover type, time of concentration flow paths, modeling methodology, calculations, and background data. The Board may require review and endorsement of the storm water plan and calculations by the Knox-Lincoln Soil and Water Conservation District, the cost of which shall be borne by the applicant.

CHAPTER XIII GENERAL STANDARDS OF PERFORMANCE

A. GENERAL STANDARD

All new structures or uses and alterations to existing structures or uses in the Town shall comply with applicable statutory requirements for the prevention of air and water pollution, erosion, Shoreland area protection, and prevention of nuisances and hazards to public safety.

B. FINDINGS

A Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use or structure.

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;
8. Will avoid problems associated with flood plain development and use; and
9. These standards must also be met:
 - a. Surface water must not drain onto or cause erosion of surrounding properties or exceed the capacity of the storm drainage system;
 - b. The use must not cause unreasonable water, air or soil pollution as defined by State and Federal standards;
 - c. The use must not cause soil erosion on this or adjacent properties or reduction in the capacity of the soil to hold water;

d. The use must not cause a public or private nuisance in the form of noise, odors, dust, gas, fumes, smoke, light or other annoying emissions;

e. Exposed storage areas, machinery installations, service and loading areas and similar facilities must be set back or buffered so as to minimize any possible adverse effect on surrounding uses;

C. SCENIC VIEWS

In considering the issuing of a permit or approval under this ordinance, or approving any plan, plat or use, the decision-maker must consider and reduce to the greatest extent practicable any adverse effect on the public's scenic view.

1. The following views and areas are designated as special views requiring preservation and enhancement to the greatest extent possible:

- a. The view from U.S. Route 1, the main exit ramp and the River Road across the Damariscotta River to the Town of Damariscotta.
- b. The views from U.S. Route 1 over Sherman Lake and the Marsh River.
- c. The views from U.S. Route 1 on both sides from the Mills Road overpass to the Damariscotta Town line.
- d. The views along State Routes 213-215 along Damariscotta Lake.
- e. The views along State Route 213-215 over the fields at "Cowshit Corner".

2. Prior to issuing a building permit or other permit or approval that may adversely affect a scenic view, particularly of a designated special view, the CEO shall notify the planning board and allow reasonable time for their review of the application. The planning board may determine if there is unnecessary adverse effect on a scenic view and direct the CEO to issue or deny the permit or approval.

3. A substantial disruption or interference with the usual sight lines from the area of general public use or viewing of the scenic view is an adverse effect sufficient to support denial, if in the opinion of the Planning Board:

- a. The scenic view is a designated special view or another equally valuable view to the general public;
- b. There are other practicable alternatives to the proposed structure or use that would minimize or eliminate the adverse effect; and
- c. Balancing all issues, denial is in the best interests of the Town.

D. SPECIAL EXCEPTIONS

Special exceptions are uses that would not be appropriate without restriction in particular districts but which, if controlled with specific requirements, may be permitted without affecting the purposes and limits of this Ordinance.

1. A Special Exception may be granted by the Planning Board if:
 - a. The requested use is designated as a Special Exception in that District.
 - b. The use meets the general standards of Section XI and the permitted use standards of the District, to the extent that they are not superseded by the applicable Special Exception standards;
 - c. The use meets the applicable Special Exception standards:
 - d. The use meets the following additional standards:
 - (1) Surface water must not drain onto or cause erosion of surrounding properties or exceed the capacity of the storm drainage system;
 - (2) The use must not cause unreasonable water, air or soil pollution as defined by State and Federal standards;
 - (3) The use must not cause soil erosion on this or adjacent properties or reduction in the capacity of the soil to hold water;
 - (4) The use must not cause a public or private nuisance in the form of noise, odors, dust, gas, fumes, smoke, light or other annoying emissions;
 - (5) Exposed storage areas, machinery installations, service and loading areas and similar facilities must be set back or buffered so as to minimize any possible adverse effect on surrounding uses;
 - (6) The site layout must provide for safe vehicular access and exit, including that for emergency vehicles; and
 - (7) The use is consistent with the Comprehensive Land Use Plan.

E. PARKING

In all districts except Newcastle Village Business District; off-street parking shall be provided. It may include garage space and driveways, but not access roads up to twenty (20) feet in width. A minimum of ten (10) feet by twenty (20) feet shall be allowed for each space. Minimum parking area requirement standards shall be as follows;

<u>USE</u>	<u>MINIMUM NUMBER OF REQUIRED SPACES</u>
Dwellings: Single or two family	two (2) per dwelling unit
Apartments and Condominiums	two (2) per dwelling unit, plus one space for visitor parking for each otherwise required five (5) spaces
Home Occupation	Dwelling requirement plus the spaces required for home occupation use.
Manufacturing	One (1) for each three-hundred (300) square feet of floor area
Nursing Home	One (1) for each two (2) beds
Professional Office	One (1) for each two-hundred fifty (250) square feet of office floor area
Retail and Service establishment	One (1) for each two hundred (200) square feet of retail floor space
Service Station	Two (2) parking spaces for each bay plus one (1) for each service vehicle
Transient Lodging	One (1) space for each guest room
Restaurant	One (1) for each three (3) seats
Retail/Warehouse	One (1) for each one-thousand (1,000) square feet retail floor space
Public and Private Assembly Halls, Theaters and Churches	A number equal to one/ third (1/3) of the seating capacity
Other uses not specifically identified to meet the anticipated use.	Number of spaces set by the Planning Board

For multiple uses, the sum of the number of spaces for each use shall apply. The higher number of spaces shall apply for a use that meets more than one category. The most closely analogous category shall apply to uses not exactly included. The number of minimum spaces may be reduced by the Board of Appeals if it finds that an applicant

has demonstrated from historical use that a lower number would present no danger to the public safety or welfare.

F. EVIDENCE OF FINANCIAL ABILITY

A Board may require reasonable evidence of financial ability to complete a proposed project.

G. ENSURING COMPLIANCE

A Board may establish a schedule of compliance reviews and may establish such other terms and conditions as it deems necessary to ensure compliance with the ordinance.

H. SIGNS

1. Billboards shall not be permitted within the Town. All signs in the Town must comply with these standards:
2. Residential uses may display on the premises a single sign not over six (6) square feet in single surface area relating to uses, goods sold or services rendered on the premises or the sale, rental or lease of the premises.
 - a. Identification signs indicating the location of or direction to a private dwelling may be erected on the owner's property. Such signs shall not exceed four (4) square feet in single surface area.
 - b. Information signs such as No Trespassing, Private Way, Keep Out, or No Hunting are permitted on private land.
3. Each lot may display free-standing or attached signs, identifying uses or goods sold or services rendered on the premises aggregating a maximum of one hundred (100) square feet in advertising space. (Signs promoting brand name products shall be included in the total when computing sign size.)
 - a. Free-standing signs shall not extend to an elevation greater than twenty (20) feet above the level of the ground upon which they are erected.
 - b. An attached sign shall not extend more than five (5) feet beyond the structure.
 - c. An attached sign or supporting structure shall not extend more than ten (10) feet above the level of a flat roof or the level of the eaves on other types of roofs.
 - d. A sign may not obstruct vehicular or pedestrian traffic.
 - e. Window signs shall not be included in calculating advertising space.

- f. Temporary signs not used more than two (2) weeks in a year shall not be included in calculating advertising space.
 - g. "Open" flags, real estate signs and signs required by law shall not be included in calculating advertising space.
 - h. The display of products sold on the premises shall not be included in calculating advertising space. A sign attached to such a display shall be included in calculating advertising space.
4. All signs may be illuminated only by shielded, non-flashing lights. All illumination shall be designed and installed so as to prevent direct lighting or glare onto public ways or adjacent properties. Animated and internally illuminated signs are prohibited.
5. The Planning Board may increase the maximum allowable advertising space for any lot as follows:
- a. For a use or lot fronting on U.S.Route1.
 - (1) When multiple businesses occupy a single lot, the lot may be given permission by the Planning Board to erect a multiple business sign in addition to the signs allowed under subparagraph 3, provided that the owner submits and receives approval for a common signage plan.
 - (2) The plan may increase the lot's maximum total advertising space by up to an additional twenty (20) square feet of advertising space for each additional business. No free-standing sign on the lot may exceed one hundred (100) square feet.
 - (3) The plan shall specify standards for consistency on all signs with regard to:
 - (a) color scheme;
 - (b) lettering or graphic style;
 - (c) lighting;
 - (d) location of all signs;
 - (e) materials;
 - (f) sign proportions; and
 - (g) scale
 - (4) The common signage plan must meet the following:

- (a) The proposed signs will be compatible with the design of proposed or existing buildings and signs, the site and surrounding properties;
 - (b) The proposed signs will not adversely affect abutting lot owners;
 - (c) The proposed signs will not adversely affect scenic values or traffic flows or patterns;
 - (d) The proposed signs will not have a detrimental effect on the general health, safety or welfare of the area or the Town as a whole; and
 - (e) The unique physical circumstances of the structures or lot prevent or unreasonably limit the ability of the lot owner to install signs in conformity with this subchapter.
- (5) The Board shall limit increases as strictly as possible, and shall not grant an increase of more than two hundred (200) square feet of total advertising space for a lot.

6. The following definitions apply:

Advertising space - That combined area of signs used for promotion or display on a single lot. For a free-standing sign, the advertising space includes all of the one (1) side or surface facing the most traveled right of way, including any decorative or architectural part of the structure, but shall not include exclusively structural elements such as posts or braces. For attached signs, the advertising space shall be that area visually defined and set-off for the sign by color or an architectural device such as framing. If lettering or symbols are used without a defining space, the advertising space shall be defined as the outer perimeter encompassing the letters or symbols of the message. In calculating advertising space, the area of all signs on a lot shall be combined.

