

# ENVIRONMENTAL CONTROL ORDINANCE HANCOCK, MAINE

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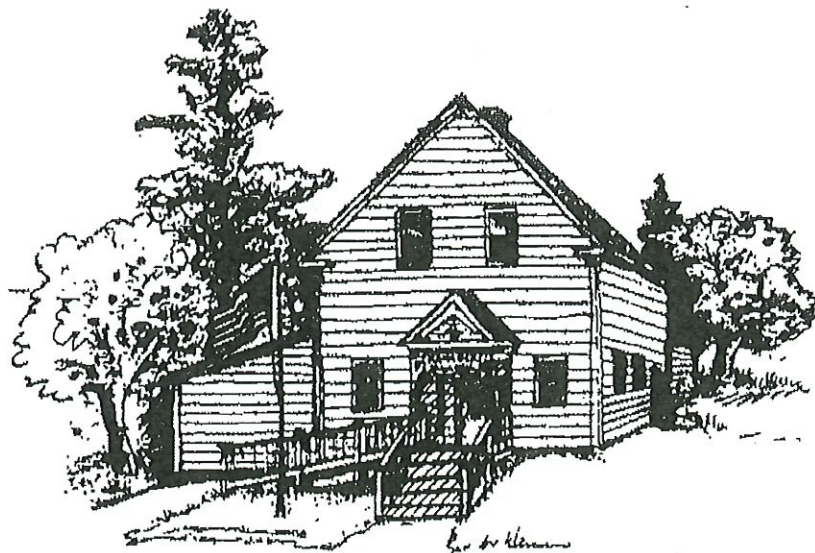
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# TABLE OF CONTENTS

PAGE

<b>SECTION 1: GENERAL PROVISIONS.....</b>	<b>6</b>
A. TITLE	6
B. AUTHORITY	6
C. PURPOSES	6
D. APPLICABILITY	7
E. CONFLICT WITH OTHER ORDINANCES	7
F. SEVERABILITY	7
G. AMENDMENTS TO ORDINANCE AND OFFICIAL ZONING MAP	8
H. ANNUAL ADMINISTRATIVE REVIEW	8
I. EFFECTIVE DATE	8
J. SUPERSEDED PRIOR ORDINANCE	8
K. AVAILABILITY	8
 <b>SECTION 2: NON-CONFORMITY</b>	 <b>9</b>
A. LEGAL NON-CONFORMITY DEFINED (GRANDFATHERING)	9
B. GENERAL PROVISIONS	9
C. NON-CONFORMING STRUCTURES	9
D. EXISTING NON-CONFORMING MOBILE HOMES	12
E. NON-CONFORMING USES	12
F. NON-CONFORMING LOTS	12
 <b>SECTION 3: ESTABLISHMENT OF ZONES</b>	 <b>14</b>
A. OFFICIAL ZONING MAP	14
B. CERTIFICATION OF OFFICIAL ZONING MAP	14
C. CHANGES TO THE OFFICIAL ZONING MAP	14
D. ESTABLISHMENT OF ZONES	14
1. (RP) RESOURCE PROTECTION ZONE	14
2. (AP) AQUIFER PROTECTION OVERLAY ZONE	15
3. (SP) STREAM PROTECTION ZONE	15
4. (SR) SHORELAND RESIDENTIAL ZONE	15
5. (SD) SHORELAND DEVELOPMENT ZONE	16
6. (RU) RURAL UNDEVELOPED ZONE	16
7. (RR) RURAL/RESIDENTIAL ZONE	16
8. (C) COMMERCIAL ZONE	16
9. (MH) MOBILE HOME PARK ZONE	16
10. (I) INDUSTRIAL ZONE	16
E. OFFICIAL ZONING MAP	16
F. INTERPRETATION OF ZONE BOUNDARIES	17
 <b>SECTION 4: SCHEDULE OF USES</b>	 <b>18</b>
A. ACTIVITIES DESCRIBED	18
B. COMPLIANCE WITH LAND USE STANDARDS REQUIRED	18
C. SYMBOLS USED IN SCHEDULE OF USES	18
1. ZONE SYMBOLS	18
2. PERMIT REQUIRED SYMBOLS	18
D. USES SUBSTANTIALLY SIMILAR TO PERMITTED USES MAY BE PERMITTED	19



1. USES ALLOWED WITHOUT A PERMIT	19
2. USES REQUIRING A BUILDING PERMIT FROM THE CODE ENFORCEMENT OFFICER	19
3. USES REQUIRING SITE PLAN REVIEW AND APPROVAL OF THE PLANNING BOARD	19
E. USES SUBSTANTIALLY SIMILAR TO PROHIBITED USES ARE PROHIBITED	19
F. USES PERMITTED IN THE AQUIFER PROTECTION OVERLAY ZONE	19
G. USES PERMITTED IN THE LANDFILL AREA PROTECTION (LAP) OVERLAY ZONE	19
H. SCHEDULE OF USES	20
<b>SECTION 5: LAND USE STANDARDS (General)</b>	<b>25</b>
A. PURPOSE	25
B. GENERAL STANDARDS	25
1. ACCESS TO THE SITE	25
2. BED AND BREAKFAST	28
2-A. AFFORDABLE HOUSING DEVELOPMENTS	29
3. BUFFERING AND SCREENING	30
4. CAMPGROUNDS	31
5. CLUSTER DEVELOPMENT	31
5a. CONSTRUCTION IN FLOOD HAZARD AREAS	32
6. CONVERSIONS	32
7. DIMENSIONAL REQUIREMENTS	32
8. DUST, FUMES, VAPORS, GASES, ODORS, NOISES, GLARE AND EXPLOSIVE MATERIALS	36
9. EROSION AND SEDIMENTATION CONTROL	37
10. GROUNDWATER PROTECTION	38
11. HOME OCCUPATIONS	38
12. JUNKYARDS AND AUTOMOBILE GRAVEYARDS	39
13. LAND NOT SUITABLE FOR DEVELOPMENT	39
14. LIGHTING	39
15. MINERAL EXPLORATION AND EXTRACTION	40
16. MOBILE HOME PARKS	42
17. MOBILE HOMES AND RECREATION VEHICLES	42
18-A. MULTIPLE DWELLINGS ON A SINGLE LOT	43
18-B. MULTIPLE USES ON A SINGLE LOT	43
19. MUNICIPAL SERVICES	44
20. OFF-STREET LOADING/UNLOADING REQUIREMENTS	44
21. OFF-STREET PARKING	44
22. BULK OIL AND CHEMICAL STORAGE	46
23. ON-SITE CIRCULATION	46
24. OUTDOOR STORAGE AND DISPLAY OF GOODS	46
25. POLLUTION LEVELS	47
26. PRESERVATION AND ENHANCEMENT OF THE LANDSCAPE	47
27. PRIVATE RIGHT-OF-WAYS	47
28. SIGNS (see also Land Use Standards, Shoreland, Section 5.C.15)	47
29. SITE CONDITIONS	49
30. SMALL WIND ENERGY SYSTEMS	49
31. SUBDIVISIONS	51
32. USES PROHIBITED ON OR ADJACENT TO AQUIFERS	51

33. UTILITIES/SUBSURFACE WASTEWATER DISPOSAL/WASTE DISPOSAL/WATER SUPPLY	52
34. WATER EXTRACTION	53
35. WIRELESS TELECOMMUNICATION FACILITIES (WTF)	53
C. SHORELAND STANDARDS	56
1. AGRICULTURE	56
2. ARCHAEOLOGICAL SITES	57
3. CLEARING OR REMOVAL OF VEGETATION FOR ACTIVITIES OTHER THAN TIMBER HARVESTING	57
4. COMMERCIAL AND INDUSTRIAL USES	59
5. EROSION AND SEDIMENTATION CONTROL	59
6. ESSENTIAL SERVICES	60
7. INDIVIDUAL PRIVATE CAMPSITES	60
8. MINERAL EXPLORATION AND EXTRACTION	61
9. MINIMUM LOT STANDARDS	61
10. PARKING AREAS	62
11. PIERS, DOCKS, WHARFS, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BELOW THE NORMAL HIGH-WATER LINE OF A WATER BODY OR WITHIN A WETLAND	62
12. PRINCIPAL AND ACCESSORY STRUCTURES	63
13. ROADS AND DRIVEWAYS	65
14. SEPTIC WASTE DISPOSAL	65
15. SIGNS	66
16. SMALL WIND ENERGY SYSTEMS	66
17. SOILS	66
18. STORM WATER RUNOFF	67
19. TIMBER HARVESTING	67
20. WATER QUALITY	67
<b>SECTION 6: CODE ENFORCEMENT OFFICER PERMITS</b>	<b>68</b>
A. CODE ENFORCEMENT OFFICER PERMIT REQUIRED	68
B. PROCEDURE	69
<b>SECTION 7: SITE PLAN REVIEW</b>	<b>71</b>
A. PURPOSE	71
B. ACTIVITIES REQUIRING SITE PLAN REVIEW	71
C. ACTIVITIES NOT REQUIRING SITE PLAN REVIEW	71
D. CLASSIFICATION OF PROJECTS	71
E. PROHIBITION	72
F. SITE PLAN REVIEW APPLICATION	72
G. ADDITIONAL INFORMATION REQUIRED OF MAJOR DEVELOPMENTS	78
H. REVIEW PROCEDURES	79
I. SITE PLAN REVIEW CRITERIA	81
J. PUBLIC HEARING PROCEDURES	82
K. PROFESSIONAL REVIEW	83
L. FAILURE TO ACT	84
M. EXPIRATION OF APPROVALS	84
N. OTHER PERMITS	84
O. ACCESS TO SITE AND RECORDS	84
P. WAIVER OF SUBMISSIONS REQUIREMENTS	84

Q. WAIVER OF REVIEW CRITERIA	84
<b>SECTION 8: CERTIFICATE OF OCCUPANCY/USE</b>	<b>85</b>
<b>SECTION 9: ADMINISTRATIVE FEES/WTF PERFORMANCE GUARANTEE FOR REMOVAL</b>	<b>86</b>
A. GENERAL PROVISIONS	86
B. BUILDING FEES	86
C. ORDINANCE AND SITE PLAN REVIEW FEES	86
D. WTF PERFORMANCE GUARANTEE FOR REMOVAL	87
E. BOARD OF APPEALS ADMINISTRATION FEES	88
<b>SECTION 10: ENFORCEMENT</b>	<b>89</b>
A. ENFORCEMENT PROCEDURE	89
B. LEGAL ACTION	89
C. CIVIL PENALTIES, FEES & COSTS	89
D. NUISANCE; INJUNCTIVE RELIEF	89
<b>SECTION 11: ZONING BOARD OF APPEALS</b>	<b>90</b>
A. ESTABLISHMENT AND ORGANIZATION OF BOARD OF APPEALS	90
B. POWERS AND DUTIES	90
C. APPEAL PROCEDURE	91
D. APPEAL TO SUPERIOR COURT	93
<b>SECTION 12: DEFINITIONS</b>	<b>94</b>
A. CONSTRUCTION OF LANGUAGE	94
B. DEFINITIONS OF WORDS	94
<b>APPENDIX A: SCREENING</b>	<b>118</b>
<b>APPENDIX B: FILTER STRIP WIDTHS</b>	<b>121</b>
<b>APPENDIX C: ROAD AND DRIVEWAY STANDARDS</b>	<b>122</b>
<b>APPENDIX D: TIMBER HARVESTING</b>	<b>124</b>
<b>APPENDIX E: FEE SCHEDULE</b>	<b>131</b>

## SECTION 1: GENERAL PROVISIONS

### A. TITLE

This Ordinance shall be known as and may be cited as the "Environmental Control Ordinance of the Town of Hancock, Maine," and will be referred to herein as the "Ordinance".

### B. AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A, Section 4352 and Title 38, Section 435 et. seq., of the Maine Revised Statutes Annotated (M.R.S.A.).

### C. PURPOSES

The purposes of this Ordinance are as follows:

1. COMPREHENSIVE PLAN IMPLEMENTATION: To implement the policies and recommendations of the Hancock Comprehensive Plan;
2. PRESERVATION OF THE TOWN CHARACTER: To preserve and protect the character of Hancock by dividing the Town into neighborhood zones according to the use of land and buildings and the intensity of such uses;
3. PROTECTION OF THE GENERAL WELFARE: To assure the comfort, convenience, safety, health, and welfare of the present and future inhabitants of the Town of Hancock;
4. PROTECTION OF THE ENVIRONMENT: To protect and enhance the natural, cultural, and historic resources of the Town from unacceptable adverse impacts and to integrate new development harmoniously into the Town's natural environment;
5. PROMOTION OF COMMUNITY DEVELOPMENT: To promote the development of an economically sound and stable community;
6. REDUCTION OF TRAFFIC CONGESTION: To lessen the danger and congestion of traffic on roads and highways, limit excessive numbers of intersections, driveways, and other friction points, minimize hazards, and insure the continued usefulness of all elements of the exiting transportation system for their planned function;
7. BALANCING OF PROPERTY RIGHTS: To protect property rights and values by balancing the rights of landowners to use their land consistent with the corresponding rights of abutting and neighboring landowners, to enjoy their property without undue disturbance from abutting or neighboring uses;
8. REDUCTION OF FISCAL IMPACT: To provide a means of evaluating development proposals to determine their fiscal impacts on the municipality's ability to provide and improve necessary public facilities and services; and
9. ESTABLISHMENT OF PROCEDURES AND STANDARDS: To establish procedures whereby the Town Officials may review the developments regulated by this Ordinance by providing fair and reasonable standards for evaluating such developments; to provide a public hearing process through which Town residents may raise questions and receive answers regarding how such developments may affect them; and to provide procedures whereby aggrieved parties may appeal decisions made under this ordinance.

## SECTION 1: GENERAL PROVISIONS

### D. APPLICABILITY

This Ordinance shall apply to all land and water areas within the Town of Hancock. All buildings or structures hereinafter constructed, reconstructed, altered, enlarged, or moved, and the uses of buildings and land, including the division of land shall be in conformity with the provisions of this Ordinance. No existing or future building, structure, land or water area shall be used for any purpose or in any manner except as provided for in this Ordinance. (See also Shoreland Standards Section 5.C.)

### E. CONFLICT WITH OTHER ORDINANCES

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation or ordinance, that imposing the most restrictive or higher standard shall govern.

### F. SEVERABILITY

In the event that any section, subsection, or any provision of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other Section, Sub-Section, or other portion of this Ordinance; to this end, the provisions of this Ordinance are hereby declared to be severable.