Attached sign - A structure with a primary use as a building, dwelling, or accessory building, which also bears a sign. It shall include awnings, canopies, and projecting signs, used in part for advertising.

Business - A separate independent legal entity with a unique tax identification number, and an independent business operation.

Free-standing sign - A structure with a primary use as a sign.

Multiple business sign - A free-standing permanent sign advertising multiple businesses located on a single lot.

Permanent sign - A sign permanently attached to the ground or a structure or permanently painted or marked on a structure, and intended to remain for the foreseeable future.

Temporary sign - A sign that may be moved without structurally altering a structure or without significant ground disturbance. It includes portable signs and signs that may be easily and quickly placed in the ground without significant ground disturbance. It also includes "sandwich signs", banners, pennants, flags and similar devices.

Window sign - A sign inside a structure that may be seen from the exterior.

7. All signs shall comply with Article XVI of the National Building Code as amended, "Signs and Outdoor Display Structures."
8. Each off-site business directional sign must comply with the following requirements:
 - a. A sign may only provide direction to a business or service with an office or place of business in Newcastle, except a sign located on U.S. Route 1 may be for a location outside Newcastle within five (5) miles, straight line air distance, of that sign, if a sign position is available. Newcastle businesses shall have first priority for available sign positions.
 - b. A business or service may place no more than two (2) signs (one (1) on each side) on U.S. Route 1, and for Newcastle businesses no more than two (2) additional directional signs elsewhere within the Town. Out-of-town businesses which are allowed to place signs and which are located on the River Road, State Routes 213, 215 or 218 or in Nobleboro, may place one additional sign, as space is available, and to the extent necessary to direct travelers from the main traveled road, either:
 - (1) At the intersection of the West bound exit ramp from U.S. Route 1 at the Mills Road;
 - (2) On the River Road exit from U.S. Route 1 at the intersection with River Road; or
 - (3) At the single designated location on the River Road, between its intersections with the main East bound exit ramp from U.S. Route 1 and its intersection with the Mills Road and Academy Hill Road.
 - c. A sign located on U S Route 1 must be either 16"x72" or elsewhere, must be 12"x48".
 - d. A large sign (16"x72") must be reflectorized and be the State standard dark blue background with white letters or numerals. The smaller sign (12"x48") may be any color, but may not be reflectorized or fluorescent.

e. A sign post must:

(1) On U S Route 1:

(a) Contain no more than three (3) signs;

(b) Be at least two-hundred fifty (250) feet from the appropriate intersection and from another sign post; and

(c) Total no more than five (5) posts per direction per intersection.

(2) Elsewhere, be placed with the approval of the Code Enforcement Officer in an appropriate location to achieve the following:

(a) Have a minimum effect on scenic beauty or aesthetic features;

(b) Be as close as possible to property boundaries;

(c) Minimize the obstruction of the view of and from existing buildings;

(d) Be at or near an intersection;

(e) Have no more than one (1) post in each direction at each intersection; and

(f) Have a maximum of five (5) signs per post.

9. Except as limited above, all off-site business directional signs in Newcastle must be constructed in accordance with the current State regulations.

10. All signs require a permit from the Code Enforcement Officer. For off-site business directional signs, this permit must be attached to the State application. The applicant shall submit the following information to the Code Enforcement Officer, together with the application fee:

a. Name of Business.

b. Tax map and Lot number.

c. Land Use Code District.

d. Total square feet, single surface area, of all existing signs on lot.

e. Total square feet, single surface area, of all proposed signs on lot.

f. Location of proposed sign.

g. Height of proposed sign.

h. Method of illumination.

11. A sign existing on the effective date of this Ordinance shall be required to meet these standards.

I. ARCHAEOLOGICAL SITES

A permit may not be issued for any structure or activity which disturbs the land surface on a lot when there are reasonable grounds to believe from physical or historical evidence that that structure or activity may disturb remains of historic or prehistoric human habitation of archeological significance.

1. There is a presumption of archeological significance if there is physical or historical evidence of habitation prior to 1800, or if there is evidence of an exceptional site of a later date.
2. An archeological survey may be required to determine the location or nature of an archeological site.
3. A permit may be issued with conditions or limitations sufficient to preserve or protect the archeological site.

J. CORNER LOTS

In districts where yards are required, buildings located at the intersection of two (2) streets shall meet the front yard requirements of both streets, and the rear yard shall meet the side yard requirement of the side street.

K. APPLICABLE OTHER STATUTES

To the extent that some other provision of this ordinance applies and establishes a more restrictive or limiting provision, that provision shall apply.

L. HOME OCCUPATIONS

A Home Occupation is an occupation or profession which is carried on in a dwelling unit or in a building or structure accessory to a dwelling unit. To qualify as a Home Occupation the following conditions must be met:

1. It shall be directed by a member of the family residing in the dwelling unit with no more than the equivalent of three (3) full-time non-family employees.
2. It shall be subordinate to the use of the dwelling unit as a residence. The floor area devoted to the home occupation may not exceed fifty percent

(50%) of the total floor area of the dwelling unit and fifteen-hundred (1,500) square feet of an accessory building. Bed and Breakfast facilities may have no more than four (4) guest rooms if operated under a home occupation permit.

3. It shall be carried on wholly within the principal building or within a building or structure accessory thereto.
4. There shall be no exterior display, no exterior signs (except as expressly permitted by this ordinance), no exterior storage of materials and no exterior indication of the home occupation or variation from the residential character of the principle structure.
5. There shall be no nuisance operated including but not limited to offensive noise, vibration, smoke, dust, odors, heat, glare, or excessive traffic or parking.
6. Heavy manufacturing and medium manufacturing may not be conducted as a home occupation.
7. There shall be adequate parking as required by this chapter.

M. YARD SALES

The Casual Sales of goods or personal property is only permitted in a district where the seller is the owner or lesser of the parcel. In no case are casual sales allowed on the Maine state owned property on U.S. Route One. For the purpose of this section, sales occurring for up to and including twenty days per calendar year shall be deemed “casual” or “yard sales” and do not require a permit. Sales occurring more often shall be deemed retail sales business and require the necessary approval for that use district.

N. TEMPORARY STORAGE FACILITY

A temporary storage facility may not be maintained for a period of more than thirty (30) days consecutive or more than a total of ninety (90) days in calendar year, except that such a facility may be used during the period of construction under a building permit.

O. TOWER, STEEPLE, OR SIMILAR STRUCTURES

Purpose and Intent: It is the express purpose of these changes to the land use ordinance to minimize the visual and human environmental impacts of wireless telecommunication service facilities, herein to be called “facility”. This section enables the review and approval of personal wireless service facilities by the Town’s Planning Board in keeping with the Town’s existing ordinances and historic development patterns, including the size and spacing of structures and open spaces.

This ordinance is intended to be used in conjunction with other regulations adopted by the Town, including historic district regulations, site plan review and other local ordinances designed to encourage appropriate land use, human environmental protection, and provision of adequate infrastructure development in Newcastle.

The regulation of such facilities is consistent with the purpose of the Newcastle Land Use Ordinance and planning efforts of the town through its local comprehensive plan to further the conservation and preservation of developed, natural and undeveloped areas, wildlife, flora and habitats for endangered species; the preservation of scenic views; protection of the natural resources of Newcastle; balanced economic growth; the provision of adequate capital facilities; the coordination of the provision of adequate capital facilities with the achievement of other goals; and the preservation of historical, cultural archaeological, architectural and recreational values. The Town feels is necessary to reinforce, clarify and further regulate Towers, Steeples or Similar Structures because:

1. Their height of construction may present a safety hazard to the public.
2. Their emissions and structure may interfere with the normal reception of electromagnetic waves.
3. Their emissions may be harmful to the public.
4. Their structure will create a

02.0 Definitions

02.1 Above Ground Level (AGL). A measurement of height from the natural grade of a site to the highest point of a structure.

02.2 Antenna. The surface from which wireless radio signals are sent and received by a personal wireless service facility.

02.3 Camouflaged. A personal wireless service facility that is disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure is considered "camouflaged".

02.4 Carrier. A company that provides wireless services.

02.5 Co-location. The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.

02.6 Cross-polarized (or dual-polarized) antenna. A low mount that has three panels flush mounted or attached very close to the shaft.

02.7 Elevation. The measurement of height above sea level.

02.8 Environmental Assessment (EA). An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.

02.9 Equipment Shelter. An enclosed structure, cabinet, shed or box at the base of the mount within which is housed batteries and electrical equipment.

02.10 Fall Zone. The area on the ground within a prescribed radius from the base of a personal wireless service facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

02.11 Functionally Equivalent Services. Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging.

02.12 Guyed Tower. A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

02.13 Lattice Tower. A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

02.13 Licensed Carrier. A company authorized by the FCC to construct and operate a commercial mobile radio services system.

02.15 Monopole. The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

02.16 Mount. The structure or surface upon which antennas are mounted, including the following four types of mounts:

1. Roof-mounted. Mounted on the roof of a building.
2. Side-mounted: Mounted on the side of a building.
3. Ground-mounted: Mounted on the ground.
4. Structure-mounted: Mounted on a structure other than a building.

02.17 Omni directional (whip) antenna. A thin rod that beams and receives a signal in all directions.

02.18 Panel Antenna. A flat surface antenna usually developed in multiples.

02.19 Personal Wireless Service Facility. Facility for the provision of personal wireless services, as defined by the Telecommunications Act.

02.20 Personal Wireless Services. The three types of services regulated by this Model Ordinance.

02.21 Radiofrequency (RF) Engineer. An engineer specializing in electrical or microwave engineering, especially the study of radiofrequencies.

02.22 Radiofrequency Radiation (RFR). The emissions from personal wireless services facilities.

02.23 Security Barrier. A locked, impenetrable wall, fence or berm that completely seats an area from unauthorized entry or trespass.

02.24 Separation. The distance between one carrier's array of antennas and another carrier's array.

02.25 Telecommunication or Radio Tower. A structure greater than 75' used for the commercial broadcasting of wireless communication.

02.26 Tower. A structure, such as a lattice tower, guy tower or monopole tower constructed as a free-standing structure or in a association with a building, or other permanent structure or equipment, on which is located one or more antennae intended for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication. The term includes microwave towers, common carrier towers, and cellular telephone towers.

02.27 Wireless Telecommunications Facility or "Facility" means any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless service, cellular phone service, specialized mobile radio communications, common carrier wireless exchange access services, and personal communications service or pager service.

03.0 District Standards:

03.1 Use Regulations A personal wireless service facility shall require a building permit in all cases and may be permitted as follows:

- a. A personal wireless service facility may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower or

water tower, provided that the installation of the new facility does not increase the height of the existing structure except as provided in Section 03.35 below. Such installations shall not require a Site Plan Permit from the Newcastle Planning Board but may require a special exception from the Planning Board for determination if its use is compatible with the proposed location.

- b. A personal wireless service facility involving construction of one or more ground or building (roof or side) mounts shall require a Site Plan Permit from the Newcastle Planning Board, a Special Exception Permit from the Newcastle Planning Board (if applicable). Design Review Board (if applicable) and a building permit from the Codes Enforcement Officer. Such facilities may locate by special exception permit from Newcastle Planning Board in all zoning districts within the Town, provided that the proposed use complies with the, use, height and setback requirements of the district and all of the Board of Appeals Regulations.
- c. A personal wireless service facility that exceeds the height restrictions of Sections 03.3-03.35 may have its use permitted by Special Exception Permit from the Newcastle Planning Board .They would be allowed throughout the town provided that they meet certain height restrictions and performance standards. Taller structures would only be permitted in the light industrial district.

The model Ordinance recommends that towns develop Overlay Districts which permit the location of taller personal wireless service facilities by identifying areas that are less sensitive to visual impacts. Wireless Service Overlay Districts would not need to be established for an entire zoning district, but could be designated for a specific area depending upon the visual or environmental sensitivity of a particular area. Greater heights could be permitted in these areas if co-locations are proposed. Some municipalities determine height restrictions based upon the number of co-locations on one facility. Overlay Districts would still be subject to the other setback and Special Permit from the Newcastle Board of Appeals regulations.

As part of the planning process, towns may wish to identify and map certain areas where personal wireless service facilities are prohibited unless fully camouflaged. For example, a town may not want these facilities to be located within historic districts or Areas of Critical Environmental Concern unless the facilities can be completely hidden.

03.2 Location Applicants seeking approval for personal wireless service facilities shall comply with the following:

- a. If feasible, personal wireless service facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one or more personal wireless service facilities. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate.
- b. If the applicant demonstrates that it is not feasible to locate on an existing structure, personal wireless service facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to:

use of compatible building materials and colors, screening, landscaping and placement within trees.

- c. The applicant shall submit documentation of the lease or legal right to install and use the proposed facility mount at the time of application for Site Plan Review from the Newcastle Planning Board, a building permit from the Codes Enforcement Officer, and Special Exception Permit from the Newcastle Planning Board .

03.3 Dimensional Requirements.

Personal Wireless Service Facilities shall comply with the following requirements:

- a. Height. General regardless of the type of mount, facilities shall be no higher than ten feet above the average height of buildings within 300 feet of the proposed facility. In addition, the height of a personal wireless service facility shall not exceed by more than ten feet the height limits of the zoning districts in which the facility is proposed to be located, unless the facility is completely camouflaged such as within a flagpole, steeple chimney, or similar structure. Personal wireless service facilities may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.
- b. Height, Ground-Mounted Facilities. Ground Mounted Personal Wireless Service Facilities shall not project higher than ten feet above the average building height or, if there are no buildings within 300 feet, these facilities shall not project higher than ten feet above the average tree canopy height, measured from ground level (AGL). If there are no buildings within 300 feet of the proposed site of the facility, all ground-mounted facilities shall not exceed seventy feet.
- c. Height. Side and Roof-Mounted Facilities. Side and Roof-Mounted Personal Wireless Service Facilities shall not project more than ten feet above the height of an existing building nor project more than ten feet above the height limit of the zoning district within which the facility is located. Personal Wireless Service Facilities may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.
- d. Height. Existing Structures. (Utility) New antennas located on any of the following existing structures shall be exempt from the height restrictions of the Ordinance provided that there is no more than a ten foot increase in the height of the existing structure as a result of the installation of a personal wireless service facility: electric transmission and distribution towers, telephone poles and similar existing utility structures. This exemption shall not apply in the design review districts, within 150 feet of the right-of-way of any scenic roadway, or in designated scenic views.
- e. Height. Wireless Facility Overlay Districts. The light industrial district is a Wireless Facility Overlay District (as designated on the Town zoning map); personal wireless service facilities of up to 150 feet in height may be permitted by Special Permit from the Newcastle Board of Appeals. Monopoles are the preferred type of mount for such taller structures. Such

structures shall comply with all setback and regulations set forth in this Ordinance.

03.4 Setbacks.

All Personal Wireless Service Facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed:

- a. In order to ensure public safety, the minimum distance from the base of any ground-mounted personal wireless service facility to any property line, road, habitable dwelling, business or institutional use, or public recreational area shall be the height of the facility/mount, including any antennas or other appurtenances plus 10% of the total. This setback is considered a “fall zone”.
- b. In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing non-conforming structures, personal wireless service facilities and their equipment shelters shall not increase any non-conformities, except as provided in paragraph c. below.
- c. Flexibility. In reviewing a Site Plan Review Application for a personal wireless service facility, the Planning Board may reduce the required fall zone and/or setback distance of the zoning district by as much as 50% of the required distance, if it finds that a substantially better design will result from such reduction. In making such a finding, the Planning Board shall consider both the visual and safety impacts of the proposed use.

03.5 Design Standards

Visibility/Camouflage by Existing Building or Structures:

- a. When a personal wireless service facility extends above the roof height of a building which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways. Facilities mounted on the roof shall be stepped back from the front façade in order to limit their impact on the building’s silhouette.

- b. Personal Wireless Service Facilities which are side mounted shall blend with the existing building’s architecture and, if over 5 square feet, shall be painted or shielded with material which is consistent with the features and materials of the building.

03.6 Camouflage by Vegetation:

- a. If personal wireless service facilities are not camouflaged from public viewing areas by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and under story vegetation in all directions to create an effective year-round visual buffer. Ground-mounted personal wireless service facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The Planning Board shall determine the

types of trees and plant materials, height, and depth of the needed buffer based on site conditions.

03.7 Color:

- a. Personal Wireless Service Facilities which are side-mounted on building shall be painted or constructed of materials to match the color of the building material directly behind them. The Planning Board shall determine the most appropriate color for the facility so that it is least visible against the skyline/horizon.
- b. To the extent that any personal wireless service facilities extend above the height of the vegetation immediately surrounding it, they shall be painted in a light grey or light blue hue which blends with sky and clouds.

03.8 Equipment Shelters. Equipment shelters for personal wireless service facilities shall be designed consistent with one of the following design standards:

- a. Equipment shelters shall be located in underground vaults; or
- b. Designed consistent with traditional Newcastle architectural styles and materials, with a roof pitch of at least 10/12 and wood clapboard or shingle siding; or
- c. Camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

03.9 Lighting and Signage.

- a. The upper portion of the personal wireless service facilities shall be lighted only if required by the Federal Aviation Administration (FAA).
- b. Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. All such lighting may not be mounted more than 20 feet in height from the natural grade. There shall be total cutoff of all light at the property lines of the parcel to be developed, and foot-candle measurements at the property line shall be 0.0 (not yet decided) initial foot-candles when measured at grade.
- c. Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of the Town's sign regulations.
- d. All ground mounted personal wireless service facilities shall be surrounded by a security barrier within the buffer landscape.

03.91 Historic Buildings and Districts:

- a. Any personal wireless service facilities located on or within an historic structure shall not alter the character defining features, distinctive construction methods, or original historic materials of the building.
- b. Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible.
- c. Personal Wireless Service Facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the district.
- d. However, the Design Review Board shall be involved in the review of any applications to locate such facilities within a design review district or within

a structure of historic significance.

03.92 Scenic Landscapes and Vistas.

- a. Personal Wireless Service Facilities shall not be located within open areas that are visible from public roads, recreational areas or residential development. As required in the camouflage section above, all ground-mounted personal wireless service facilities which are not camouflaged by existing buildings or structures shall be surrounded by a buffer of dense tree growth.
- b. Any personal wireless service facility that is located within 300 feet of a designated scenic view as described in the town ordinance, scenic landscape or scenic road as designated by the town shall not exceed the height of vegetation at the proposed location. If the facility is located farther than 300 feet from the scenic view, the height regulations described elsewhere in this Ordinance will apply.