### G. AMENDMENTS TO ORDINANCE AND OFFICIAL ZONING MAP

The process for amending this Ordinance and the Official Zoning Map is as follows:

#### 1. INITIATION: A proposal to amend this Ordinance or the Official Zoning Map may be initiated by:

- a. The Planning Board, by majority vote;
- b. The Board of Selectpersons, through a request to the Planning Board; or
- c. The Public, through a written petition signed by at least fifty (50) residents registered to vote in the Town of Hancock. When an amendment to this Ordinance is proposed by other than the municipal officers or Planning Board, a non-refundable fee as the same may be established from time to time by the Board of Selectpersons, after notice and hearing, shall accompany the proposal. In addition, the cost of advertising shall be paid by the proposer. (See Fee Schedule)

#### 2. PROCESS OF ADOPTION: The process to be followed in adopting an amendment to this Ordinance or the Official Zoning Map is as follows:

- a. Proposed amendments must first be submitted to the Planning Board for their consideration;
- b. The Planning Board, shall, within thirty (30) days of receiving proposed amendment, set a date to hold a public hearing on the proposed amendment;
- c. Notice of the public hearing shall be given as required by State Law;
- d. The Planning Board shall make its official report at a Board of Selectperson's meeting occurring within sixty (60) days after the public hearing;
- e. Enactment of proposed amendment that does not have the support of the majority vote of the Planning Board shall require a two-thirds (2/3) vote of the voters voting at the Town Meeting; and
- f. Enactment of a proposed amendment having the approval of the Planning Board shall require only a majority of the voters to enact that amendment.

## SECTION 1: GENERAL PROVISIONS

### G. AMENDMENTS TO ORDINANCE AND OFFICIAL ZONING MAP (Continued)

3. NOTIFICATION OF STATE: The Commissioner of the Department of Environmental Protection shall be notified of amendments to this Ordinance or Zone Boundaries in shoreland areas as required by the Mandatory Shoreland Zoning Act, 38, M.R.S.A., Section 438-A, Sub-Section 3.

Such amendments shall not become effective unless approved by the Commissioner. If the Commissioner fails to act on an amendment within forty-five (45) days, it shall be deemed approved.

### H. ANNUAL ADMINISTRATIVE REVIEW

The Code Enforcement Officer, Planning Board, and Board of Appeals each shall report annually, in the month of January, to the Board of Selectpersons on their respective experience with the administration of this Ordinance during the previous year. Their reports to the Board of Selectpersons shall include any recommended amendments they may have that would:

1. Enhance their ability to more effectively meet their respective administrative responsibilities under this Ordinance; and
2. Enhance the implementation of the purposes of this Ordinance contained in Sub-Section 1.C, paragraphs 1 through 9.

Failure of any person or Board to comply with this provision shall not affect the validity or enforceability of this Ordinance in any way.

### I. EFFECTIVE DATE

The effective date of this Ordinance or any amendments thereto shall be the day of its/their adoption at a Town Meeting. If the amendment relates to the shoreland area, such amendment shall not become effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance Amendment, attested and signed by the Town Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on an amendment within forty-five (45) days, it shall be automatically approved.

### J. SUPERSEDED PRIOR ORDINANCE

The existing Environmental Control Ordinance, which includes shoreland zoning of the Town of Hancock, Maine, as amended, are superseded as of the effective date of this Ordinance. The adoption of this Ordinance, however, shall not affect nor prevent any pending or future prosecution of, or action to abate, any violation of the Ordinances superseded by this section, if the violation is also a violation of the provisions of this Ordinance. It is further the intention and direction of this Section that if this Ordinance is, for any reason, held to be invalid or void in its entirety, that the Ordinances superseded by this Section shall be automatically revived.

### K. AVAILABILITY

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

## SECTION 2: NON-CONFORMITY

### A. LEGAL NON-CONFORMITY DEFINED (GRANDFATHERING)

A legally existing (grandfathered) non-conforming lot, structure, sign or use that lawfully existed immediately prior to the enactment of the Ordinance, or any subsequent amendment hereto, and which, as a result of the enactment or subsequent amendment, fails to comply with any of the requirements of this Ordinance. Such requirements shall include, but are not limited to, the use restrictions and lot standards for the zone in which it is located, or any Land Use Standards set forth in Section 5. An illegal non-conformity is any lot, structure, sign or use that fails to comply with any of the requirements of the Ordinance in effect at the time. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

### B. GENERAL PROVISIONS

The following provisions apply to non-conformities generally:

1. **NORMAL REPAIR AND MAINTENANCE:** The normal upkeep and maintenance of non-conforming structures including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as Federal, State, or local building and safety codes may require are permitted.
2. **TRANSFER OF OWNERSHIP:** Any legal non-conformity may be transferred and the new owner may, subject strictly to the requirements of this Section, continue such non-conformity, provided, however, that nothing contained herein shall be construed to permit any person or entity to occupy or use any lot or structure or to continue any use in violation of any other Federal, State or Municipal statute, ordinance, or regulation.
3. **ILLEGAL NON-CONFORMITY:** Any illegal non-conformity shall cease or be corrected as soon as possible. Any continuation of an illegal non-conformity is a violation of this Ordinance.
4. **BURDEN OF PROOF RELATED TO ESTABLISHING LEGAL NON-CONFORMITY:** The burden of establishing that any non-conformity is a legal non-conformity shall, in all cases, be upon the owner of such non-conformity and not upon the Town of Hancock.
5. **CONVERSION TO CONFORMITY ENCOURAGED:** All non-conformities shall be encouraged to convert to conformity whenever possible and, when required by this Ordinance, shall convert to conformity.
6. **REVERSION TO NON-CONFORMITY PROHIBITED:** Once converted to conformity, no lot, structure, or use shall revert to non-conformity.

### C. NON-CONFORMING STRUCTURES

The following provision shall apply to non-conforming structures:

1. **EXPANSION OF NON-CONFORMING STRUCTURES:** A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority identified in Section 4, as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure. Such expansion is further limited as follows:
  - a) After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or upland edge of a water body, wetland, or tributary stream, that portion of the structure shall not be expanded in floor area or volume, by more than thirty percent (30%), during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 2:C.3, and is less than the required setback from a water body,

## SECTION 2: NON-CONFORMITY

### C. NON-CONFORMING STRUCTURES (continued)

tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.

b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure,

- 1) 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 2:C.2 Relocation, below. If
- 2) the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 2:C.1.a) above, and
- 3) 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 (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

c) No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream or wetland.

2. RELOCATION OF NON-CONFORMING STRUCTURES: 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 or that a new system can be installed in a manner that causes the system to be less 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 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.

## SECTION 2: NON-CONFORMITY

### C. NON-CONFORMING STRUCTURES (continued)

- 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 OF NON-CONFORMING STRUCTURES: Any non-conforming structure which is located less than the required setback from a water body, tributary stream, wetland, or from the property line, or which otherwise fails to meet the dimensional requirements of the Ordinance, and which is removed, or damaged or destroyed, regardless of the cause, by more than fifty percent (50%) of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced within eighteen months of the date of said damage, destruction, or removal, provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirements to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 2: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 2: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 setbacks to the "greatest practical extent" the Planning Board, or its designee, shall consider in addition to the criteria in Section 2:C.2. above, the type of foundation present, if any. It is not the intent of this Section to require the destruction of functional concrete or block foundations in order to meet setback requirements.

4. CHANGE OF USE OF A NON-CONFORMING STRUCTURE IN THE SHORELAND AREA: The use of a non-conforming structure in the Shoreland Area may not be changed to another use unless the Planning Board after receiving a written application determines that the new use will not have a greater adverse impact on the water body, tributary stream, or wetland, or on the property on which it is located or on 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 other functionally water-dependent uses.

## SECTION 2: NON-CONFORMITY

### D. EXISTING NON-CONFORMING MOBILE HOMES

Notwithstanding any other provision of this Ordinance, the lawful use of a mobile home as a single family dwelling, in any zone, which use legally existed on the date of the enactment of this Ordinance may be continued, except that the mobile home shall not be:

1. Rebuilt, altered, or repaired after being damaged in excess of fifty percent (50%) of its replacement cost at the time of destruction as determined by the Code Enforcement Officer, except that such mobile home may be replaced as provided in the exception contained in paragraph 2, below, or may be rebuilt or repaired to its original condition if the mobile home had, before destruction, been certified or excluded as provided in said exception; or
2. Replaced with a different mobile home, unless the new mobile home is certified, pursuant to 42 U.S.C. Sub-Section 5415, as amended, as conforming to all applicable Federal manufactured home construction and safety standards, or is excluded from the coverage of 42 U.S.C. SubSection 5401 et seq.

Any mobile home lawfully used as a single-family dwelling may be improved by the addition of a foundation or by other new construction, alteration, or repair, subject to the requirements of any applicable building code or other law, and subject to the other provisions of Section 5.

### E. NON-CONFORMING USES The following provisions shall apply to non-conforming uses:

1. EXPANSION: 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 2:C.1. above. However, when the nonconforming use is not changed in character, mere increase in the amount or intensity of the nonconforming use within the same area does not constitute an improper expansion of a nonconforming use.
2. RESUMPTION PROHIBITED: A lot, building, or structure in or on which a non-conforming use ceases to be actively pursued for a period exceeding one (1) year, or which is superseded by a conforming use, may not again be devoted to a nonconforming use.
3. CHANGE OF USE: An existing nonconforming use may not be changed to another nonconforming use.

### F. NON-CONFORMING LOTS

1. NON-CONFORMING LOTS: A single, vacant parcel of land, the legal description or dimensions of which are recorded on a document or map on file at the Hancock County Registry of Deeds at the effective date of this Ordinance or any amendment, and which, as a result of the enactment or respective amendment of this Ordinance, does not meet the lot area, lot width, and shore frontage requirements of the Zone in which it is located, and which does not adjoin another parcel in common ownership, may be built upon, without the need for a variance, subject to the following:
  - a. Such building or construction shall, in all other respects, comply with the provisions of this Ordinance.
  - b. No construction shall be commenced until the owner demonstrates to the satisfaction of the Code Enforcement Officer that there is reasonable access to the site for emergency vehicles.

## SECTION 2: NON-CONFORMITY

- c. Such buildings shall be limited to single-family dwellings, accessory dwelling units and accessory structures.
  - d. Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals.
  - e. A single accessory dwelling unit shall be allowed on a non-conforming lot of record if the accessory dwelling unit does not further increase the non-conformity, meaning the accessory dwelling unit does not cause further deviation from the dimensional standard(s) creating the non-conformity, excluding lot area, as permitted through Title 30-A M.R.S. §4364-B. An accessory dwelling unit located in the (RP) Resource Protection, (SP) Stream Protection, (SD) Shoreland Development, or the (SR) Shoreland Residential Zone must meet the frontage and setback requirements set forth in Section 5 B.7. Dimensional Standards of this Ordinance.
2. **CONTIGUOUS BUILT LOTS:** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. Sections 4807-A through 4807-D) and State of Maine Subsurface Wastewater Disposal Rules are complied with.

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

3. **CONTIGUOUS LOTS - VACANT OR PARTIALLY BUILT:** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

In the Shoreland Zone, this provision shall not apply to two (2) or more contiguous lots, at least one (1) of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if the lot can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- a. Each lot contains at least one hundred feet (100') of shore frontage and at least twenty thousand (20,000) square feet of lot area; or
- b. Any lots that do not meet the frontage and lot size requirements of Section 2:F.3.a. are reconfigured or combined so that each new lot contains at least one hundred feet (100') of shore frontage and twenty thousand (20,000) square feet of lot area.

Section 2:F.3.a. and b. shall apply to two or more contiguous lots owned by the same person or persons as of May 14, 1994.

## SECTION 3: ESTABLISHMENT OF ZONES

### A. OFFICIAL ZONING MAP

The Town of Hancock, Maine is hereby divided into the following zones as shown on the Official Zoning Map:

1. (RP) Resource Protection Zone
2. (AP) Aquifer Protection Overlay Zone
3. (SP) Stream Protection Zone
4. (SR) Shoreland Residential Zone
5. (SD) Shoreland Development Zone
6. (RU) Rural Undeveloped Zone
7. (RR) Rural/Residential Zone
8. (C) Commercial Zone
9. (MH) Mobile Home Park Zone
10. (I) Industrial Zone

The Official Zoning Map of the Town of Hancock, Maine and all future amendments thereto, shall be available at the Town Office and is hereby made part of and incorporated into this Ordinance.

### B. CERTIFICATION OF OFFICIAL ZONING MAP

The Official Zoning Map shall be certified by the attested signature of the Town Clerk and shall be located in the Town Office.

### C. CHANGES TO THE OFFICIAL ZONING MAP

If amendments, in accordance with Section 1.G, are made in the zone boundaries or other matter portrayed on the Official Zoning Map, and if such changes relate to the Shoreland Area, such changes shall be made on the Official Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection. All other changes to the Official Zoning Map become effective upon their adoption.

### D. ESTABLISHMENT OF ZONES

#### 1. (RP) RESOURCE PROTECTION ZONE

The Resource Protection Zone shall include areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This zone shall include the following areas, independent of individual property lines:

- a. Land within two hundred fifty (250) feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, and all freshwater wetlands which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. 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;

### SECTION 3: ESTABLISHMENT OF ZONES

#### D. ESTABLISHMENT OF ZONES (continued)

##### 1. (RP) RESOURCE PROTECTION ZONE (continued)

- b. Flood plains along rivers, flood plains along artificially formed great ponds along rivers, and flood plains adjacent to tidal waters, defined by the 100 year flood plain as designated on the Federal Emergency Management Agency's (FEMA) flood insurance rate maps or flood hazard boundary maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
- c. Land within shoreland areas of two or more contiguous acres with sustained slopes of 20% or greater;
- d. Land within shoreland areas of two 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; and
- e. Such other important wildlife habitat, natural sites of scenic or aesthetic value, historic or archaeologically significant sites, within the Shoreland Area, as have been identified as significant and requiring protection by the Town's Comprehensive Plan or so identified by an appropriate State or Federal Agency.

##### 2. (AP) AQUIFER PROTECTION OVERLAY ZONE

The Aquifer Protection Overlay Zone shall include all lands within the boundaries of the town's identified significant sand and gravel aquifers plus all lands lying outside and within three hundred feet (300') outside its mapped boundaries, as determined by the 1988 Maine Geological Survey, independent of individual property lines. The Lamoine and Ellsworth Planning Boards shall be notified of all applications in the Aquifer Protection Overlay Zone and be invited to submit their comments.

##### 3. (SP) STREAM PROTECTION ZONE

The Stream Protection Zone shall include 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, 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 is 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.

##### 4. (SR) SHORELAND RESIDENTIAL ZONE

The Shoreland Residential Zone shall include land within two hundred fifty feet (250'), horizontal distance, of shoreland areas not otherwise designated as a (RP) Resource Protection, (SP) Stream Protection, or (SD) Shoreland Development.

## SECTION 3: ESTABLISHMENT OF ZONES

### D. ESTABLISHMENT OF ZONES (continued)

#### 5. (SD) SHORELAND DEVELOPMENT ZONE

The Shoreland Development Zone shall include all lands within the Shoreland Area, which is not otherwise zoned as a (RP) Resource Protection, (SP) Stream Protection, or as a (SR) Shoreland Residential Zone.

#### 6. (RU) RURAL UNDEVELOPED ZONE

The Rural Undeveloped Zone shall include all lands North of Route 1 and West of Route 182 shown on the Official Map as Rural Undeveloped Zone, which are not otherwise zoned as (C) Commercial, (I) Industrial, (MH) Mobile Home Park Zone, (RP) Resource Protection, or (SP) Stream Protection.

#### 7. (RR) RURAL/RESIDENTIAL ZONE

The Rural/Residential Zone shall include all other land within Town which is not designated as a (RP) Resource Protection, (SP) Stream Protection, (SR) Shoreland Residential, (SD) Shoreland Development, (MH) Mobile Home Park, (C) Commercial or as an (I) Industrial Zone.

#### 8. (C) COMMERCIAL ZONE

The Commercial Zone shall include all lands identified as Commercial in the May 13, 1991 revision of the Town of Hancock Environmental Control Ordinance (land West of Thorsen Road to the Ellsworth border; within 1/4 mile of Route 1, within 1/4 mile of Mud Creek Road, within 1/4 mile of Route 182, and within 1/4 mile of Old Route 1; and a triangular area near McNeil Point in South Hancock) shown on the Official Map as Commercial Zone, which are not otherwise zoned as (I) Industrial, (MH) Mobile Home Park, (RP) Resource Protection, (SP) Stream Protection, (SD) Shoreland Development, or as a (SR) Shoreland Residential Zone.

#### 9. (MH) MOBILE HOME PARK ZONE

The Mobile Home Park Zone shall include the property associated with all existing mobile home parks, which are not otherwise zoned as a (RP) Resource Protection, (SP) Stream Protection, (SD) Shoreland Development, or as a (SR) Shoreland Residential Zone.

#### 10. (I) INDUSTRIAL ZONE

The Industrial Zone shall include all lands at Washington Junction and on Route 1, in the vicinity of MacQuinn Road, as shown on the Official Zoning Map, which are not otherwise zoned as a (RP) Resource Protection, (SP) Stream Protection, (SD) Shoreland Development, or as a (SR) Shoreland Residential Zone.

### E. OFFICIAL ZONING MAP

Zones established by this Ordinance are defined and bounded as shown on the official "Zoning Map of Hancock, Maine" which, together with its notations and amendments made from time to time, is hereby made a part of this Ordinance.

The official copy of the map shall be that map which bears the certification that it is true and correct, signed by the Chairman of the Planning Board and attested by the Town Clerk, and on file in the office of the Town Clerk.

### SECTION 3: ESTABLISHMENT OF ZONES

#### F. INTERPRETATION OF ZONE BOUNDARIES

Where uncertainty exists as to boundary lines of Zones as shown on the official "Zoning Map of Hancock, Maine," the following rules of interpretation shall apply for zoning purposes only; and not for assessment or conveyance.

1. Boundaries indicated as approximately following the center lines of streets, highways, public utilities or right-of-ways shall be construed as following such center lines;
2. Boundaries indicated as approximately following property lines shall be construed as following property lines;
3. Boundaries indicated as approximately following shore lines of any streams, tidal waters, lake or pond and the upland edge of freshwater and coastal wetlands shall be construed as following the normal high water mark;
4. Boundaries indicated as being the extension of center lines of streets or rights of way shall be construed to be the extension of such center lines;
5. Boundaries indicated as being the extension of property lines shall be construed to be extensions of such property lines;
6. Boundaries indicated as approximately following the center lines of streams, rivers, or other continuously flowing water courses shall be construed as following the channel center line of such watercourses;
7. Boundaries indicated as being parallel to or extension of features listed above shall be so construed. Distances not specifically indicated on the official map shall be determined by the scale of the map; and
8. Where physical or cultural features existing on the ground are at variance with those shown on the official map, or in other circumstances where uncertainty exists with respect to the location of a boundary, the Board of Appeals shall interpret the zone boundaries.

## SECTION 4: SCHEDULE OF USES

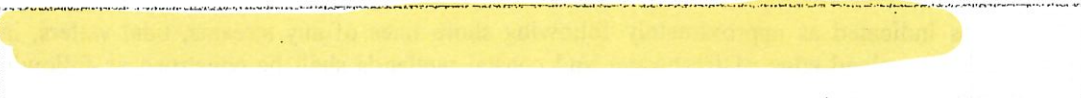
### A. ACTIVITIES DESCRIBED

A matrix listing the uses permitted in the various Zones, under this Ordinance follows.

The various land uses contained in the matrix are organized according to the following eight (8) activity classifications:

1. Non-Commercial Recreational Activities
2. Resource Management Activities
3. Resource Extraction Activities
4. Residential Activities
5. Institutional Activities
6. Commercial Activities
7. Industrial Activities
8. Transportation and Utilities

### B. COMPLIANCE WITH LAND USE STANDARDS REQUIRED



### C. SYMBOLS USED IN SCHEDULE OF USES

The following symbols contained in the Schedule of Uses have the following meanings:

#### 1. ZONE SYMBOLS

SYMBOL	DESCRIPTION
RP	Resource Protection Zone
SP	Stream Protection Zone
SR	Shoreland Residential Zone
SD	Shoreland Development Zone
RU	Rural Undeveloped Zone
RR	Rural/Residential Zone
C	Commercial Zone
MH	Mobile Home Park Zone
I	Industrial Zone

#### 2. PERMIT REQUIRED SYMBOLS

SYMBOL	DESCRIPTION
Y	Use allowed Without a Permit.
C	Use Requiring a Building Permit from the Code Enforcement Officer pursuant to Section 6 of this Ordinance.
P	Use Requiring Approval of the Planning Board and possibly Site Plan Review and Approval pursuant to Section 7, of this Ordinance.
N	Use Prohibited Within the Zone.
NA	Not Applicable.
LPI	Use Requiring Approval of the Local Plumbing Inspector pursuant to Section 6 of this Ordinance.

## SECTION 4: SCHEDULE OF USES

### D. USES SUBSTANTIALLY SIMILAR TO PERMITTED USES MAY BE PERMITTED

#### 1. USES ALLOWED WITHOUT A PERMIT

Uses substantially similar to those allowed without a permit, but are not listed in the Schedule of Uses, may be permitted upon a ruling by the Code Enforcement Officer that such use is substantially similar to such uses.

#### 2. USES REQUIRING A BUILDING PERMIT FROM THE CODE ENFORCEMENT OFFICER

Uses substantially similar to those requiring the review and approval of the Code Enforcement Officer under this Ordinance, but which are not listed in the Schedule of Uses, may be permitted by the Code Enforcement Officer.

#### 3. USES REQUIRING SITE PLAN REVIEW AND APPROVAL OF THE PLANNING BOARD

Uses substantially similar to those requiring approval of the Planning Board and possibly Site Plan Review and Approval under this Ordinance, but which are not listed in the Schedule of Uses, may be permitted by the Planning Board.

### E. USES SUBSTANTIALLY SIMILAR TO PROHIBITED USES ARE PROHIBITED.

Uses substantially similar to any uses listed as a Prohibited Use in the Schedule of Uses, as determined by the Code Enforcement Officer, shall be prohibited.

### F. USES PERMITTED IN THE AQUIFER PROTECTION OVERLAY ZONE

Uses permitted in the Aquifer Protection Overlay Zone shall be those permitted in the underlying classification provided that such use or activity has been reviewed by the Planning Board and based upon a Groundwater Impact Analysis prepared by either a registered geologist or soil scientist, at the discretion of the Board, and the Board is able to make written findings of fact that the use or activity proposed will not have an adverse impact on the quantity or quality of ground water resources.

### G. USES PERMITTED IN THE LANDFILL AREA PROTECTION (LAP) OVERLAY ZONE

Uses permitted in the Landfill Area Protection (LAP) Overlay Zone shall be those permitted in the underlying classification, provided that such use or activity is compatible with the LAP Ordinance and has been approved and reviewed by the CEO or Planning Board.

## SECTION 4: SCHEDULE OF USES

### H.SCHEDULE OF USES

ACTIVITIES/ZONES	RP	SP	SR	SD	RU	RR	C	MH	I
<b>1. NON-COMMERCIAL RECREATIONAL ACTIVITIES</b>									
a) Non-intensive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent camping, canoe portaging, cross country skiing, and snowshoeing with permission of landowner	Y	Y	Y	Y	Y	Y	Y	Y	Y
b) Trails, provided they are constructed and maintained so as to avoid sedimentation of water bodies	C	C	C	C	Y	Y	Y	Y	Y
c) Motorized vehicular traffic on existing roads and trails, and snowmobiling with permission of landowner	Y	Y	Y	Y	Y	Y	Y	Y	Y
d) Piers, docks, wharfs, bridges, and other structures and uses extending over or below the normal high-water line or within a wetland									
1. Temporary	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>1</sup>	N/A	N/A	N/A	N/A	N/A
2. Permanent <sup>2</sup>	P	P	P	P	N/A	N/A	N/A	N/A	N/A
e) Individual private campsites <sup>3</sup>	N	C <sup>4</sup>	C <sup>4</sup>	C <sup>4</sup>	C <sup>4</sup>	C <sup>4</sup>	C <sup>4</sup>	N	C <sup>4</sup>
f) Accessory structures and uses that are subordinate to the principal use listed above	C	C	C	C	C	C	C	C	C
<b>2. RESOURCE MANAGEMENT ACTIVITIES</b>									
a) Agriculture	P	Y	Y	Y	Y	Y	Y	Y	Y
b) Clearing or removal of vegetation for activities other than timber harvesting	C	C	C	C	Y	Y	Y	Y	Y
c) Wildlife and fishery management practices	Y	Y	Y	Y	Y	Y	Y	Y	Y
d) Emergency operations conducted for the public health, safety, or general welfare, such as resource protection, law enforcement, and search and rescue operations	Y	Y	Y	Y	Y	Y	Y	Y	Y
e) Surveying and other resource analysis	Y	Y	Y	Y	Y	Y	Y	Y	Y
f) Soil and water conservation practices	Y	Y	Y	Y	Y	Y	Y	Y	Y
g) Forest management activities not including timber harvesting, and land management roads	Y	Y	Y	Y	Y	Y	Y	Y	Y
h) Mineral exploration to discover or verify the existence of mineral deposits, including the removal of specimens or trace quantities, provided such exploration is accomplished by methods of hand sampling, including panning, hand test boring, diggings, and other non-mechanized methods which create minimal disturbance and take reasonable measures to restore the disturbed area to its original condition	Y <sup>5</sup>	N	Y <sup>5</sup>	Y <sup>5</sup>	Y <sup>5</sup>	Y <sup>5</sup>	Y <sup>5</sup>	Y <sup>5</sup>	Y <sup>5</sup>
i) Non-commercial and non-residential structures for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected by the district in which it is located	P	P <sup>6</sup>	C	C	C	C	C	C	Y
j) Accessory structures and uses that are subordinate to the principal use listed above	C	C	C	C	C	C	C	C	C

# SECTION 4: SCHEDULE OF USES

## H. SCHEDULE OF USES

ACTIVITIES/ZONES	RP	SP	SR	SD	RU	RR	C	MH	I
<b>3. RESOURCE EXTRACTION ACTIVITIES</b>									
a) Commercial timber harvesting and production of commercial forest products, in compliance with the applicable Land Use Standards regarding Timber Harvesting and under the supervision of a registered professional forester	C <sup>23</sup>	N	C <sup>23</sup>	C <sup>23</sup>	Y	Y	Y	Y	Y
b) Production of commercial agriculture products, in compliance with the applicable Land Use Standards regarding Agriculture in Section 5	P	N	P	P	Y	Y	Y	Y	Y
c) Mineral extraction affecting an area of less than 1 acre in size	N	N	N	N	P	N	P	N	P
d) Mineral extraction affecting an area 1 acre or greater in size	N	N	N	N	N	N	N	N	P
d-1) Mineral extraction affecting an area of less than 5 acres in size	N	N	N	N	P	N	N	N	P
e) Filling, grading, draining, dredging, or alteration of water table or water level, not including individual wells in accordance with DEP regulations	C	C	C	C	C	C	C	C	C
f) Large-Scale Water Extraction Activities <sup>22</sup>	N	N	N	N	N	N	N	N	P
g) Accessory structures and uses that are subordinate to the principal use listed above	C	N	C	C	C	C	C	C	C
<b>4. RESIDENTIAL ACTIVITIES</b>									
a) Single-Family Detached Dwelling <sup>7</sup>	P <sup>8</sup>	N	C	C	C	C	C	C	C
b) Manufactured Housing <sup>7</sup>	P <sup>8</sup>	N	C	C	C	C	C	C	C
c) Multi-family Dwelling: 2 family duplexes <sup>9</sup>	N	N	N	N	C	C	C	N	C
d) Multi-family Dwelling: Affordable housing developments. 3 or more families, including apartments, grouped houses and row houses <sup>9</sup>	N	N	N	N	P	N	P	N	P
e) New Mobile Home Parks	N	N	N	N	N	N	N	P	N
f) Nursing Home and Congregate Housing	N	N	N	N	P	N	P	N	P
g) Community Living Arrangement	P <sup>8</sup>	N	C	C	C	C	C	C	C
h) Home Occupations	P <sup>10</sup>	N	P	C	Y	Y	Y	Y	Y
i) Bed and Breakfast	N	N	P	C	C	C	C	N	C
j) Seasonal Conversion	N	N	LPI	LPI	LPI	LPI	LPI	LPI	LPI
k) An accessory structure and uses that are subordinate to the principal use are listed above.	P	N	C	C	C	C	C	C	C
<b>5. INSTITUTIONAL ACTIVITIES</b>									
a) Hospital and Medical Clinic	N	N	N	N	P	N	P	N	P
b) Government Facilities and Grounds	N	N	N	P <sup>11</sup>	P	N	P	N	P
c) Public Schools	N	N	N	N	P	N	P	N	P
d) Private Schools (under 15 students)	N	N	P <sup>11</sup>	P	P	P	P	P	P
e) Day Care Facility	N	N	N	N	P	P	P	P	P
f) Churches	N	N	N	N	P	P	P	N	P
g) Cemetery	N	N	N	N	P	P	P	N	P
h) Fraternal Orders and Service Clubs	N	N	N	N	P	N	P	N	P
i) Summer Youth Camp	N	N	N	P <sup>11</sup>	P	P	P	N	P
j) Museum	N	N	N	P <sup>11</sup>	P	P	P	N	P
k) Conference Centers	N	N	N	N	P	N	P	N	P
l) Research and Development Facility	N	N	N	P <sup>11</sup>	P	N	P	N	P

m) Accessory structures and uses that are subordinate to the principal use listed above	N	N	C	C	C	C	C	C	C
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**SECTION 4: SCHEDULE OF USES**