03.93 Human Environmental Standards.

- a. Personal wireless service facilities shall not be located in wetlands or riparian, and resource protection zones as defined by the shore land zoning overlay district. Locating of wireless facilities in wetland and or riparian buffer areas shall be avoided whenever possible and disturbance to wetland and or riparian buffer areas shall be minimized.
- b. No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
- c. Storm water run-off shall be contained on-site and meet the standards of this ordinance found in Chapter XII.
- d. Ground-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50db at ground level at the base of the building closest to the antenna.
- e. Roof-mounted or side-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50db at ground level at the base of the building closest to the antenna.

03.94 Safety Standards

Radiofrequency Radiation

- a. All equipment proposed for a personal wireless service facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radioactivity Radiation (FCC Guidelines).

04.0 Administration

- a. The Newcastle Planning Board will conduct a site plan review for personal wireless service facilities.
- b. A special exception permit from the Newcastle Planning Board may be granted for personal wireless service facilities concerning the site use, and structure height in the light industrial district.

05.0 Site plan review

Location Filing Requirements

- a. A town-wide map showing the other existing personal wireless service facilities in the Town and outside the Town within one mile of its corporate limits.
- b. The proposed locations of all existing and future personal wireless facilities in the Town on a Town-wide map for this carrier.

Siting filing requirements:

1. Tree cover on the subject property and adjacent properties within 300 feet, by dominant species and average height, as measured by or available from a verifiable source.
2. Proposed location of antenna, mount and equipment shelter(s).
3. Proposed security barrier, indicating type and extent as well as point of controlled entry.
4. Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet including driveways proposed to serve the personal wireless service facility.
5. Distances, at grade, from the proposed personal wireless service facility to each building on the vicinity plan.
6. Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from "Sight Lines" subsection below.
 - a. A sight line representation shall be drawn from any public road within 300 feet and the closest façade of each residential building (viewpoint) within 300 feet to the highest point (visible point) of the personal wireless service facility. Each sight line shall be depicted in profile, drawn at one inch equals 50 feet. The profiles shall show all intervening trees and buildings. In the event there is only one (or more) residential building within 300 feet there shall be at least two sight lines from the closest habitable structures or public roads, if any.
 - b. Existing (before condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen from any public road within 300 feet.
 - c. Proposed (after condition). Each of the existing condition photographs shall have the proposed personal wireless service facility superimposed on it to show what will be seen from public roads if the proposed personal wireless facility is built.
 - d. Siting elevations, or views at-grade from the north, south, east and west for a 50-foot radius around the proposed personal wireless service facility plus from all existing public and private roads that serve the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:
 1. Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.
 2. Security barrier. If the security barrier will block views of the personal wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier.

3. Any and all structures on the subject property.
4. Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
5. Grade changes, or cuts and fills, to be shown as original grade and new grade line with two-foot contours above mean sea level.

Design Filing Requirements

- a. Equipment brochures for the proposed personal wireless service facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- b. Materials of the proposed personal wireless service facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc...). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- c. Colors of the proposed personal wireless service facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- d. Dimensions of the personal wireless service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.
- e. Appearance shown by at least two photographic superimpositions of the personal wireless service facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any, for the total height, width and breadth.
- f. Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
- g. Within 30 days of the pre-application conference, or within 21 days of filing an application for a Site Plan Review Permit from the Newcastle Planning Board, the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time and location of such test shall be advertised in a newspaper of general circulation in the Town at least 14 days, but not more than 21 days prior to the test.
- h. If lighting of the site is proposed, the applicant shall submit a manufacturer's computer-generated point-to-point printout, indicating the horizontal footcandle levels at grade, within the property to be developed and twenty-five (25) beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

05.10 Noise Filing Requirements

The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed personal wireless service facilities,

measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night), for the following:

1. Existing, or ambient: the measurements of existing noise.
2. Existing plus proposed personal wireless service facilities: maximum estimate of noise from the proposed personal wireless service facility plus the existing noise environment.

Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards of this Ordinance.

05.20 Radiofrequency Radiation (RFR) Filing Requirements

The applicant shall provide a statement listing the existing and maximum future projected measurements of RFR from the proposed personal wireless service facility, for the following situations:

1. Existing, or ambient: the measurements of existing RFR.
2. Existing plus proposed personal wireless service facilities: maximum estimate of RFR from the proposed personal wireless service facility plus the existing RFR environment.
3. Certification, signed by a RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radiofrequency Radiation Standards sub-section of this Ordinance.

05.30 Federal Environmental Filing Requirements.

- a. The National Environmental Policy Act (NEPA) applies to all applications for personal wireless service facilities. NEPA is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CRF Ch. I). The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any personal wireless service facility proposed in or involving any of the following:
 1. Wilderness areas
 2. Wildlife preserves
 3. Endangered species habitat.
 4. Historical site.
 5. Indian religious site.
 6. Flood plain.
 7. Wetlands.
 8. High Intensity white lights in residential neighborhoods.
 9. Excessive radiofrequency radiation exposure.
- b. At the time of application filing, an EA that meets FCC requirements shall be submitted to the Town for each personal wireless service facility site that requires such an EA to be submitted to the FCC.
- c. The applicant shall list location, type and amount (including trace elements) of any materials proposed for use within the personal wireless service facility that are considered hazardous by the federal, state or local government.

The Federal Communications Commission (FCC) Guidelines were published on August 1, 1996. The FCC has extended the implementation date of the FCC Guidelines from January 1, 1997 to September 1, 1997. The existing guidelines remain in effect.

05.40 The Special Exception Permit from the Newcastle Planning Board and the Site Plan Review from the Newcastle Planning Board may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed personal wireless service facility.

06.00 Co-Location

- a. Licensed carriers shall share personal wireless service facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless service facilities that are stand-alone facilities. All applicants for Site Plan Review Permit from the Newcastle Planning Board for a personal wireless service facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes, but is not limited to:
 1. A survey of all existing structures that may be feasible sites for co-locating personal wireless service facilities;
 2. Contact with all the other licensed carriers for commercial mobile radio services operating in the County; and
 3. Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.
- b. In the event that co-location is found to be not feasible, a written statement of the reasons for the infeasibility shall be submitted to the Town. The Town may retain a technical expert in the field of RF engineering to verify if co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant. The Town may deny a Site Plan Permit from the Newcastle Planning Board to an applicant that has not demonstrated a good faith effort to provide for co-location.
- c. If the applicant does intend to co-locate or to permit co-location, the Town shall request drawings and studies which show the ultimate appearance and operation of the personal wireless service facility at full build-out.
- d. If the Planning Board approves co-location for a personal wireless service facility site, the Site Plan Permit from the Newcastle Planning Board shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the Site Plan Permit from the Newcastle Planning Board approval shall require building permits to be issued, by the Code Enforcement Officer, after Board approval. The Planning Board must also approve any special exceptions for height prior to site plan approval.

Estimates of RFR emissions will be required for all facilities, including proposed and future facilities.

07.00 Modifications.

A modification of a personal wireless service facility may be considered equivalent to an application for a new personal wireless service facility and will require a new Site Plan Permit from the Newcastle Planning Board when the following events apply:

- a. The applicant and or co-applicant wants to alter the terms of the Site Plan

Permit from the Newcastle Planning Board or Special Exception from the Planning Board by changing the personal wireless service facility in one or more of the following ways:

1. Change in the number of facilities permitted on the site;
2. Change in the technology used for the personal wireless service facility.
3. The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing.

08.00 Site Plan Review

Monitoring and Maintenance

- a. After the personal wireless service facility is operational, the applicant shall submit, within 90 days of beginning operations and at annual intervals from the date of issuance of the Site Plan Permit from the Newcastle Planning Board, existing measurements of RFR from the personal wireless service facility. Such measurements shall be signed and certified by a RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radiofrequency Standards sections of this Ordinance.
- b. After the personal wireless service facility is operational, the applicant shall submit, within 90 days of the issuance of the Site Plan Permit from the Newcastle Planning Board, and at annual intervals from the date of issuance of Site Plan Permit from the Newcastle Planning Board, existing measurements of noise from the personal wireless service facility. Such measurements shall be signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards sub-section of this Ordinance.
- c. The applicant and co-applicant shall maintain the personal wireless service facility in good condition. Such maintenance shall include, but shall not be limited to, painting structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.

09.00 Abandonment or Discontinuation of Use

- a. At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.
- b. Upon abandonment or discontinuation of use, the carrier shall physically remove the personal wireless facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
 1. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
 2. Proper disposal of the waste materials from the site in accordance with

local and state solid waste disposal regulations.

3. Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
4. If a carrier fails to remove a personal wireless service facility in accordance with this section of this Ordinance, the Town shall have the authority to enter the subject property and physically remove the facility. The Planning Board may require the applicant to post a bond at the time of construction to cover costs for the removal of the personal wireless service facility in the event the Town must remove the facility.

10.00 Reconstruction or Replacement of Existing Towers and Monopoles.

- a. Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of this Ordinance may be reconstructed, altered, extended or replaced on the same site by Site Plan Permit from the Newcastle Planning Board, provided that the Planning Board finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the Town than the existing structure. In making such a determination, the Planning Board shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety, and/or reduction in visual and environmental impacts. No reconstruction, alteration, extension or replacement shall exceed the height of the existing facility by more than twenty (20) feet.

11.00 Term of Site Plan Permit from the Newcastle Planning Board

- a. A site Plan Permit from the Newcastle Planning Board issued for any personal wireless service facility over fifty (50) feet in height shall be valid for fifteen (15) years. At the end of that time period, the personal wireless service facility shall be removed by the carrier or a new Site Plan Permit from the Newcastle Planning Board shall be required.

12.00 The purpose of the changes is to reinforce, clarify, and further regulate Towers, Steeples, or Similar Structures, because:

- a. Their height of construction may present a safety hazard to the public; and
- b. Their emissions and structure may interfere with the normal reception of electromagnetic waves; and
- c. Their emissions may be harmful to the public.

13.00 Steeples, or Similar Structures

1. The Board of Appeals may grant a waiver to the maximum height limitation in a zone for:
 - a. a structure exempted from such a limitation by federal or state law;
 - b. a structure traditionally accepted as an addition to certain types of buildings, such as a church steeple; or a use that reasonably requires such a structure to accomplish a lawful use or function, and no reasonable alternative is available.
2. In granting a waiver, the Board shall:
 - a. set the waiver height as low as possible to allow its reasonable use;
 - b. establish standards and limitations on lighting;

- c. ensure that the structure and its location will not substantially impair another's view;
 - d. ensure that any electromagnetic emission will not interfere with anyone else;
 - e. the structure's construction or location shall not pose a threat to public health or safety; and
 - f. establish any other conditions or limitations it deems appropriate to reduce any adverse effect of the granting of a waiver.
3. Commercial telecommunication towers and radio towers over 75'. Herein after may also be referred to as "tower or structure" for this section.
 4. The Planning Board may grant a permit for a use requiring a TOWER, OR SIMILAR STRUCTURES if the tower complies with Chapter III – Site Plan Review, of the Newcastle Land Use Ordinance and the following:
 - a. The structure is exempted from such a limitation by federal or state law;
 - b. The structure is traditionally accepted as an addition to certain types of buildings, such as a church steeple; or
 - c. The structure is required to accomplish a lawful use or function, and reasonable alternative is available.
 5. Land Use Ordinance and the following:
 - a. The structure is exempted from such a limitation by federal or state law;
 - b. The structure is traditionally accepted as an addition to certain types of buildings, such as a church or steeple or;
 - c. The structure is required to accomplish a lawful use or function, and no reasonable alternative is available.
 6. In granting a permit, the Board shall:
 - a. Set the height to be no greater than 50' above the tree canopy and in no circumstances is it to exceed 199'. In all cases the height shall be as low as possible.
 - b. There will be no lights higher than 20' from the ground. All lights will be shielded and directed downward. The ground level is the level of the ground prior to construction at the base of the proposed tower.
 - c. The structure and its location will not substantially impair another's view.
 - d. The electromagnetic emission will not interfere with anyone else.
 - e. The structure's construction or location shall not pose a threat to public health or safety; and the lot is large enough to contain the structure if it fails. Adequate proof must be shown by the applicant to show conformance.
 - f. A bond must be posted prior to issuing a site plan permit, that will compensate the town for removal and or storage of any tower if the facility becomes delinquent in taxes or is found in violation of a town, state or federal ordinance, or if it has not been used in 360 days. Such costs for removal and or for storage shall be established by the applicant to the satisfaction of the Board prior to approval. The bond will be reviewed by the Planning Board annually an,

fluctuate at the rate of inflation as described by the U.S. Federal Reserve Bank.

- g. The structure will be free standing with no guide wires.
- h. All such structures should be located in such a fashion so as to allow for adequate coverage of services provided.
- i. Applicant must show that the use of alternate sites such, as water towers and existing towers are not available. All towers must be fully utilized before any additional permits can be granted unless evidence of unsuitability can be given by an impartial source. All utilization except for the municipal exceptions will be contracted at fair market rates.
- j. No new towers may be located outside of the commercial or light industrial zones as described by the Newcastle Land Use Code.
- k. The Town may request at no cost a space for an antenna or other appropriate communication device.
- l. The color of the tower shall be the choice of the Planning Board.
- m. Any site for which an application for a radio tower, and the required fees, have been accepted by the Town of Newcastle.

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P. LARGE SCALE DEVELOPMENT

In addition to any other applicable standards or requirements of the Land Use Ordinance, large scale development shall also conform to the following performance standards. Section C. 16 shall not apply to large scale development constructed prior to March 26, 2007 except that additions to such structures constructed after March 26, 2007 shall comply with this section when such additions, either individually or cumulatively within a ten (10) year period, meet the threshold for large scale development. The Planning Board may modify or waive specific performance standards for such additions if it finds that, due to the design, location, function or layout of the principal structure, the application of specific performance standards is impractical or inappropriate.

1. Building appearance: The building shall employ varying setbacks, heights, roof treatments, doorways, window openings and other structural or decorative elements to reduce apparent size and scale of the building.
 - a. A minimum of twenty (20) percent of the structure's facades that are visible from a public street shall employ actual protrusions or recesses with a depth of at least six (6) feet. No uninterrupted façade shall extend more than fifty (50) feet.
 - b. A minimum of twenty (20) percent of all of the combined linear roof eave or parapet lines of the structure shall employ differences in height, with such differences being six (6) feet or more as measured eave to eave or parapet to parapet.
 - c. Pitched roofs with a minimum pitch of 5/12 may be required by the Planning Board to complement existing buildings or otherwise establish a particular aesthetic objective.
 - d. Building facades shall include a repeating pattern that includes no less than three (3) of the following elements: (i) color change, (ii) texture change, (iii) material module change, (iv) expression of architectural or structural bay through a change in plane no less than twenty four (24) inches in width, such as an offset, reveal or projection rib. At least one of these elements shall repeat at intervals of no more than thirty (30) feet, either horizontally or vertically.
 - e. Any rear or side building façade that is visible from a public street, residential neighborhood or property within the Village Residential, Residential A or Residential B Districts shall be designed to complement the architectural treatment of the primary façade.
 - f. Building façade colors shall be non-reflective, subtle, neutral, or earth tone. The use of high intensity colors, metallic colors, fluorescent colors or black on facades shall be prohibited. Building trim and architectural accent elements may feature colors or black, but such colors shall be muted, not metallic, not fluorescent, and not specific to particular uses or tenants. Standard corporate and trademark colors shall be permitted only on signage.

- g. Exterior building materials shall be of a comparable aesthetic quality on all sides. Building materials such as glass, brick, tinted and decorative concrete block, wood, stucco, and exterior insulation and finish systems (EIFS) shall be used. Decorative architectural metal with concealed fasteners or decorative tilt-up concrete panels may be approved if incorporated into the overall design of the building.
- h. Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features along no less than fifty (50) percent of their horizontal length. The integration of windows into the building design is required, and shall be transparent glass between three (3) to eight (8) feet above the walkway along any facades facing a public street. The use of blinds shall be acceptable where there is a desire for opacity. Any blinds shall comply with the color standard of subsection 1.f, above. If large areas of plate glass are proposed, the Planning Board may require the applicant to demonstrate that glare from such glass will not create safety concerns for vehicles.
- i. Ground floor facades of retail buildings that face public streets or contain the principal access to the building and which exceed one hundred and fifty (150) feet in length shall be designed to appear as a series of attached, individual storefronts even though the building itself may consist of a single retail occupancy.
- j. Public building entryways shall be clearly defined and highly visible on the building's exterior design, and shall be emphasized by on-site traffic flow patterns. Two (2) or more of the following design features shall be incorporated into all public building entryways: canopies or porticos, overhangs, projections, arcades, peaked roof forms, arches, outdoor patios, display windows, distinct architectural details. Where additional stores will be located in the principal building, each additional store that exceeds two thousand five hundred (2,500) square feet in floor area shall have at least one exterior customer entrance that shall conform to the above requirements.
- k. The building's architecture shall reflect traditional New England building forms including, but not limited to pitched roofs, dormers, windows (rather than plate glass), and clapboard or brick siding. Freestanding accessory structures, such as ATM's, gas pump canopies, sheds, etc., shall be treated as architectural elements and meet the same design standards as the principal structures on the site.

2. Parking

- a. Parking areas shall provide safe, convenient, and efficient access for vehicles and pedestrians. They shall be distributed around large buildings in order to shorten the distance to other buildings and public sidewalks and to reduce the overall scale of the paved surface.
- b. Parking lots over 100 spaces shall be segmented visually and functionally into distinct parking areas of no more than 60 spaces by

landscaped and curbed medians with a minimum curb to curb width of ten (10) feet. Curbed landscaped islands shall be sited at the end of each parking aisle and within parking aisles at intervals no greater than one island per every twenty (20) spaces. Islands at the ends of aisles shall be counted toward meeting this requirement. Each required landscaped island shall be a minimum of three hundred sixty (360) square feet in landscaped area.

- c. No more than ten (10) percent of off-street parking shall be sited between the front façade of the principal building and the primary abutting streets with the exception of parking areas used for the display of vehicles for sale. The Planning Board may increase this limit up to fifty (50) percent if it determines that the building and parking are screened from view by out lot development consisting of buildings less than ten thousand (10,000) square feet of floor area and by the use of additional tree plantings, berms, fencing, low walls, shrubs and/or perennials.