H. SCHEDULE OF USES (continued)

ACTIVITIES/ZONES	RP	SP	SR	SD	RU	RR	C	MH	I
<b>6. COMMERCIAL ACTIVITIES</b>									
a) Automobile Sales Lot	N	N	N	N	N	N	P	N	C
b) Recreational vehicles, boats, mobile homes, farm machinery, and equipment sales	N	N	N	P <sup>11</sup>	N	N	P	P <sup>12</sup>	C
b2) Land-based Commercial Fishing and Aquaculture Activities	N	N	N	P	N	N	N	N	N
c) Automobile Service Station <sup>13</sup>	N	N	N	N	P	N	P	N	C
d) Automobile Repair Garage <sup>13</sup>	N	N	N	N	N	N	P	N	C
e) Private, Public and Commercial Parking Garage/Parking lot	N	N	N	N	N	N	P	C	P
f) Retail Establishments	N	N	N	P <sup>11</sup>	P	N	P	C	C
g) General Contractors, Construction, Plumbing and Heating Contractors	N	N	N	P <sup>11</sup>	N	N	P	N	C
h) Banks, Credit Unions and similar Financial Institutions	N	N	N	N	N	N	P	N	P
i) Non-Industrial Lumber Yard	N	N	N	N	N	N	P	N	C
j) Laundry/Dry Cleaning Establishment <sup>14</sup>	N	N	N	N	N	N	P	C	C
k) Restaurant	N	N	N	P	P	P	P <sup>15</sup>	C	C
l) Cocktail Lounge	N	N	N	P	N	N	P	N	C
m) Professional Offices and Office Building	N	N	N	N	P	P	P	N	P
n) Repair Service (other than auto)	N	N	N	P <sup>11</sup>	N	N	P	C	C
o) Funeral Parlors	N	N	N	N	N	N	P	N	C
p) Commercial Greenhouse and Nurseries	N	N	N	N	P	N	P	N	C
q) Commercial Complex(e.g. shopping malls)	N	N	N	N	N	N	P <sup>15</sup>	N	P
r) Theater	N	N	N	N	N	N	P	N	P
s) Health Spas, Fitness Clubs, Gymnasiums, etc.	N	N	N	N	P	N	P	C	P
t) Commercial Outdoor Recreation Activities and Uses (not elsewhere listed, and as defined herein)	N	N	N	P <sup>11</sup>	P	N	P <sup>15</sup>	N	P
u) Commercial Indoor Recreation Activities and Uses (not elsewhere listed, and as defined herein)	N	N	N	N	N	N	P	C	P
v) Transient Accommodations: Motels, Hotels, Inns	N	N	N	N	P	N	P	N	P
w) Transient Accommodations: Campgrounds	N	N	N	N	P	N	P	N	P
x) Commercial Kennels and Stables	N	N	N	N	P	N	P	N	P
y) Roadside Stands <sup>16</sup>	N	N	C	C	C	C	C	C	C
z) Accessory Structures and Uses subordinate to the principal use listed above	N	N	C	C	C	C	C	C	C

**SECTION 4: SCHEDULE OF USES**

**H. SCHEDULE OF USES (continued)**

ACTIVITIES/ZONES	RP	SP	SR	SD	RU	RR	C	MH	I
<b>7. INDUSTRIAL ACTIVITIES</b>									
a) Lumber Yard and Building Materials	N	N	N	N	N	N	P	N	P
b) Transportation Facility and Terminal Yard	N	N	N	N	N	N	N	N	P
c) Bulk Oil and Fuel Tank Storage, except for on-site heating purpose	N	N	N	N	N	N	N	N	P
d) Food Processing and Freezing	N	N	N	P <sup>11</sup>	N	N	P	N	P
e) Junk Yards and automobile graveyards	N	N	N	N	N	N	N	N	P
f) Light Manufacturing Assembly Plant	N	N	N	N	N	N	P	N	P
g) Newspaper and Printing Facility	N	N	N	N	N	N	P	N	P
h) Other Processing and Manufacturing Facilities	N	N	N	N	N	N	N	N	P
i) Warehousing and Storage Facility	N	N	N	N	N	N	P <sup>17</sup>	N	P
j) Wholesale Business Facility	N	N	N	N	N	N	P	N	P
k) Sewage Collection and Treatment Facilities	N	N	N	P	N	N	N	N	P
l) Accessory Structures and Uses subordinate to the principal use listed above	N	N	N	C	N	N	C	N	C
<b>8. TRANSPORTATION AND UTILITIES</b>									
a) Public and private road construction <sup>18</sup>	N <sup>19</sup>	P	P	P	Y	Y	Y	Y	Y
1. Driveways <sup>18</sup>	N <sup>19</sup>	N	C	C	Y	Y	Y	Y	Y
b) Service drops	Y	Y	Y	Y	Y	Y	Y	Y	Y
c) Essential Services	P <sup>20</sup>	P <sup>20</sup>	P	P	P	P	P	P	P
1. Roadside distribution lines (34.5kV and lower)	C <sup>20</sup>	C <sup>20</sup>	Y	Y	Y	Y	Y	Y	Y
2. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	P <sup>20</sup>	P <sup>20</sup>	C	C	N/A	N/A	N/A	N/A	NA
3. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	P <sup>20</sup>	P <sup>20</sup>	P	P	N/A	N/A	N/A	N/A	N/A
4. Other essential services	P <sup>20</sup>	P <sup>20</sup>	P	P	P	P	P	P	P
d) Small Wind Energy Systems maximum capacity 10kW	N	N	P	P	P	P	P	N	P
e) Wireless Telecommunication Facilities	N	N	N	N	N	N	P	N	P
e-1) Wireless Telecommunication Facility expansion or colocation that does not increase WTF tower height <sup>21</sup>	N	N	N	N	N	N	C	N	C
e-2) Amateur (ham) radio and private mobile radio service towers not to exceed 195 feet in height	N	N	Y	Y	Y	Y	Y	Y	Y
f) Radio and TV Studios, Offices and Towers	N	N	N	N	N	N	P	N	P
g) Private, Public and Commercial Parking Garages/Structures	N	N	N	N	N	N	P	C	P
h) Land management roads	P	Y	Y	Y	Y	Y	Y	Y	Y
i) Airports, provided such are not closer than 500 feet to any dwelling and will not create a nuisance in the immediate neighborhood	N	N	N	N	N	N	N	N	P
j) Accessory Structures and Uses that are subordinate to the principal use listed above	C	C	C	C	C	C	C	C	C
k) Solar Energy Systems (PRSES)	C	C	C	C	C	C	C	N	C
l) Solar Energy Systems (CSES AND ISSES)	P <sup>20</sup>	P <sup>20</sup>	N	N	P	P	P	N	P

## SECTION 4: SCHEDULE OF USES

### FOOTNOTES:

- <sup>1</sup> Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
- <sup>2</sup> Retaining walls and rip-rap require a DEP permit.
- <sup>3</sup> provided that such sites are not used by more than 10 persons at one time and are not used for more than 60 days in any one calendar year.
- <sup>4</sup> private individual campsites, located on lots containing another permitted residential use, shall be considered accessory uses in this Zone under Section 4:H.1.f).
- <sup>5</sup> requires a permit from the CEO if more than 100 square feet of surface area, in total, is disturbed.
- <sup>6</sup> Provided a setback variance is obtained from the Board of Appeals.
- <sup>7</sup> If in the floodplain see Section 5:C.12.c.
- <sup>8</sup> Single family residential structures may be allowed by special exception only according to the provisions of Section 5.B.7.a.1).
- <sup>9</sup> In AP Overlay Zone requires Planning Board approval. (See Section 5:B.32.a.4)
- <sup>10</sup> If a single family dwelling is allowed by special exception. (See Section 5:B.7.a.1)
- <sup>11</sup> Marine related uses only.
- <sup>12</sup> Mobile home sales only.
- <sup>13</sup> In AP Overlay Zone requires Planning Board approval. (See Section 5:B.32.a.14)
- <sup>14</sup> In AP Overlay Zone requires Planning Board approval. (See Section 5:B.32.a.13)
- <sup>15</sup> Fast-food restaurants, shopping malls and commercial outdoor recreation activities are not permitted along Route 1.
- <sup>16</sup> Provided that they meet the parking requirements of Section 5:B.21.
- <sup>17</sup> Light warehousing and storage only (400 square feet per unit).
- <sup>18</sup> Road entrances that abut Hancock's town roads require Hancock Town Entrance Permits; those that abut state roads require State Entry Permits. (See Section 5:B.1.c)
- <sup>19</sup> Except as provided in Appendix C.
- <sup>20</sup> See further restrictions in Section 5:C.6.
- <sup>21</sup> Wireless Telecommunication Facility expansion or colocation that increases WTF tower height requires Planning Board review.
- <sup>22</sup> Large-scale water extraction activities refers to extraction of 5,000 or more gallons of water per day for transport out of the Town of Hancock. See Hancock Water Extraction Ordinance (WEO).
- <sup>23</sup> Refer to Appendix D. Timber Harvesting and Timber Harvesting definition. Contact Maine Forest Service.

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.

## SECTION 5: LAND USE STANDARDS (General)

### A. PURPOSE

The purpose of the regulations contained in this section is to allow maximum utilization of land while assuring against adverse impacts on the environment, neighboring properties, and the public interest. This assurance is provided by separating the area of the Town of Hancock into zones and permitting specific land uses within each, provided that a use meets all the additional standards specified in this Section.

### B. GENERAL STANDARDS

The following Land Use Standards shall govern all Permits and Approvals issued by the Code Enforcement Officer and the Planning Board.

Shoreland Standards are included in Section 5.C which apply to land uses within two hundred fifty feet (250'), 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 seventy five feet (75'), horizontal distance, from a stream, or tributary stream. These shoreland standards are those mandated by the State of Maine as part of the Mandatory Shoreland Zoning Law (38 M.R.S.A. Sections 435-446).

In reviewing applications submitted pursuant to this Ordinance, the Code Enforcement Officer or the Planning Board shall consider the following performance standards prior to issuing final approval. In all instances the burden of proof shall be upon the applicant.

#### 1. ACCESS TO THE SITE

##### a. CAPACITY OF OFF-SITE ROADS

Vehicular access to the site shall be on roads which have adequate capacity to accommodate the additional traffic generated by the development. Intersections on major access routes to the site within one-half (1/2) mile of any entrance road which are functioning at a Level of Service of C or better prior to the development shall function at a minimum at Level of Service C after development. If any intersection is functioning at a Level of Service D or lower prior to the development, the project shall not reduce the current Level of Service.

The Planning Board may approve a development not meeting this requirement if the applicant demonstrates that:

- 1) A public agency has committed funds to construct the improvements necessary to bring the level of access to the required standard; or
- 2) The applicant will assume financial responsibility for the improvements necessary to bring the level of service to the required standard and will guarantee the completion of the improvements within one (1) year of approval of the project.

##### b. VEHICULAR ACCESS

The following standards apply to design and construction of vehicular access to properties:

- 1) Each property shall be provided with vehicular access to the property by abutting private or public ways. Private right-of-ways shall be protected by permanent easements.

## SECTION 5: LAND USE STANDARDS (General)

### B.1.ACCESS TO THE SITE (continued)

- 2) The following criteria shall be followed for entrances and/or driveways to any use other than single and two-family dwellings:
- a) All entrance and exit driveways shall be located and designed in profile and grading to afford safety to traffic, provide for safe and convenient ingress and egress, to and from the site, and to minimize conflict with the flow of traffic.
  - b) The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated to be attracted daily.
  - c) Provision shall be made for convenient and safe emergency vehicle access to all buildings and structures at all times.
  - d) For a distance of twenty feet (20') from the intersection of any two (2) streets along street lines no wall, fence, sign, or other structure and no hedges, trees, or other growth shall be planted or erected in such a manner as to materially impede vision between a height of two and one-half (2 ½) and ten feet (10') above street level.
  - e) Any exit driveway or driveway lane shall be so designed in profile and grading and so located as to provide the following minimum site distance measured in each direction. The measurements shall be from the driver's seat of a vehicle standing on that portion of the exit driveway with the front of the vehicle a minimum of ten feet (10') behind the curbline or edge of shoulder.

Allowable speed (Miles per hour)	Required Site Distance (Feet)
25	250
35	350
40	400
45	450
50	500
55	550

- f) Where a site occupies a corner of two (2) intersection roads, no driveway entrance or exit shall be located within 50 feet (50') of the point of tangency of the existing or proposed curb radius of that site. Access to the lot shall be provided across the frontage and to the street where there is less potential for traffic congestion and for hazards to traffic and pedestrians.
- g) The intersection of any access drive or proposed street shall function at a Level of Service of C following development if the project will generate four hundred (400) or more vehicle trips per twenty-four (24) hour period or at a level which shall allow safe access into and out of the project if less than four hundred (400) trips are generated. Projects generating four hundred (400) or more vehicle trips per twenty-four (24) hour period shall provide two (2) or more separate points of vehicular access into and out of the site.