3. Landscaping

- a. The applicant shall submit a site landscaping plan that presents the location and quantity of all project plantings. The applicant shall also submit a planting schedule keyed to the site landscaping plan that lists the botanical and common names, size at planting and quantity of all project plantings. Landscaping shall be considered an integral component of the approved project. The applicant shall replace within thirty (30) days, or as seasonally required by the species, any landscaping that dies, is removed or otherwise requires replacement. Such replacement landscaping shall be equivalent in species and size to the original landscaping unless the applicant can demonstrate to the satisfaction of the Planning Board that site conditions require an alternative species of comparable size.
- b. A minimum of thirty (30) percent of the building's total foundation, including a minimum of fifty (50) percent along the building's front façade, shall be planted with landscaping consisting of one 2.5" caliper tree native to Maine and four (4) shrubs per ten (10) linear feet of foundation. This landscaping shall be near entrances and facades facing public streets, as well as in parking areas. If the building will be located in a village area and there will be no setback between it and a public sidewalk or street right of way, landscaping along the building's front façade is not required.
- c. One 2.5" caliper canopy tree native to Maine, one 4-foot high under story tree native to Maine, and five 12" high evergreen or 15" high deciduous shrubs shall be planted with each parking lot island.
- d. Landscaping consisting of three (3) 2.5 caliper street trees, six (6) 4-foot under story trees, ten (10) 12" high evergreen or 15" high deciduous shrubs and five three (3) foot evergreen trees shall be planted every fifty (50) feet along and within a minimum thirty (30) foot wide green strip buffer adjacent to all private streets and drives

including parking lot connectors, circulation drives (including those adjacent to building) and loading areas. If the building will be located in a village area and there will be no setback between it and a public sidewalk or street right of way, landscaping adjacent to the public sidewalk or street right of way is not required.

- e. Where the building site abuts property with at least one (1) residence, a six (6) foot high berm shall be provided and planted with double offset row of four (4) foot high evergreens spaced fifteen (15) feet on center.

4. Lighting

- a. Plans shall be submitted for all proposed exterior lighting drawn to a scale of one (1) inch equals twenty (20) feet and shall include the location and type of lighting equipment, manufacturer's specification sheets and point-by-point calculated luminance value noted on a ten (10) foot grid.
- b. The following lighting criteria shall not be exceeded:
 - i. Parking lots: an average of one point five (1.5) foot candles throughout, a Maximum of six (6) foot candles and a maximum-to-maximum uniformity ratio of twenty to one (20:1) foot candles.
 - ii. Intersections: an average of three (3) foot candles throughout, a maximum of six (6) foot candles and a maximum to minimum uniformity ratio of twenty to one (20:1) foot candles.
 - iii. Maximum at property lines 0.1 foot candles

The maximum height of freestanding lights shall be the same as the principal building, but shall not exceed twenty (20) feet. Lighting fixtures including poles shall be compatible with the design of the principal structure.

- c. All lights shall have shielding to provide a beam cut-off at no more than seventy five (75) degrees nadir.
- d. The applicant shall demonstrate to satisfaction of the Planning Board that the proposed lighting is appropriated for the intended use. The Planning Board shall consider the hours of operation, characteristics of the neighborhood and the specific activities proposed in making its determination. When the activity is not in use, lighting shall be turned off unless there is a demonstrated need as determined by the Planning Board.
- e. Lighting shall be located along streets, parking areas, at intersections and crosswalks and where various types of circulation systems merge, intersect or split.
- f. Pathways, sidewalks and trails shall be lighted with low or mushroom-type standards.
- g. Flag poles may not be illuminated by lights pointing upward or at any angle above horizontal.
- h. Where lights along property lines will be visible to adjacent properties, the lights shall be appropriately shielded.

5. Screening.
 - a. Ground-and wall-mounted mechanical equipment, refuse containers and permitted outdoor storage must be fully concealed from on- and off- site ground level views with materials identical to those on building exterior.
 - b. All trash collection areas that are not within an enclosed building or underground must be screened or recessed so that they are not visible from public sidewalks, internal pedestrian walkways, or adjacent residential properties and at least 50 feet from any lot line. Screening and landscaping of these areas shall conform to the predominant materials used on the site.
 - c. Roof top equipment must be screened by parapets, upper stories or exterior walls from view from public streets within one-thousand (1,000) feet.
 - d. Gates and fencing may be used for security and access but not for screening. Chain link, wire mesh or wood fencing is not acceptable.
 - e. Loading docks must be screened from surrounding roads and developed properties by walls matching the building's exterior or fully opaque landscaping.

6. Outdoor Sales. Additional standards applicable only to large scale development consisting of retail establishments greater than ten thousand (10,000) square feet of floor area. The Planning Board may modify or waive one or more of the following standards for vehicle display areas if it finds that the application of such standards is impractical or inappropriate.
 - a. Areas for outdoor sales of products may be permitted if they are extensions of the sales floor into which patrons are allowed free access. Such areas shall be incorporated into the overall design of the building and the landscaping and shall be permanently defined and screened with walls and/or fences. Materials, colors and design of screening walls and/or shall conform to those used as predominant materials and colors on the building. If such areas are to be covered then the covering shall be similar in materials and colors to those that are predominantly used on the building façade.
 - b. Except for agricultural, landscaping, nursery and similar products normally stored outdoors, outdoor storage of products for sale in an area where customers are not permitted is prohibited unless it is visually buffered from adjacent streets and abutting developed properties. This prohibition includes outdoor storage sheds and containers.
 - c. Outdoor sales areas must be clearly depicted on the site plan. They must be at least ten (10) feet from motor vehicle routes and protected by a physical barrier.

7. Bicycle and pedestrian facilities. Additional standards applicable only to large scale development consisting of retail establishments greater than ten thousand (10,000) square feet in floor area.
 - a. Pedestrian walkways internal to the development shall be no less than five (5) feet in width, shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all large commercial buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers or other such materials for no less than fifty (50) percent of the length of the walkway.
 - b. Sidewalks at least five (5) feet in width shall be provided along all sides of the lot that abut a public street.
 - c. Sidewalks at least five (5) feet in width, shall be provided along the full length of the building along any façade featuring a customer entrance, and along any façade abutting public parking areas. Such sidewalks shall be located at least six (6) feet from the façade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the façade. Weather protection features such as awnings or arcades are required within thirty (30) feet of all customer entrances.
 - d. All internal pedestrian walkways and crosswalks shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways.
 - e. The development shall provide exterior pedestrian furniture in appropriate locations at the rate one seat for every five thousand (5,000) square feet of gross floor area and secure, integrated bicycle parking at the rate of three bicycle rack spaces for every fifty (50) vehicle parking spaces.

8. Building reuse. Additional standards applicable only to large scale development consisting of retail establishments greater than twenty thousand (20,000) square in floor area.

A form of surety approved by the Planning Board must be established by the applicant to ensure the building and all amenities on the site are maintained if the building becomes vacant. The amount of such surety shall be based on estimates prepared by a registered professional engineer of the cost of four years of maintenance of all site improvements and the cost of razing the building and removing all demolition materials. The surety must be of a form that cannot lapse or be discontinued without consent of the Board of Selectmen.

 - a. The estimates shall be increased by fifty (50) percent to reflect inflation. If the building remains vacant for a period of one (1) year and

site improvements are not maintained over this period, the selectmen may vote to exercise the surety to pay for site maintenance.

- b. If the building remains vacant for a period of four (4) years, the Selectmen may vote to exercise the surety to remove the building from the site.
- c. If the building remains vacant for a period of four (4) years, the Selectmen may vote to exercise the surety to remove the building from the site.
- d. Where the building will replace an existing building within the community, the applicant shall submit evidence that there will be no private prohibition on the type or reuse of the previously occupied building through conditions of sale or lease.

9. Location: Additional standards applicable only to large scale development consisting of retail establishments greater than twenty thousand (20,000) square feet in floor area. These standards are intended to ensure they are not prominently visible from designated roads as listed in subsection 9. d., below, unless they are sited close to the road in a manner similar to traditional village commercial development.

- a. Retail buildings over twenty (20,000) square feet in floor area that are set back more than fifty (50) feet from a designated road shall not be prominently visible from such road. This may be accomplished by existing vegetation and topography as well as proposed site improvements such as landscaping, berms, and similar site design features. In determining if existing vegetation and/or proposed landscaping will satisfy this standard, the Planning Board may consider the projected height and substance after construction of the large retail building is completed.
- b. Alternatively, the standard in subsection 9.b., above, may be satisfied by the siting of smaller commercial buildings on pads or out lots between the large scale retail building and the designated road. This technique shall be employed for the full width the development site along the road that provides its principal vehicular access except for access locations and landscaped public open spaces that the Planning Board determines will provide effective visual buffering of the large retail building.
- c. The following are designated roads within the meaning of subsections 9.b. and 9.c., above.
 - i. U.S. Route 1
 - ii. State Routes 194, 213 and 215
 - iii. Academy Hill Road
 - iv. River Road
 - v. Stewart Street
 - vi. Pump Street
 - vii. Glidden Street
 - viii. Sheepscot Road
 - ix. Cross Street
 - x. North Newcastle Road

- d. For large scale developments that are sited in conformance with subsections b or c, above, the maximum size of freestanding signs as provided for in Chapter XIII Section H of the Land Use Ordinance shall be increased by one-hundred (100) percent.
10. Community Impacts: The Planning Board may require an Economic and Fiscal Impact Analysis for a proposed large scale development. The applicant shall provide adequate funding to the town to retain a consultant of its choice with appropriate experience to complete the present such analysis.
- a. The impact statement shall include the following elements:
 - i. Identification and assessment of the impacts of the proposed project, including positive, negative, and indirect impacts.
 - ii. Proposed measures to mitigate adverse impacts and/or maximize positive impacts including provision of infrastructure or public services improvements sufficient to support the project. Any adverse impacts that cannot be mitigated shall be identified. Mitigation measures to be implemented by the applicant shall be identified.
 - b. The impact statement shall assess the following areas of potential impact:
 - i. Types of jobs created.
 - ii. Number of full-time (forty (40) hours per week) and part-time (less than forty (40) hours per week) jobs created.
 - iii. Estimate of the amount of local labor to be used in the construction of the project and in employment. Local is defined as town or county residents or businesses.
 - iv. Evaluation of the market and financial feasibility of the project. Include a Trade Area Analysis indicating the market proposed for the project and the area from which patrons will be attracted, and any plans for phased construction. Include any further market studies prepared for the project by the applicant.
 - v. Evaluation of the potential for the proposed project to create an over-supply of retail space in the town using industry-accepted standards for commercial floor area per resident.
 - vi. Evaluation of the impact of the proposed project on commercial vacancy rates in the town and the county.
 - vii. Estimate to what extent the proposed project would reduce the diversity of the town's economic base by eliminating smaller businesses.
 - viii. Comparison and evaluation of the projected costs and benefits to the town resulting from the project including:
 - 1. Projected costs arising from increased demand for and required improvements to public services and infrastructure.
 - 2. Value of improvements to public services and infrastructure to be provided by the project.