## SECTION 5: LAND USE STANDARDS (General)

### B.1.ACCESS TO THE SITE (continued)

- h) In all Zones where two (2) or more driveways connect on a single site to any one (1) road, a minimum clear distance of one hundred feet (100') measured along the right-of-way shall separate the closest edges of any two (2) such driveways, unless the driveways are one way only, then the minimum clear distance shall be no less than fifty feet (50').
- i) Angles. Driveways used for two-way operation shall intersect the road at an angle of or as near to ninety (90) degrees as site conditions will permit and in no case less than sixty (60) degrees. Driveways used by vehicles in one (1) direction of travel (right-turn only) shall not form an angle smaller than forty-five (45) degrees with the road, unless acceleration and deceleration lanes are provided.
- j) Dimensions. The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated. The required maximum and minimum dimensions for driveways are indicated below. Driveways serving large volumes of daily traffic or traffic over fifteen percent (15%) trucks shall be required to utilize high maximum dimensions.

	One-Way Operation Driveways* Width (Feet)	Two-way Operation Driveways* Width (Feet)
Three (3) to ten (10) dwelling units	10 to 15	15 to 25
Ten (10) dwelling units or more	15 to 25	20 to 35
Commercial and industrial	15 to 30	25 to 35
*All driveways shall be five feet (5) wider at the curblines and this additional width shall be maintained for a distance of twenty feet (20') into the site.		

- k) Grades. Driveways shall not have a grade in excess of ten percent (10%) over the entire length. For all driveways entering onto Routes 1 and 182, the grade shall not be more than three percent (3%) for the first one hundred feet (100') from the road. Driveways shall not be located where visibility is limited because of curves or topography.
- l) Stacking or Queuing Space Standards for Drive-Through Businesses: Stacking or queuing spaces shall be located on-site and shall not be located within the required setbacks. Stacking or queuing spaces shall not interfere with the stall and aisle space requirements as described in the off-street parking and loading.
  - 1) Banks or other Commercial Uses. There shall be a minimum of eight (8) spaces.
  - 2) Drive-up Restaurant. There shall be eleven (11) spaces for the drive-up window, with a minimum of five (5) of these spaces for the ordering station.

### c. TOWN ROAD ENTRANCE

Prior to constructing any road entrance that abuts a Hancock town road, a permit for the same must be approved by Hancock's Road Commissioner and Code Enforcement Officer and a copy of the permit must be on file at the Town Office. Roads that abut State roads require a State Entry Permit.

## SECTION 5: LAND USE STANDARDS (General)

### B. 1. ACCESS TO THE SITE (continued)

The following are minimum standards for new or replacement entrance culverts by town roads:

- 1) Culvert must be new.
- 2) Culvert diameter must be a minimum of 12". Final size determined by the amount of runoff in a given location.
- 3) Length must be a minimum of 24', with a preference for 30'. Maximum length 50'.
- 4) Materials: aluminum clad corrugated metal pipe is required. For 24" and larger diameters, 14 gauge material is required, for below 24" 16 gauge. Bituminous coated corrugated metal pipe and plastic corrugated pipe are prohibited.
- 5) Design Standards: Where the driveway is pitched upward from the road the shoulder grade should be maintained as far as practical, to prevent water flowing down the driveway onto the road. If not practical some other means of diverting water flow must be provided.

#### d. HIGHWAY ACCESS

The following provisions shall apply to all properties which abut and/or have frontage on Routes 1 and 182:

- 1) Buffer Strip: Access to the highway shall be controlled in the interest of public safety. Each building or group of buildings and its parking or service areas shall be physically separated from the highway or street by a buffer strip if required by Subsection B.3 of this Section. Such buffer strips shall be landscaped as required in Appendix A.
- 2) Such property may be divided into lots provided that all vehicular movements to and from the highway shall be via a single driveway or entrance serving all lots or premises.
- 3) All lots of record legally existing at the time of the adoption of this Ordinance shall be allowed one (1) direct access to Routes 1 and 182 provided that the minimum sight distance specified in Subsection B.1.b.2.e, of this Section.
- 4) A second driveway entrance or exit for large parking areas serving two (2) or more permitted uses may be permitted provided that the two (2) access points are not closer than eight hundred feet (800') and they both can meet the minimum site distances specified in Subsection B.1.b.2.e.

#### e. EMERGENCY VEHICLE ACCESS

Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

### 2. BED AND BREAKFAST

"Bed and Breakfast" accommodations shall be permitted in the private, year-round residence of the host family who live on the premises provided that:

- a) The maximum number of guests at any time is six (6) persons, not including children under the age of twelve (12); The maximum number of rented guest rooms is three (3) at any one time;
- b) Breakfast is the only meal provided by the host family;
- c) One (1) sign not to exceed four (4) square feet is permitted on the premises; and
- d) The "Bed and Breakfast" operation shall not have any adverse effect on the neighbors

## SECTION 5: LAND USE STANDARDS (General)

### 2-A. AFFORDABLE HOUSING DEVELOPMENTS

For an affordable housing development approved on or after July 1, 2024, a municipality with density requirements shall apply density requirements in accordance with this section.

- a. Eligibility for Density Bonus. An automatic density bonus applies to certain affordable housing developments approved after July 1, 2024 as set forth herein.
  - 1) The proposed development must be located within a Designated Growth Area as may be established in the Town's Comprehensive Plan, or located on a lot that is served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system, and be in a location that permits multi-family dwellings as of July 1, 2024.
  - 2) The proposed development must comply with the minimum Lot Size law, 12 M.R.S. Chapter 423-A, as may be amended.
  - 3) The proposed development must be an affordable housing development, as defined in this Ordinance, where 51% or more of the units are affordable and meet the following requirements:
    - (a) The owner of the affordable housing development executes a restrictive covenant that is enforceable by a party or its successors acceptable to the Town. This restrictive covenant must be recorded in the Hancock County Registry of Deeds to ensure that for at least thirty (30) years after the completion of construction:
    - (b) For rental housing, occupancy of all the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy; and
    - (c) For owned housing, occupancy of all the units designated affordable in the development will remain limited to the households at or below 120% of the local area median income at the time of initial occupancy.
  - 4) Prior to occupancy, the owner of the affordable housing development must provide written verification to the Code Enforcement Officer that each unit of the affordable housing development is connected to adequate water and wastewater services. Written verification under this subsection must include the following:
    - (a) If a housing unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system;
    - (b) If a housing unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by the Local Plumbing Inspector pursuant to 30-A M.R.S. § 4221, as may be amended. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. Ch. 241, Subsurface Wastewater Disposal Rules;
    - (c) If a housing unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit; and

## SECTION 5: LAND USE STANDARDS (General)

(d) If a housing unit is connected to a well, proof of access to potable water, including the standards outlined in 01-672 C.M.R. Ch. 10 § 10.25(J), Land Use Districts and Standards, as may be amended. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

- 5) No more than two (2) off-street parking spaces for motor vehicles must be provided for every three (3) dwelling units of an affordable housing development.

b. Density Bonus. If the requirements of a. Eligibility for Density Bonus items are met, the proposed development may have a dwelling unit density of not more than 2.5 times the base density that is otherwise allowed in that location. If fractional results occur when calculating the density bonus, the number of units is rounded down to the nearest whole number.

### B. 3. BUFFERING AND SCREENING

All projects requiring Site Plan Review under this Ordinance shall provide buffer strips and/or screening in accordance with the following standards:

#### a. BUFFER STRIPS

Buffer strips of the following specified widths are required for the following areas and/or purposes:

- 1) Along any water body within or adjacent to the project, where the Board determines it desirable and necessary, to protect such water bodies from sedimentation and surface runoff. Such buffer strips shall be a minimum of seventy-five feet (75') in width.
- 2) Along any property line of any lot located in any Industrial or Commercial Zone when abuts a Residential Zone, such buffer strips shall be a minimum of twenty-five feet (25') in width if the adjacent lot is undeveloped, and fifty feet (50') if the adjacent lot is developed and there is no buffer strip on the adjacent lot.
- 3) Along on-site roads running parallel to an off-site road, where the Board determines it desirable and necessary to prevent driver confusion particularly at night, such buffer strips shall be a minimum of fifty feet (50') in width.
- 4) Along any property line which abuts any public road, where the Board determines it desirable and necessary, to protect and enhance scenic character and provide visual separation between the highway and adjacent uses. Such buffer strips shall be a minimum of fifty feet (50') in width.
- 5) Along any property line, where the Board determines it desirable and necessary, to shield incompatible uses from one another. Such buffer strips shall be a minimum of twenty-five feet (25') in width.
- 6) Along any property line, where the Board determines it desirable and necessary, to block prevailing winds to stop windborne debris from leaving the site. Such buffer strips shall be a minimum of twenty-five feet (25') in width.
- 7) Along any property line, where the Board determines it desirable and necessary, to prevent any proposed lighting from interfering with residential properties or with safe driving. Such buffer strips shall be a minimum of twenty-five feet (25') in width.
- 8) Along any property line, where the Board determines it desirable and necessary, of all exposed storage and service areas, sand and gravel extraction operations, utility buildings and structures, automobile salvage and junk yards, parking areas, garbage collection areas, and loading and unloading areas, to minimize their visual impact on adjoining traveled ways and properties. Such buffer strips shall be a minimum of twenty-five feet (25') in width.

## SECTION 5: LAND USE STANDARDS (General)

### B. 3. BUFFERING AND SCREENING (continued)

- 9) Where a potential safety hazard to children would be likely to arise, and physical screening sufficient to deter small children from entering the premises is determined by the Board to be desirable and necessary, a buffer strip shall be required.
- 10) In areas between important wildlife habitats to provide adequate space for the movement of wildlife from one area to another. Such buffer strips shall be as recommended by the Maine Department of Inland Fisheries and Wildlife.

#### b. SCREENING

Screening, within the required buffer strips, in the form of natural or man-made barriers, existing vegetation or new plantings, if suitable existing vegetation and natural features does not exist, is required as follows:

##### 1) RETENTION OF NATURAL FEATURES IN BUFFER STRIPS

Natural features in buffer strips shall be maintained wherever possible. When natural features such as topography, gullies, stands of trees, shrubbery, rock outcrops do not exist or are insufficient to provide the required screening, other kinds of screening shall be considered.

##### 2) CLASSIFICATION OF SCREENS

Screen shall be classified as provided in Appendix A.

#### 4. CAMPGROUNDS

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

- a. Each tent or shelter site shall contain a minimum of five thousand (5,000) square feet of suitable land in shoreland areas (i.e. within two hundred fifty feet (250'), horizontal distance, of the normal high water mark of any river, lake, pond, upland edge of a wetland, and seventy-five feet (75') of a stream, and twenty five hundred (2,500) square feet of suitable land in inland areas, not including driveways and roads, for each site;
- b. A minimum of two hundred (200) square feet of off-street parking plus maneuvering space shall be provided for each tent or shelter site;
- c. The area intended for placement of the tent or shelter site, and utility and service buildings shall be set back a minimum of fifty feet (50') from the exterior lot lines of the camping area, and one hundred feet (100'), horizontal distance, from the normal high water elevation of any river, lake, pond, stream, and upland edge of a wetland; and
- d. Screening shall be required to shield the campground from abutting areas.

#### 5. CLUSTER DEVELOPMENT

##### a. Purpose

The purpose of these provisions 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 is permitted by the Ordinance.

## **SECTION 5: LAND USE STANDARDS (General)**

### **B. 5. CLUSTER DEVELOPMENT (continued)**

In addition, the purpose of allowing Cluster Development shall be to encourage housing development which will result in:

- 1) Additional open space 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 small networks of utilities and streets.

#### **b. Allowable Reduction in Requirements**

To accomplish the purposes above, the layout and dimensional requirements of this Ordinance may be reduced as follows:

- 1) The Board may reduce area requirements by not more than fifty percent (50%) but only if a net area at least equal in area to the cumulative lot size reduction is maintained as common or public land;
- 2) The Board shall not increase building height limitations; and
- 3) The modification of requirements under this section shall not require a variance and no finding of undue hardship shall be required.

#### **c. Performance Standards**

All cluster developments approved by the Board must meet the following requirements:

- 1) All the requirements and standards of this Ordinance, except those dealing with lot layout and dimensions, shall be met.
- 2) The minimum area of land in a cluster development shall be ten (10) acres.
- 3) No building shall be constructed on soil types that are poorly drained.
- 4) Where a cluster development is proposed on a parcel which abuts a water body, a portion of the shoreline, as well as reasonable access to it, shall be part of the common land.
- 5) Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, south-facing slopes and natural drainage areas in accordance with an overall plan for site development and landscaping.

#### **5a. CONSTRUCTION IN FLOOD HAZARD AREAS**

When any part of a development is located in a Flood Hazard Area as identified by the Federal Emergency Management Agency, the plan shall indicate that all principal structures on lots in the development shall be constructed with their lowest floor, including the basement, at least one (1) foot above the one hundred (100) year flood elevation. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

#### **6. CONVERSIONS**

Conversions of existing structures into multi-family dwelling units, in Zones permitting multi-family dwellings, may be permitted provided that:

- a) Off-street parking for two (2) vehicles per dwelling unit plus maneuvering space will be provided.

## **SECTION 5: LAND USE STANDARDS (General)**

B. 6. CONVERSIONS (continued)

- b) Approval of conversion plans by the fire, electrical, and plumbing inspector(s) is required prior to issuance of a building permit.
- c) Each dwelling unit shall be at least four hundred (400) square feet in area for one (1) bedroom units plus one hundred twenty (120) square feet for each additional bedroom.
- d) Each dwelling unit shall have its own toilet and kitchen facilities and no dwelling unit will share facilities with any other dwelling unit.

7. DIMENSIONAL REQUIREMENTS

a. DIMENSIONAL REQUIREMENTS: PROTECTION ZONES

The following table describes the dimensional requirements for the (RP) Resource Protection, (AP) Aquifer Protection, and (SP) Stream Protection Zones:

DIMENSIONAL REQUIREMENTS	(RP) Resource Protection Zone	(AP) Aquifer Protection Overlay Zone	(SP) Stream Protection Zone
Minimum Lot Size (sq ft)	40,000	Na <sup>2</sup>	40,000
Minimum Road Frontage	100 feet <sup>4</sup>	Na <sup>2</sup>	100 feet <sup>4</sup>
Minimum Shore Frontage Residential Structures	Na or 150 feet <sup>3</sup>	Na <sup>2</sup>	200 feet
Minimum Front Yard Setback From R-O-W Edge	75 feet <sup>1</sup>	Na <sup>2</sup>	75 feet
From NHWL*	75 feet <sup>1</sup>	Na <sup>2</sup>	75 feet
Minimum Side Yard Setback Principal structure	30 feet <sup>1</sup>	Na <sup>2</sup>	30 feet
Accessory structure	20 feet <sup>1</sup>	Na <sup>2</sup>	20 feet
Minimum Rear Yard Setback Principal structure	30 feet <sup>1</sup>	Na <sup>2</sup>	30 feet
Accessory Structure	20 feet <sup>1</sup>	Na <sup>2</sup>	20 feet
Maximum Lot Coverage	20% <sup>3</sup>	Na <sup>2</sup>	20%
Maximum Structure Height Principal Structure	35 feet <sup>1</sup>	Na <sup>2</sup>	35 feet
Accessory Structure	16 feet <sup>1</sup>	Na <sup>2</sup>	16 feet
FOOTNOTES: *See additional reference Section 5:C.12. 1. For structures approved by the Planning Board as permitted by Section 7. 2. Same minimums or maximums required in the zone which is overlaid. 3. See Section 5:B.7.a.1, Special Exceptions. 4. Where lot fronts on public or subdivision roads. Na = Not Applicable			

SECTION 5: LAND USE STANDARDS (General)

B. 7. DIMENSIONAL REQUIREMENTS (continued)

a.1) DIMENSIONAL REQUIREMENTS, SPECIAL EXCEPTIONS: Resource Protection Zone adjacent to the Salt Meadow at Old Pond

1. All new residential lots within the Resource Protection District adjacent to the salt meadow at Old Pond shall have a minimum shore frontage of 150 feet.
2. New single-family residential principal and accessory structures within the Resource Protection District adjacent to the salt meadow at Old Pond may be allowed by the Hancock Planning Board, according to the requirements of the Environmental Control Ordinance, provided 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 structures can be built, and;
  - b. The lot on which the structures are proposed is undeveloped, and was established and recorded in the Hancock County Registry of Deeds prior to the adoption of Resource Protection districting, and;
  - c. The proposed location of all buildings, sewage disposal systems, and other improvements are:
    - 1) Located on natural ground slopes of less than 20 percent.
    - 2) The total ground floor area of all principal and accessory structures is limited to a maximum of 1500 square feet.
    - 3) All structures, except water dependent structures, shall be setback to the greatest practical extent from the upland edge of the salt meadow, but not less than 75 feet.
    - 4) All structures are located outside the 100 year floodplain velocity zone as identified on the Flood Boundary Maps for the Town of Hancock, all portions of the structures, including basements, are located at least one foot above the 100 year flood elevation, and the development is otherwise consistent with the flood plain provision of Hancock's Ordinances.

**SECTION 5: LAND USE STANDARDS (General)**

B. 7. DIMENSIONAL REQUIREMENTS (continued)

b. DIMENSIONAL REQUIREMENTS DEVELOPMENT ZONES

The following table describes the dimensional requirements for the (SR) Shoreland Residential, (SD) Shoreland Development, (RU) Rural Undeveloped, (C) Commercial, (I) Industrial and (RR) Rural Residential Zones.

DIMENSIONAL REQUIREMENTS	(SR) Shoreland Residential Zone	(SD) Shoreland Development Zone	(RU) Rural Undeveloped Zone	(C) Commercial Zone	(I) Industrial Zone	(RR) Rural Residential Zone
Minimum Lot Size	40,000	60,000	40,000 <sup>1</sup>	40,000	60,000	40,000 <sup>1</sup>
Minimum Road Frontage	100 ft <sup>4</sup>	100 ft <sup>4</sup>	100 ft <sup>4</sup>	100 ft <sup>4</sup>	100 ft <sup>4</sup>	100 ft <sup>4</sup>
Minimum Shore Frontage ~Residential	200 ft	200 ft	Na	Na	Na	Na
~Commercial	na	200 ft	Na	Na	Na	Na
Minimum Front Yard Setback ~From CL of road or R-O-W Edge	See <sup>3</sup> below	See <sup>3</sup> below	See <sup>3</sup> below	See <sup>3</sup> below	See <sup>3</sup> below	See <sup>3</sup> below
~From NHWL*	75 feet	100 feet <sup>2</sup>	na	na	na	na
Minimum Side Yard Setback ~Principal structure	30 ft	30 ft	30 ft	20 ft	10 ft	30 ft
~Accessory structure	30 ft	20 ft	30 ft	20 ft	10 ft	30 ft
Minimum Rear Yard Setback ~Principal structure	30 ft	30 ft	30 ft	30 ft	10 ft	30 ft
~Accessory structure	30 ft	30 ft	20 ft	20 ft	10 ft	20 ft
Maximum Lot Coverage	20%	20%	30%	50%	90%	30%
Maximum Structure Height <sup>5</sup>	35 ft	35 ft	35 ft	35 ft	35 ft	35 ft

FOOTNOTES:

\*See additional reference Section 5.C.12.

1. Two (2) acres for new subdivisions, unless clustered.
2. Except for functionally water dependent uses.
3. Minimum Front Yard setbacks for all Development Zones are as follows:  
 ~Frontage on Town Roads: 50 ft from CL.  
 ~Frontage on State Aid Roads: 60 ft from CL.  
 ~Frontage on State Roads (Routes 1 and 182): 40 ft from R-O-W Edge.
4. Where lot fronts on public or subdivision roads.
5. Maximum structure height shall not apply to the following:  
 Small Wind Energy Systems (SWES), SWES height shall not exceed sixty (60) feet. See Sections 5:B.30., 5:C.12. and 5:C.16.  
 Wireless Telecommunication Facility (WTF) towers. WTF tower height shall not exceed one hundred ninety-five (195) feet. See Sections 5:B.34 and Section 5:C.12.

The dimensional requirements for the (MH) Mobile Home Park Zone shall be as required in the Hancock Mobile Home Park Ordinance.

**SECTION 5: LAND USE STANDARDS (General)**

B. 7. DIMENSIONAL REQUIREMENTS (continued)

c. ADDITIONAL DIMENSIONAL REQUIREMENTS

- 1) Land below the normal high-water line of a water body or upland edge of a coastal wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
- 2) 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.
- 3) The minimum width 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 required shore frontage.
- 4) If more than one residential dwelling unit or more than one principal commercial or industrial structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.
- 5) For an accessory dwelling unit located within the same structure as a single-family dwelling unit or attached to or sharing a wall with a single-family dwelling unit, the setback requirements and dimensional requirements must be the same as the setback requirements and dimensional requirements of the single-family dwelling unit, except for an accessory dwelling unit permitted in an existing accessory building or secondary building or garage as of July 1, 2024, in which case the requisite setback requirements for such a structure apply.
- 6) For the purpose of compliance with 30-A M.R.S. §4364-B, an accessory dwelling unit shall be allowed to be located on the same lot as a single-family dwelling unit in any area in which housing is permitted, and an accessory dwelling unit is exempt from any density requirements in the area in which the accessory dwelling unit is located. See section 5:C.9.f. for requirements and standards within the Shoreland Zone.
- 7) An accessory dwelling unit must be smaller than the structure of the single-family dwelling unit in total square-footage and at least 190 square feet in size, unless the Technical Building Code and Standards Board, pursuant to 10 M.R.S. § 9722, as may be amended, adopts a different minimum standard; if so, that standard applies.

8. DUST, FUMES, VAPORS, GASES, ODORS, NOISES, GLARE AND EXPLOSIVE MATERIALS

- a. Emission of dust, dirt, fly ash, fumes, vapors or gases which pose an unreasonable risk of harm to human health or the environment shall be prohibited.
- b. No land use or establishment shall be permitted to produce unreasonable offensive or harmful odors, perceptible beyond their lot lines, measured either at ground or habitable elevations.
- c. Excessive noise shall not be permitted to produce unreasonable disturbance beyond the lot lines of the source of the noise.
- d. No land use or establishment shall be permitted to produce unreasonable glare or brightness beyond its lot lines.

B. 7. DIMENSIONAL REQUIREMENTS (continued)

**SECTION 5: LAND USE STANDARDS (General)**

- e. No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, unless they are stored in compliance with the requirements of the National Fire Protection Association (NFPA), Sections 30, 58, and 59-A.

#### 9. EROSION AND SEDIMENTATION CONTROL

The following measures relating to conservation, erosion and sediment control shall be included where applicable as part of all projects submitted for review and approval under this Ordinance:

- a. The procedures outlined in the erosion and sedimentation control plan, prepared and submitted by the applicant, shall be implemented during the site preparation, construction and clean-up stages.
- b. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following best-management practices:
  - 1) Stripping of vegetation, soil removal and re-grading or other development shall be done in such a way as to minimize erosion;
  - 2) Development shall preserve outstanding natural features, keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff;
  - 3) The development shall not unreasonably increase the rate or volume of surface water runoff from the proposed site;
  - 4) Whenever feasible, natural vegetation shall be retained, protected and supplemented;
  - 5) The disturbed area and the duration of exposure shall be kept to a practical minimum;
  - 6) Disturbed soils shall be stabilized as quickly as practicable;
  - 7) Temporary vegetation or mulching shall be used to protect disturbed areas during development;
  - 8) Permanent (final) vegetation and mechanical erosion control measures in accordance with the standards of the County Soil and Water Conservation District or the Maine Soil and Water Conservation Commission shall be installed as soon as practicable after construction ends;
  - 9) Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods;
  - 10) The top of a cut or the bottom of a fill section shall not be closer than ten feet (10') to an adjoining property, unless otherwise specified by the Planning board. Extraction operations (gravel pits, etc.) shall not be permitted within one hundred feet (100') of any property line in absence of the prior written agreement of the owner of such adjoining property;
  - 11) During grading operations, methods of dust control shall be employed wherever practicable;
  - 12) Whenever sedimentation is caused by stripping vegetation, re-grading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at the developer's expense as quickly as possible;
  - 13) Any activity on a stream, watercourse or swale or upon floodway or right-of-way shall comply with the Natural Resource Protection Act, 38 M.R.S.A., Sections 480-A and 480-S. Any such activity shall also be conducted in such a manner so as to maintain as nearly as possible the present

state of the stream, watercourse, swale, floodway, or right-of-way for the duration of the activity and shall be returned to its original or equal condition after such an activity is completed.

## **SECTION 5: LAND USE STANDARDS (General)**

### **B. 7. DIMENSIONAL REQUIREMENTS (continued)**

- 14) Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

### **10. GROUNDWATER PROTECTION**

The proposed site development and use shall not adversely impact either the quality or quantity of groundwater available to abutting properties or public water supply systems. Projects involving common on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater adjacent to identified groundwater aquifers shall comply, following development, with the standards for safe drinking water as established by the State of Maine.

### **11. HOME OCCUPATIONS**

The purpose of the Home Occupation provision is to permit the conduct of those businesses which are compatible with the Zones in which they are allowed. Home occupations are limited to those uses which may be conducted within a residential dwelling without substantially changing the appearance or condition of the residence or accessory structures;

- a) Home occupations shall be carried out wholly within a dwelling unit or accessory structure to a dwelling unit.
- b) No more than two other persons who are not family members residing in the dwelling unit shall be employed in a home occupation.
- c) Home occupations shall be clearly incidental and secondary and shall be no more than thirty (30) percent of the use of, or floor area of, a dwelling unit used primarily for residential purposes. An accessory structure may be wholly devoted to the home occupation, provided that other provisions of this section are met.
- d) In connection with a home occupation there shall be no exterior signs other than permitted by Subsection B.28 of this Section, no exterior storage of materials, and no other exterior indication of the home occupation or variance from the residential character of the premises.
- e) A home occupation shall not create noise, dust, vibration, odor, smoke, glare, excessive traffic, electronic interference, fire hazard, or any other hazard or nuisance to any greater degree or more frequent extent than that normally experienced in an average residential building in the zone in which it is located.
- f) No significant amount of goods, merchandise, or products shall be sold upon the premises, other than those produced, and or repaired, on the premises.
- g) Home occupations providing (for a fee) professional, educational and/or personal services to groups of persons on the premises shall provide adequate off-street parking spaces in addition to those required for the residence.

## SECTION 5: LAND USE STANDARDS (General)

### 12. JUNKYARDS AND AUTOMOBILE GRAVEYARDS

No junkyard as defined in this Ordinance shall be established without first obtaining site plan approval by the Planning Board, a non-transferable land use permit issued by the Selectboard in accordance with the State licensing and local requirements, and complying with the following provisions:

- a. Junkyards shall be located a minimum of two hundred feet (200') from the edge of the right-of-ways; and shall be set back one hundred feet (100') from all side and rear lot lines;
- b. Junkyards shall be located a minimum of three hundred feet (300') from any public park, facility, or grounds; and
- c. Junkyards shall be entirely screened from view by earth berms, plantings or fences which shall be well constructed and properly maintained at a minimum height of six feet (6') and sufficient to accomplish the complete screening from ordinary view.

In addition, the following provisions apply to the operation of all junkyards, as defined, in the Town of Hancock:

- d. Upon arrival at the junkyard, all fuel, engine oil, radiator, battery, transmission, fluids, etc. shall be drained from all vehicles, and appropriate safety precautions, such as the removal of door and trunk locks, shall be taken to avoid injury and accidents;
- e. No vehicles may remain intact in the yard for more than thirty (30) days, and complete processing of vehicles into salvage materials shall be accomplished within four (4) months;
- f. All junk and salvage materials shall be stored within the screened/fenced areas and the operation shall be conducted in such a manner as to prevent unsightliness to the adjacent area; and
- g. No open burning of salvage material or junk shall be permitted on the premises. Waste fluids and unusable materials shall be disposed of in an environmentally sound manner.

### 13. LAND NOT SUITABLE FOR DEVELOPMENT

The following lands shall not be included in the calculations of lot area for the purpose of meeting the requirements of the minimum lot size requirements of this Ordinance:

- a. Land which is situated below the normal high water mark of any water body;
- b. Land which is part of a right-of-way, or easement, including utility easements;
- c. Land that has to be created by filling or draining a pond or wetland;

This section does not apply to existing single lots of record proposed to be utilized for single family residences only.

### 14. LIGHTING

All exterior lighting shall be designed to encourage energy efficiency, to ensure safe movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicular traffic and potential damage to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public.