3. Projected tax revenues to the town to be generated by the project and the need for increased financial support for infrastructure improvements and protective services.
 4. Projected impact of the project on land values (both residential and commercial) and potential loss or increase in tax revenues to the town.
 5. Short-term and long-term projection of increased revenues to the town, and costs resulting from the proposed project.
 6. Estimate of the difference between how much of the revenue generated by the proposed project will be retained and re-directed back into the economy of the community compared to other retail chain stores and locally owned, independent retailers in the town.
11. Definitions: In addition to the definitions presented in Chapter II, the following definitions apply specifically to large scale developments:
- a. Arcade: A series of outdoor spaces located under a roof or overhang and supported by columns or arches.
 - b. Bay: As applied to large scale development, a spatial division element in a building defined by beams or ribs and their supports.
 - c. Berm: An earthen mound designed to provide visual interest on a site, screen undesirable views, reduce noise or provide a buffer from adjoining uses.
 - d. Buffer: As applied to large scale development, an area provided to reduce the conflict between two different land uses. Buffers are intended to mitigate undesirable views, noise and glare, effectively providing greater privacy to neighboring land uses. Typical buffers include, but are not limited to, plant materials, walls, fences and/or significant land area to separate the uses.
 - e. Canopy: As applied to large scale development, a projection over a niche or doorway, often decorative or decorated; a roof over an accessory structure including but not limited to gasoline pumps and an Automated Teller Machine (ATM).
 - f. Column: A vertical support, usually cylindrical, consisting of a base, shaft and capital, either monolithic or built up of drums the full diameter of the shaft.
 - g. Eave: The overhang at the lower edge of the roof, which usually projects out over the exterior walls of the structure.
 - h. Façade: The portion of any exterior elevation on the building extending from grade to the top of the parapet, wall or eaves and extending the entire length of the building.
 - i. Footcandle: A measure of light falling on a surface. One (1) footcandle is equal to the amount of light generated by one (1) candle shining on one (1) square foot surface located one (1) foot away.
 - j. Formula restaurant: An eating place that is one of a chain or group of three (3) or more establishments and which satisfies at least two of the following description:

- a. It has the same or similar name, trade name, or trademark as others in the chain or group;
- b. It offers either of the following characteristics in a style which is distinctive to and standardized among the chain or group;
 - 1. Exterior design or architecture;
 - 2. Uniforms, except that a personal identification or simple logo will not render the clothing a uniform.
- c. It is a fast food restaurant.
- k. Landscaping: The combination of natural elements such as trees, shrubs, groundcovers, vines, or other organic and inorganic materials, which are installed for purposes of creating an attractive and pleasing environment, screening unsightly views, reducing environmental impacts, and filtering matter from the air.
- l. Large Scale Development: Unless otherwise described, a retail sales establishment that exceeds two thousand five-hundred (2,500) square feet of gross floor area, a non-residential development that exceeds ten-thousand (10,000) square feet of gross floor area, a non-residential development with a drive-thru facility or outdoor fuel sales, or a formula restaurant; large scale development does not include agricultural building or commercial greenhouses and nurseries accessory to a retail or wholesale sales establishment.
- m. Nadir: The angle pointing directly downward zero (0°) degrees from the lighting fixture. Seventy-five (75°) degrees nadir, for example, is the angle pointing seventy-five (75°) degrees above nadir.
- n. Parapet: The portion of a wall that extends above the roofline
- o. Pedestrian walkway: A surfaced walkway, separate from the traveled portion of a public or private right-of-way, parking lot or driving aisle.
- p. Pitch: The slope of a roof commonly expressed in terms of inches of vertical rise per foot of horizontal run.
- q. Portico: A porch or walkway with a roof supported by columns, often leading to the entrance of a building.
- r. Scale: The size or proportion of a building element or space relative to the structural or functional dimension of the human body.
- s. Screen: See also “buffer”. The sole purpose of a screen is to block views. A screen should be constructed of opaque materials and whose height will be effective in obstructing unwanted views.
- t. Storefront: The traditional “main street” façade bound by a structural pier on either side, the sidewalk on the bottom and the lower edge of the upper façade at the top.
- u. Texture: The visual and tactile quality of a surface apart from its color and form. A building texture refers to the variations in the exterior façade and may be described in terms of roughness of the surface material, the patterns inherent in the material or the patterns in which the material is place.

CHAPTER XIV - ADMINISTRATION

A. GENERAL PROVISIONS

1. In all instances, the applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.
2. On approval of a project requiring a plan, a majority of the Board shall sign all copies of the plan, noting any conditions, terms or limitations on or attached to the plan.
 - a. The original shall be filed by the applicant with the Lincoln County Registry of Deeds, one (1) copy shall be retained by the applicant, one (1) copy shall be retained by the Board, and one (1) copy shall be filed with the Town Clerk.
 - b. No changes, erasures, modifications, or revisions may be made in a plan after approval by the Planning Board, unless the plan is first re-submitted and the appropriate authority approves the changes.
 - c. An approval expires within one (1) year of the date of issuance unless construction is substantially commenced within that time. If work is not completed within two (2) years from the date of issue, a new application must be made.
3. Each Authority shall maintain a permanent written record of their actions on each matter, with those records to be deposited regularly with the Town Clerk.
4. When a public hearing is held, the appropriate authority shall cause notice of the date, time and place of hearing to be given to the applicant and the public. It may also give notice or require the applicant to give notice to all property owners within one thousand (1,000) feet of the boundaries of the proposed project, if it deems such notice appropriate. Notice of each hearing shall be published in a newspaper of general circulation in NEWCASTLE at least twice, with the first publication at least seven (7) days prior to the hearing, unless an emergency meeting is required.
5. The applicant shall be required to notify, by mail, all abutting property owners that a Plan or application has been filed, and shall give evidence of that notice to the Planning Board.
6. Each Board shall give public notice of all Board meetings. The requirement for notice of regularly scheduled meetings may be met by an annual notice of the day of the month of such meetings, provided that any changes in that schedule are also published.

7. The Board of Selectmen may set reasonable fees for all permits to be issued under this Ordinance, excluding plumbing permits, sufficient to provide for the administration and enforcement of the Ordinance.
 - a. A fee schedule shall be maintained by the Town Clerk, with a duplicate posted in public view in the Town Hall.
 - b. Each application must be accompanied by the proper fee which shall be non-refundable and nontransferable.
 - c. All fees and fines collected by any authority shall be remitted to the town on a monthly basis accompanied by a detailed statement of all transactions.
8. Plumbing Permits shall expire within six (6) months of issuance, unless the work has substantially begun. No dwelling shall be occupied until the plumbing fixtures have been connected to the Great Salt Bay Sanitary System or to an adequate septic system that has been inspected and approved by the Plumbing Inspector.
9. No dwelling that is located within two-hundred fifty (250) feet of the high water mark of the shore may be changed from seasonal to year-round use without a Seasonal Conversion Permit issued by the Plumbing Inspector. No variance for an existing septic system shall be allowed for the purpose of obtaining that permit if the system was designed or installed prior to 1975.
10. Following the issuance of a building permit, if no substantial start is made in construction or in the use of the property within one (1) year of the date of the permit, it shall lapse and become void.
 - a. A permit expires for uses or structures that are discontinued for more than ninety (90) days, unless the permit holder can demonstrate that the discontinuance was for factors beyond their control.
 - b. A permit expires for seasonal uses or structures that are discontinued for more than one (1) year, unless the permit holder can demonstrate that the discontinuance was for factors beyond their control.
 - c. A permit is not required for the replacement of an existing road culvert as long as:
 1. The replacement culvert is not more than twenty-five percent (25%) longer than the culvert being replaced;
 2. The replacement culvert is not longer than seventy-five (75) feet; and
 3. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish

passage in the water course.

11. Unless specifically otherwise established, within thirty (30) days of the filing of an application, the appropriate authority shall notify the applicant, in writing, either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the appropriate authority has determined that a complete application has been filed, it shall notify the applicant, in writing, and begin its review of the proposed development.
12. Unless specifically otherwise established, the appropriate authority shall approve, approve with conditions, or deny all applications in writing within thirty (30) days of receiving a completed application.
 - a. If a board has a waiting list of applications, a decision on the application shall occur within thirty (30) days after the first available date for consideration on the Board's agenda following receipt of the completed application.
 - b. If a hearing is scheduled, a decision shall occur within thirty (30) days of the public hearing.
13. An applicant may waive in writing any time requirement for an authority's action.
14. If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing.
15. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any State law which the municipality is responsible for enforcing.
16. In issuing its decision, the board shall make findings of fact.
17. At any hearing a party may appear by agent or attorney. The Code Administrative Officer shall attend all appeal, variance and special exception hearings.