## SECTION 5: LAND USE STANDARDS (General)

### 15. MINERAL EXPLORATION AND EXTRACTION

The following requirements for mineral exploration and extraction activities shall apply in all Zones when permitted except as otherwise hereinafter provided (see Hancock Mineral Extraction Ordinance, also 38 M.R.S.A., Section 490-D):

a. The following requirements shall apply to mineral extraction exploration activities where extraction is permitted:

- 1) All excavations, including test pits and holes, shall be promptly capped, refilled, or secured by other equally effective measures so as to reasonably restore disturbed areas and to protect the public health and safety;
- 2) Mineral exploration activities or associated access ways where the operation of machinery used in such activities results in the exposure of mineral soils, shall be located such that an unscarified filter strip of at least the width indicated below is retained between the exposed mineral soil and the normal high water mark of surface water areas:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Mark (Feet Along Surface of the Ground)
40	105
50	125
60	145
70	165

The provisions of this subsection (2) apply only on face sloping toward the water, provided, however, no portion of such exposed mineral soil on a back face shall be closer than twenty-five feet (25'); the provisions of this subsection do not apply where access ways cross such waters;

- 3) Except when surface waters are frozen, access ways for mineral exploration activities shall not utilize stream channels bordered by Protection Zones except to cross the same by the shortest possible route; unless culverts or bridges are installed in accordance with this Ordinance, such crossings shall only use channel beds which are composed of gravel, rock or similar hard surfaces which would not be eroded or otherwise damaged;
  - 4) Access way approaches to stream channels shall be located and designed so as to divert water runoff from the way in order to prevent such runoff from directly entering the stream;
  - 5) In addition to the foregoing minimum requirements, when conducting mineral exploration activities and creating and maintaining associated access ways, provision shall be made to effectively stabilize all areas of disturbed soil so as to reasonably avoid soil erosion and sedimentation of surface waters. These measures shall include seeding and mulching if necessary to insure effective stabilization.
- b. The following requirements shall apply to mineral extraction activities in all Zones where permitted:
- 1) No portion of any ground area disturbed by the extraction activity on a face sloping toward the water, shall be closer to the normal high water mark of a flowing or standing body of water than is indicated by the following table provided, however, no portion of such ground area on a back face shall be closer than fifty feet (50');

**SECTION 5: LAND USE STANDARDS (General)**

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark  (Percent)	Width of Strip Between Exposed Mineral Soil and a line parallel and one hundred feet (100') upland from the upland edge of a wetland stream, or normal high water mark of any river, lake or pond  (Feet Along Surface of the Ground)
20	130
30	170
40	210
50	250
60	290
70	330

- 2) No portion of any ground area disturbed by the extraction activity shall be closer than one hundred and fifty feet (150') from any public roadway or from any property line in the absence of the prior written agreement of the owner of such adjoining property, or in Shoreland Zones as follows:
  - a) Within two hundred fifty feet (250') of any water body the extraction area shall be protected from soil erosion by ditches, sedimentation basins, dykes, dams, or such other control devices which are effective in preventing sediments from being eroded or deposited into such a water body. Any such control device shall be deemed part of the extraction area for the purposes of Sub-Section b.2, above;
  - 3) A natural vegetative screen of not less than fifty feet (50') in width shall be retained between any facility intended primarily for public use, excluding privately owned roads and the mineral exploration or extraction activity; and
  - 4) Within twelve (12) months following the completion of extraction operations at any extraction site, or 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 originating on-site may be buried or covered on-site.
    - b) The final graded slope shall be two to one (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 areas. Additional topsoil or loam shall be obtained from off-site sources, if necessary, to complete the stabilization project.
  - 5) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources including but not limited to any reasonable form of performance guarantee such as a performance bond.
- c. The following requirements shall apply to topsoil, sand and gravel extraction in all Zones where permitted:
  - 1) Topsoil shall be considered part of all developments, except mineral extraction, and shall not be removed from the site except for surplus topsoil from roads, parking areas and building excavations;

## SECTION 5: LAND USE STANDARDS (General)

- 2) Extraction shall not be allowed within five feet (5') of the average seasonal high water table. No ditches, trenches, pumping or other methods shall be used to lower the water table or permit more gravel extraction than could occur under normal conditions;
- 3) Access roads in and around the pit shall not be oiled, salted, or paved;
- 4) The pit shall not be used for storage or dumping of any substances that could produce a harmful leachate, both during operation of the pit and following its permanent closure;
- 5) Storage of hazardous materials and petroleum products in the pit is prohibited; and
- 6) Refueling and oil changes in the pit are prohibited, unless adequate protection and containment is provided.

### 16. MOBILE HOME PARKS

Mobile home parks shall conform to the regulations of the Hancock Mobile Home Park Ordinance.

### 17. MOBILE HOMES AND RECREATION VEHICLES

- a. Any mobile home not intended to be a permanent fixture on the land shall be parked only in a duly authorized mobile home park except that a mobile home may be permitted on the site of a construction project for not more than two (2) consecutive six-month (6) periods provided that a special permit is issued by the Code Enforcement Officer for each six-month (6) period. Such permit may only be issued if the Code Enforcement Officer is satisfied that:
  - 1) The mobile home is a necessary convenience for the construction project and is clearly subordinate to such a project.
  - 2) No health hazard or problems of sanitation will be caused by improper disposal of sewage from the mobile home.
- b. The Code Enforcement Officer may issue a permit for use of a mobile home for a temporary construction office for up to six (6) months in zones where offices are permitted or on construction sites anywhere in the Town of Hancock.
- c. Recreation vehicles shall in no case be used as a permanent dwelling and any recreation vehicles in use as a temporary dwelling shall be stationed only in an authorized campground or trailer park, or as an accessory use on the premises of a consenting private property owner for use only by members of the property owner's family or social guests.
- d. Notwithstanding the other provisions of this Section, unoccupied mobile homes may be placed on a lot for sale by a dealer where permitted by this Ordinance.

## SECTION 5: LAND USE STANDARDS (General)

### 18-A MULTIPLE DWELLINGS ON A SINGLE LOT

The following provisions apply to allow multiple dwelling units on lots where residential uses, including conditional uses, are allowed as of July 1, 2024, and thereafter. Additional dwelling units are subject to the lot size requirements set forth in Section 5:B.7 of this ordinance.

#### a. Undeveloped Parcels as of July 1, 2024

- 1) If the lot is located within a Designated Growth Area approved by the Town in its Comprehensive Plan, or is served by public water and sewer, or a centrally managed water system and a comparable sewer system in the absence of a Comprehensive Plan, the owner of the lot is permitted to have up to four (4) dwelling units, notwithstanding the requirements of the Hancock Subdivision Ordinance. The third and fourth dwelling units may be located within a structure or multiple structures. If the third and/or fourth dwelling units are created within a 5-year period, the project shall be subject to subdivision review and approval.
- 2) If the lot is located outside a Designated Growth Area approved by the Town in its Comprehensive Plan, the owner of the lot is permitted to have up to two (2) dwelling units per lot, provided that the requirements in 12 M.R.S. Chapter 423A, as may be amended, are met. The two (2) dwelling units may be within a single structure or two separate structures.

#### b. Developed Parcels as of July 1, 2024

- 1) If the lot contains one (1) existing dwelling unit, up to two additional dwelling units may be constructed, notwithstanding the requirements of the Hancock Subdivision Ordinance. The additional units may be located within, attached to, or detached from the existing structure. The owner may also choose to have one unit detached and one unit attached to the existing structure. If the third dwelling unit is created within a 5-year period, the project shall be subject to additional subdivision review and approval.
- 2) If the lot contains two (2) or more existing dwelling units, no more additional units are allowed.

### 18-B. MULTIPLE USES ON A SINGLE LOT

- a. No structure shall hereinafter be erected, altered, or utilized if the effect of such erection, alteration or utilization is to create more than one (1) use or principal structure on a single lot, except home occupations, unless all other requirements of this ordinance are met.
- b. More than one use may be permitted in the same structure in the Industrial and Commercial Zones, subject to the following conditions:
  - 1) All of the other requirements of the Zone in which the uses are located are met, with the exception that uses may be in the same building.
  - 2) All traveled ways to be used for the means of ingress and egress shall have a usable width of twenty-four feet (24').
  - 3) All private ways must be built to the standards of the Hancock Subdivision Ordinance.

## SECTION 5: LAND USE STANDARDS (General)

### B. 19. MUNICIPAL SERVICES

The proposed development shall not have an unreasonable adverse impact on the municipal services including municipal road systems, fire department, police department, solid waste program, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.

### 20. OFF-STREET LOADING/UNLOADING REQUIREMENTS

On every lot on which a commercial or industrial use is hereafter established, space with access to a public street shall be provided as indicated below for the loading and unloading of vehicles.

- a. RETAIL BUSINESS: One (1) space twelve feet (12') by fifty-five feet (55') with a minimum overhead clearance of fifteen feet (15') for the first five thousand (5,000) square feet or fraction thereof of floor space plus one (1) space for any floor space in excess of five thousand (5,000) square feet.
- b. WHOLESALE BUSINESS AND INDUSTRIAL: One (1) space twelve feet (12') by fifty-five (55) with a minimum overhead clearance of fifteen feet (15') for each eight thousand (8,000) square feet of floor space or fraction thereof.
- c. TRUCK AND BUS TERMINALS: Sufficient space to accommodate the maximum number of buses or trucks that would be stored, loaded, and unloaded at the terminal at any one (1) time.

### 21. OFF-STREET PARKING

a. PARKING SPACE SHALL BE PROVIDED: No structure shall be erected nor shall any of the following uses be established unless at least the minimum number of off-street parking spaces as specified below is provided. Where a fractional number of spaces would be called for, at least the next higher whole number of spaces shall be required. Each parking space shall measure at least nine feet (9') in width by eighteen feet (18') in length and shall have access for vehicles to a public street. Parking lots for more than five (5) vehicles shall be so arranged that vehicles can be turned around within such lots without entering the street. Private roads, separated from public right-of-ways, but not allowing for turn-around space are deemed adequate for these requirements.

- 1) Automobile Repair and Filling Stations: One (1) space for each regular employee, plus one (1) space for each fifty (50) square feet of floor area used for service work.
- 2) Boarding and Rooming House: one (1) space for each guest room.
- 3) Drive-In Restaurants and Dairy Stands: ten (10) spaces plus one (1) additional space for each person serving or preparing food on the largest shift employed at least once a week on a regularly scheduled basis during the peak season of operations.
- 4) Funeral Parlors: twenty (20) spaces.
- 5) Hospitals and Nursing Homes: one (1) space for each five beds, plus one (1) space for each staff or visiting doctor, plus one (1) space for each four (4) employees.
- 6) Hotels: one (1) space for each guest bedroom, plus one (1) space for each four (4) employees.
- 7) Industrial Establishments: two (2) spaces for every three (3) employees, at the maximum employment level, on the two (2) shifts of highest employment combined, plus one (1) space for each company vehicle operating from the premises.

- 8) Fraternal Organizations and Clubs: one (1) space for each five (5) members.

## **SECTION 5: LAND USE STANDARDS (General)**

### **B. 21. OFF-STREET PARKING (continued)**

- 9) Business and Professional Offices: one (1) space for each two hundred (200) square feet of working space.
- 10) Places of Amusement or Public Assembly: one (1) space for each fifty (50) square feet of floor area devoted to patron use.
- 11) Residential: Two (2) spaces for each dwelling unit.
- 12) Restaurants, Cocktail Lounges, and Bottle Clubs: one (1) space for each four (4) customer seats, plus one (1) space for each two (2) employees.
- 13) Retail business: four (4) spaces for each one thousand (1,000) square feet of sales area.
- 14) Roadside Farm Stands: four (4) spaces.
- 15) Elementary Schools: two (2) spaces per classroom plus one space (1) for every four (4) seats of public assembly or ten (10) spaces for every one thousand (1,000) square feet of assembly space if no fixed seats.
- 16) High Schools: five (5) spaces per classroom plus one (1) space for every four (4) seats of public assembly or ten (10) spaces for every one thousand (1,000) square feet of assembly space if no fixed seats.
- 17) Banks: one (1) space per one hundred fifty (150) square feet of floor area.
- 18) Tourist Courts and Motels: one (1) space for each accommodation.
- 19) Wholesale Business: one (1) space for each three hundred (300) square feet of floor space.
- 20) Churches: one (1) space for each five (5) persons seating capacity.
- 21) Accessory Dwelling Unit: Per 30-A M.R.S. §4364-B, an accessory dwelling unit shall not be subject to any additional parking requirements beyond the parking requirements of a single-family dwelling unit on the lot where the accessory dwelling unit is located.
- 22) No more than two (2) parking spaces for motor vehicles must be provided for every three (3) dwelling units of an affordable housing development.
- 23) For uses not specifically listed in this section, the Code Enforcement Officer shall prescribe the number which in no case will be less than an adequate number to provide for employees and customers and visitors anticipated on the site.

#### **b. LOCATION ON OTHER PROPERTY**

If the required automobile parking spaces cannot be provided on the same lot where the principal use is conducted, the Planning Board can permit that such spaces may be provided on other off-street property provided that such property lies within four hundred feet (400') of the main entrance to such principal use and is in the same zone. Such automobile parking space shall be associated with the principal use and shall not thereafter be reduced or encroached upon in any manner, provided however, that it may serve different principal uses at different times of day.

## SECTION 5: LAND USE STANDARDS (General)

### 22. BULK OIL AND CHEMICAL STORAGE

- a. All storage of petroleum or liquid petroleum products shall be in conformance with the provisions of 38 M.R.S.A., Section 541 et seq. which, among other things, establishes a ten-year compliance schedule for the discontinuance and removal of nonconforming underground storage facilities and requires qualified personnel to oversee the removal of certain underground facilities;

#### B. 22. BULK OIL AND CHEMICAL STORAGE (continued)

- b. Such storage shall be in conformance with the NFPA Codes applicable to the stored substance; and
- c. When applicable, the applicant shall have the burden of proof to assure the Planning Board or Code Enforcement Officer that all provisions of the above statutes have been met before the issuance of any permits may take place.

### 23. ON-SITE CIRCULATION

#### a. VEHICULAR CIRCULATION

The layout of the site shall provide for the safe movement of passenger, service and emergency vehicles through the site.

- 1) Non-residential projects shall provide a clear route for delivery vehicles with appropriate geometric design to allow turning and backing for all vehicles, including tractor trailers.
- 2) Clear routes of access shall be provided and maintained for emergency vehicles to all portions of the site and shall be posted with appropriate language.
- 3) The layout and design of parking areas shall provide for safe and convenient circulation of vehicles and prevent their backing out onto a street.
- 4) All streets and access ways shall be designed to harmonize with the topographic and natural features of the site. The road network shall provide for vehicular and pedestrian safety, all season emergency access, snow storage, and delivery and collection services.

#### b. PEDESTRIAN CIRCULATION

The development plan shall provide for a system of pedestrian circulation within the development. This system shall connect with existing sidewalks if they exist in the vicinity of the project. The pedestrian network may be located within the street right-of-way or outside of the right-of-way in open space or recreation areas. The system shall be designed to link residential units with recreational and commercial facilities, other common facilities, school bus stops, and existing sidewalks in the neighborhood.