B. Permit Administration

1. Administering Bodies and Agents

The following bodies and agents shall administer this ordinance:

- (a) Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.

- (b) Planning Board. A Planning Board shall be created in accordance with the provisions of State law.
- (c) Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.
- (d) The current and duly elected Board of Selectmen.

2. Permits Required.

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

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

3. Permit Application

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

owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

(c) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.

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

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

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

(a) Will maintain safe and healthful conditions;

(b) Will not result in water pollution, erosion, or sedimentation to surface waters;

(c) Will adequately provide for the disposal of all wastewater;

(d) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

(e) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;

(f) Will protect archaeological and historic resources as designated in the comprehensive plan;

- (g) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
- (h) Will avoid problems associated with floodplain development and use; and
- (i) Is in conformance with the provisions of Chapter XI, Section 15, Land Use Standards.

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

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

- (a) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (b) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- (c) All proposed buildings, sewage disposal systems and other improvements are:
 - (1) Located on natural ground slopes of less than 20%; and
 - (2) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.
 - (3) If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

(d) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.

(e) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

6. Expiration of Permit. Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

7. Installation of Public Utility Service. A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure **located** in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

C. OFFICIAL DOCUMENTS

1. A certified copy of this Ordinance shall be filed with the Town Clerk and shall be available 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.
2. The official Land Use Map and Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office.
3. The Planning Board and Board of Appeals shall each maintain permanent files and a record of their action on each application. A Board may maintain tape recordings that are not reduced to a transcript as an official recording.

D. CODE ENFORCEMENT OFFICER

1. It shall be the duty of the Code Enforcement Officer of the Town to administer the requirements of this Ordinance. The Code Enforcement Officer shall be appointed by the Board of Selectmen.

2. When any violation of this Ordinance shall be found to exist, the Code Enforcement Officer shall notify the Board of Selectmen and, with their approval, he may then institute an action in the District Court, which shall be brought in the name of the Town. On conviction of violating this Ordinance, a person shall be punished as provided by 30-A MRSA §4452. Each day of violation shall constitute a separate offense. All fines shall inure to the Town. The Code Enforcement Officer may settle cases and agree to fines, and shall notify the Selectmen of such results.
3. Except as provided in this Ordinance, no building or structure shall be erected, moved, added to, altered, enlarged or changed to another use without a building permit being issued by the Code Enforcement Officer.
 - a. A permit shall not be required for a conforming building for accessory use not connected to any other building and not exceeding one-hundred fifty (150) square feet in floor area.
 - b. No building permit shall be issued except in conformity with the provisions of this Ordinance or except after written authorization by the Board of Appeals.
 - c. A building permit shall be valid for one year from its date of issue, and if construction has been started within that period, for an additional reasonable period to complete construction.
4. All applications for building permits shall be accompanied by the proper fee and by scale plans and/or other information sufficient to indicate that the requirements of this and all other applicable State Laws and local ordinances have been met.
 - a. When the Code Enforcement Officer determines that all State and local requirements have been complied with, (s) he shall immediately issue a building permit.
 - b. Permits shall be issued or rejected within five (5) working days, and if not issued within that time shall be deemed rejected.
 - c. A written rejection shall specifically state the reason for it.
5. All building permits shall be filed with the Town Clerk as a public record at the Town Offices.

E. PLANNING BOARD

1. The Planning Board shall consist of up to seven (7) members but never less than five (5), all legal residents of the Town, appointed by the Selectmen to serve staggered terms of three (3) years.

2. The members of the Board on the date of enactment of this ordinance shall continue and serve out their unexpired terms.
3. The Selectmen may appoint alternate members as they deem appropriate, which members may vote in the absence of a regular member.

F. BOARD OF APPEALS

1. The Appeals Board shall consist of five (5) members, all legal residents of the Town, appointed by the Selectmen to serve staggered terms of three (3) years.
2. The members of the Board on the date of enactment of this ordinance shall continue and serve out their unexpired terms.
3. The Selectmen may appoint alternate members as they deem appropriate, which members may vote in the absence of a regular member.

G. BOARD ADMINISTRATIVE AUTHORITY

The following provisions apply to the Planning Board, Board of Appeals, and any other Board established under this Ordinance.

1. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members except the member being challenged.
2. Each Board shall annually elect a chairman and a secretary. The chairman shall call meetings as necessary. The secretary shall keep records of all meetings and decisions of the Board and these records shall be kept in the Town Office and open to the public at all times.
3. A quorum of a Board necessary to conduct an official Board meeting shall consist of 3 members.
4. Each Board may adopt or amend procedural rules, after a public hearing.

H. WAIVER AND MODIFICATION

1. The Planning Board, on the petition of an applicant, may waive any of the application or procedural requirements of this Ordinance, or otherwise modify application requirements including application fees and documentation.
2. The Board of Appeals, after notice and hearing may grant a maximum height waiver as provided in Chapter 12, subchapter O.
3. The Planning Board, on petition of an applicant, after notice and hearing, may grant, modify the performance standards required for a subdivision or site plan review approval if it finds that literal or strict application of the standards to the

applicant or the property would cause undue hardship as set out under the Newcastle Land Use Code, Chapter XV, Paragraph I, section 4; or under 30-A M.R.S.A. chapter 187, subchapter IV. That modification shall be recorded on the Plan as required by law.

4. That waiver or modification shall be based on the unique or special circumstances of a structure, plan or site, provided it does not unduly restrict or limit the review process.
5. In granting a waiver or modification, the Board shall not nullify the purpose of this ordinance or any of its Chapters, the Comprehensive Plan, or any other ordinance, and shall require such conditions as will, in its judgment, secure substantially the objective of the requirements so waived.

I. APPEALS

1. Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:
 - (a) Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.
 - (b) Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.
2. Variance Appeals. Variances may be granted only under the following conditions:
 - (a) Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
 - (b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
 - (c) The Board shall not grant a variance unless it finds that:

- (i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
- (ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted;
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- (d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
- (e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

3. Administrative Appeals

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

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

4. Appeal Procedure

(a) Making an Appeal

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

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

(b) Decision by Board of Appeals

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

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

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

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

5. Appeal to Superior Court. Except as provided by 30-A M.R.S.A. section 2691(3) (F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
6. Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.
7. Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

J. Enforcement

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

and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

3. Legal Actions. When the above action can not or does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
4. Fines. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

K. SEASONAL CONVERSION

No dwelling that is located within two-hundred fifty (250) feet of the high water mark of the shore may be changed from seasonal to year-round use without a Seasonal Conversion Permit issued by the Plumbing Inspector. No variance for an existing septic system shall be allowed for the purpose of obtaining that permit if the system was designed or installed prior to 1975.

1. Every applicant for a permit shall submit a written application, including a scaled site plan, if appropriate, on a form provided by the municipality, to the appropriate authority.
2. All applications shall be signed by the owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property, then that person shall submit a letter of authorization from the owner or lessee.
3. All applications shall be dated, and the recipient shall note upon each application the date and time of its receipt.
4. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation

approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface sewage disposal system.

L. RESOURCE PROTECTION EXCEPTIONS

In addition to the criteria specified elsewhere in this ordinance, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

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

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be one-half the width of the 100-year floodplain.

4. The total ground-floor area of all principal and accessory structures is limited to a maximum of fifteen-hundred (1,500) square feet.
5. All structures, except functionally water-dependent structures, are set back from the normal high-water line or upland edge of a wetland to the greatest practical extent, but not less than seventy-five (75) feet. In determining the greatest practical extent, the planning board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

CHAPTER XV - REPEALERS

The following Ordinances in the Town are hereby repealed:

The Land Use Code, enacted in November, 1972 as subsequently amended and revised.

The Subdivision Ordinance, enacted on March 14, 1988 as subsequently amended.

The Mobile Home Ordinance, enacted on March 17, 1969, as subsequently amended.

The following amendments have been made to the Land Use Ordinance:

Chapter V – Site Plan – March 26, 2001

Chapter VI – Flood Plain – March 1998; March 26, 2007

Chapters VII, X & XI – creating District “Village Center” and change the official Land Use map – March 29, 2004

Chapter VII – Design Review – March 31, 2008

Chapter IX – Zones – March 26, 2007

Chapter X – District Standards – March 26, 2001; March 26, 2007

Chapter X & XIII – to maximum of 35,000 square feet (Size Cap) – March 27, 2006

Chapter XII – Erosion, Sedimentation and Storm Water Management – March 26, 2001

Chapter XIII-M. - Yard Sales – enacted June 17, 2002

Chapter XIII – Administration; Large Scale Development – March 26, 2007

Chapter XIV – Planning Board up to 7 members – March 31, 2008

All Chapters – Shoreland A & B changed to District A & B – March 31, 2008

Chapter II, X, XI, XIV – Pursuant to State Mandated Changes to the Shoreland Zoning portion of the ordinance – July 20, 2009

Chapter IX and X – Village Center and Other Modifications – March 30, 2010

Add chapters to the Land Use Ordinance:

Chapter XII – March 26, 2001 (subsequent titles of chapters changed)

END