### 24. OUTDOOR STORAGE AND DISPLAY OF GOODS

The storage and display of goods, outside a fully enclosed building, as an accessory use with permitted commercial activities is limited as follows:

Commercial (C) Zone: Customary and incidental storage and display of goods outside may be permitted as an accessory use with those commercial activities permitted in the C Zone in Section 4.H.6 of this Ordinance, provided that the total area of such outdoor storage and display area does not exceed twenty thousand (20,000) square feet.

## SECTION 5: LAND USE STANDARDS (General)

### 25. POLLUTION LEVELS

Any pollutant introduced into soil on the site shall not exceed a concentration in the groundwater that is greater than the guideline established for it in the Safe Drinking Water Standard, EPA Health Advisory, or NAS Health Advisory. Any violation of this standard shall be cause to order the immediate cessation of the use or activity responsible for the contamination. The land owner, contractor, occupant, or any other person with the authority over the land, structure, or activity responsible for the contamination, shall be responsible for the cost of all remedial actions and damages resulting therefrom.

### B. 26. PRESERVATION AND ENHANCEMENT OF THE LANDSCAPE

The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of soil, and retaining existing vegetation during construction. After construction is completed, landscaping shall be completed that will define, soften or screen the appearance of off-street parking areas, buildings and other structures from the public right-of-way and abutting properties in order to enhance the physical design of the proposed development and to minimize the encroachment of the proposed uses on neighboring land uses.

Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed structures, so as to have a minimum adverse effect on the environment and aesthetic qualities of the developed and neighboring areas.

Environmentally sensitive areas such as wetlands, steep slopes, flood plains, and unique natural features shall be maintained and preserved to the maximum extent possible. Natural drainage areas shall be preserved to the maximum extent possible.

### 27. PRIVATE RIGHT-OF-WAYS

No private right-of-ways shall be created to satisfy the frontage requirements for any lot, any portion of which abuts a public way.

No such right-of-way shall be created over any existing lot or lots so that the balance of any such existing lot, exclusive of the area occupied by the right-of-way would fail to meet any of the requirements of this Ordinance for lot size, frontage, lot coverage, or yard sizes.

### 28. SIGNS (see also Land Use Standards, Shoreland, Section 5.C.15)

All signs within view of public ways of the Town of Hancock shall conform to the following regulations:

No signs may be erected until they have been approved by the Code Enforcement Officer (CEO), after a sign application has been submitted, and appropriate fee paid, unless they are of a temporary nature or specifically exempted.

#### a. RESTRICTIONS

- 1) All signs shall conform to design requirements.
- 2) The following signs are not permitted:
  - a. Billboards.
  - b. Roof signs.
  - c. Searchlights.
  - d. Hot-air or gas-filled balloons used for advertising.
  - e. Signs painted on rocks, ledges, or natural features.
  - f. Revolving signs.

#### b. EXCEPTIONS

## SECTION 5: LAND USE STANDARDS (General)

### B. 28. SIGNS (continued)

The following signs do not require a permit, provided they adhere to the standards of this Ordinance size and placement requirements:

- 1) Temporary signs to be erected for not more than thirty (30) days, including political signs which must be removed within seven (7) days following an election.
- 2) Signs that identify a contractor at the site of construction or alteration under way.
- 3) Signs that advertise places for sale or rent.
- 4) Yard sale signs posted for less than 5 days, and no more than 6 times per year in the same place.
- 5) Signs of a religious nature that identify a church, show the schedule of religious services, or convey a religious message.
- 6) Signs on private property that: direct traffic or parking; indicate inhabitants names and/or property name; or convey safety and caution messages.
- 7) Fire lane and road name signs.
- 8) Signs erected by government, town and other not-for-profit bodies.
- 9) Traffic control signs, signals or devices.

### c. REGULATIONS

- 1) OFFICIAL BUSINESS DIRECTIONAL SIGNS (OBDS) in public ways must conform to the Department of Transportation (DOT) regulations and must be approved by the Hancock Selectboard or its designee before DOT application is submitted.

- 2) Additionally all signs shall conform to the following provisions:

#### 1. ON-PREMISE SIGNS

Owners or occupants of real estate property may erect and maintain on-premise signs which advertise the sale or lease thereof or activities being conducted thereon provided that said signs are in conformance with the regulations set below:

- a) The maximum size for each individual sign shall not exceed sixteen (16) square feet with the exceptions listed below:
  1. The maximum size for each individual sign in any Residential Zone shall not exceed four (4) square feet and shall not exceed a maximum aggregate area of all signs for individual use of six (6) square feet.
  2. The maximum size for each individual sign in the Commercial Zone and the Industrial Zone shall be one hundred and ten (110) square feet.
- b) On-premise signs, other than wall or projecting signs, shall not extend more than twenty-two feet (22') above ground level, and shall not be internally lighted.
- c) Projecting signs must be at least nine feet (9') above pedestrian level and may not project more than three feet (3') from the building.
- d) One sign identifying the name, address and profession or occupation of a permitted home occupation or a lawfully existing non-conforming home occupation is permitted, provided that such sign does not exceed four (4) square feet in area and is not internally illuminated.
- e) Directional signs solely indicating ingress and egress placed at driveway locations, containing no advertising material or display area, not exceeding two (2) square feet and not extending higher than four feet (4') above ground level, are permitted.

#### 2. SIGNS PROHIBITED

No sign, whether new or existing, shall be permitted which causes a sight, traffic, health or welfare hazard, or results in a nuisance, due to illumination, placement, display or obstruction of existing signs.

## SECTION 5: LAND USE STANDARDS (General)

### B. 28. SIGNS (continued)

#### 3. DESIGN REQUIREMENTS

All signs shall meet the following design requirements:

- a) No sign shall project over a walkway or interfere in any way with the normal flow of foot or vehicular traffic. All free standing signs shall be set back a minimum of five feet (5') from the rear and side property lines and shall be set back from the road so as not to create a safety hazard or interfere with traffic movements and road maintenance. On town roads, all free standing signs shall be set back a minimum of twelve (12) feet from the edge of the traveled way.
- b) No sign shall contain, include, or be illuminated by flashing, blinking, intermittent, or moving lights.
- c) Signs may be illuminated only by external shielded non-flashing lights so as to effectively prevent beams or rays of light from being directed at neighboring properties or any portion of the main traveled way of a roadway, as not to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with the operation thereof.

#### 4. NON-CONFORMING SIGNS

Non-conforming signs may be retained if property is maintained, but may not be enlarged or replaced by another non-conforming sign.

### 29. SITE CONDITIONS

- a. During construction, the site shall be maintained and left each day in a safe and sanitary manner and any condition which could lead to personal injury or property damage shall be immediately corrected by the developer upon an order by the Code Enforcement Officer or other authorized personnel. The developer shall make provision for disposal of oil and grease from equipment and the site area should be regularly treated to control dust from construction activity; and
- b. Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris. Excess or scrap building materials shall be removed or destroyed immediately upon the request of and to the satisfaction of the Code Enforcement Officer prior to issuing a Certificate of Occupancy.

### 30. SMALL WIND ENERGY SYSTEMS (SWES)

The purpose of the Small Wind Energy Systems (SWES) section is to permit the placement and construction of safe and effective small wind energy systems. The following provisions shall apply:

#### Dimensional Requirements

- a. Minimum site area for SWES shall be 40,000 square feet. Each additional SWES will require an additional two acres. No more than 3 SWES are allowed on any one site.
- b. The SWES height shall not exceed sixty (60) feet above ground level and maximum capacity shall not exceed 10kW.
- c. Safety Setbacks
  - 1) SWES shall be set back a distance equal to one hundred ten (110) percent of the system height from adjoining property lines.

## SECTION 5: LAND USE STANDARDS (General)

### B. 30. SMALL WIND ENERGY SYSTEMS (SWES) (continued)

- 2) SWES shall be set back a distance equal to one hundred fifty (150) percent of the system height from any structures on adjoining properties.
  - 3) SWES shall be set back a distance equal to one hundred ten (110) percent of the system height from public or private road right of way and overhead utility lines.
- d. An SWES must be set back 2500 feet from any areas designated as recognized historic sites or important bird areas identified as significant wildlife habitat by the State.

#### Design Requirements

##### a. ACCESS:

1) All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

2) The tower shall be designed and installed such that the public access via step bolts or a ladder is prevented for a minimum of 12 feet above ground.

b. **BLADE CLEARANCE:** The minimum distance between the ground and any wind turbine blades of free standing SWES shall be 25 feet as measured at the lowest point of the arc of the blades.

c. **ELECTRICAL INTERCONNECTIONS:** All on-site electrical wires associated with the SWES shall be installed underground except for "tie-ins" to public utility company transmission poles, towers and lines. A licensed electrician must connect the SWES to the residence or other structure.

d. **NOISE:** The SWES shall not exceed 55 dBA, as measured at the property line, except during short-term events such as severe wind storms and utility outages.

e. **OVER-SPEED CONTROLS:** SWES shall be equipped with both manual and automatic over-speed controls.

f. **SIGNAL INTERFERENCE:** The system shall be operated and located so that no disruptive electromagnetic interference with signal transmission or reception is caused beyond the site. If it has been demonstrated that the system is causing disruptive interference beyond the site, the system operator shall promptly eliminate the disruptive interference or cease operation of the system.

g. **STRUCTURE TYPE:** The tower shall be an approved monopole without guy wires or an approved guyed tower. Anchor points for any guy wires for a system tower shall be located within the site and not on or across any above-ground electrical transmission lines. The point of attachment for the guy wires shall be enclosed by a fence or sheathed in bright orange or yellow covering from three to eight feet above ground.

##### h. VISUAL APPEARANCE:

1) SWES shall be painted in non-reflective, light gray color, unless otherwise required by the FAA.

2) All signs, both temporary and permanent, or any graphic representation are prohibited on the SWES except appropriate manufacturers or installers identification and warning signs.

3) No tower shall be lit unless required by the FAA.

## SECTION 5: LAND USE STANDARDS (General)

### B. 30. SMALL WIND ENERGY SYSTEMS (SWES) (continued)

4) Screening and Buffering: Wherever possible, SWES shall be located to make maximum use of existing vegetation and structures for the purpose of screening the turbine from off-site views. To the greatest extent possible, SWES shall be sited such that mature vegetation and/or existing structures are located between the SWES and public and private viewpoints.

A year-round vegetated buffer of sufficient height and depth to screen the SWES shall be provided. Height and depth of the required buffer may vary in accordance with the specific project and site conditions. Trees and vegetation may be existing on the subject property or installed as part of the proposed SWES or a combination of both. Consideration should be given to providing vegetated buffers nearer to the viewer to get maximum benefit from the screening, while limiting any turbulence that could affect the efficiency of the SWES.

- i. ABANDONMENT OF USE: a SWES which is not generating electricity for twelve (12) consecutive months shall be deemed abandoned and shall be dismantled and removed from the property by the owner within 120 days of receipt of notice from the town.
- j. REMOVAL OF UNSAFE SMALL WIND ENERGY SYSTEMS: Any small wind energy system found unsafe by the Code Enforcement Officer shall be shut down immediately and repaired by the owner to meet all federal, state, and local safety standards or removed within six months.

### 31. SUBDIVISIONS

- 1. All subdivisions shall conform to the requirements of the Hancock Subdivision Ordinance.
- 2. Subdividers are encouraged to implement clustered site plans and internal access roads.

### 32. USES PROHIBITED ON OR ADJACENT TO AQUIFERS

- a. The following uses are prohibited within the boundaries of the town's identified significant sand and gravel aquifers plus all lands lying outside and within three hundred feet (300') of said boundaries unless the use has been reviewed by the Planning Board and based upon a Groundwater Impact Analysis prepared by either a registered geologist or soil scientist, at the discretion of the Board, and other submissions, that the Board is able to make written findings of fact that the proposed use will not have an adverse impact on the quantity or quality of ground water resources:
  - 1. Subsurface storage of petroleum and other refined petroleum products with the exception of household heating oil where the underground storage tank is in full compliance with DEP regulations.
  - 2. Petroleum storage for commercial or industrial use.
  - 3. Engineered subsurface waste disposal systems as defined herein.
  - 4. Multi-family dwellings and subdivisions.
  - 5. Industrial uses except those permitted as home occupations as defined herein.
  - 6. Salt-sand and road salt storage and loading area.
  - 7. Dumping of snow containing deicing chemicals.
  - 8. Junkyards, Automobile Graveyards and Automobile Recycling
  - 9. Sanitary landfills or demolition/stump dumps.
  - 10. Commercial animal feedlots.
  - 11. Metal plating.
  - 12. Commercial furniture stripping.
  - 13. Dry cleaning establishments.
  - 14. Commercial motor vehicle and auto repair garage or service.
  - 15. Non-residential pipelines for transmission of oil, gas, or hazardous materials.

## SECTION 5: LAND USE STANDARDS (General)

16. Spray irrigation of sewage.
17. Any other use that involves the manufacture, storage, use, transportation or disposal of toxic or hazardous materials.

b. When a GroundWater Impact Analysis is submitted, the assessment shall contain at least the following information:

1. Soil data for the entire site including soil test pits and percolation test results.
2. The depth to the water table at representative points throughout the site.
3. Drainage conditions throughout the site.
4. Data on the existing ground water quality, either from test wells on the site or from existing wells on neighboring properties.
5. An analysis and evaluation of the effect of the development on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the site, or at the site boundaries; or at a distance of 1,000 feet from potential contamination sources, whichever is shortest distance.
6. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the development and within 200 feet of the development boundaries.

c. Projections of groundwater quantity shall be based on the assumption of drought conditions (assuming 60% of annual recharge from precipitation).

d. No development shall increase any contaminant concentration in the groundwater, within or outside the development, to more than one half of the Primary Drinking Water Standards. No development shall increase any contaminant concentration in the groundwater to more than the Secondary Drinking Water Standards.

e. If applicable, submit the following:

1. A list of all petroleum products, hazardous materials, and hazardous wastes that will be handled on site, whether used, stored, transported, or transferred. The list should contain the volume of each and a statement on how it will be handled.
2. A Spill Prevention, Control and Countermeasures (SPCC) plan.

### B. 33. UTILITIES/SUBSURFACE WASTEWATER DISPOSAL/WASTE DISPOSAL/WATER SUPPLY

#### a. UTILITIES

1. Any utility installations remaining above ground shall be located so as to have a harmonious relation to neighboring properties and the site;
2. Underground utilities shall be installed prior to the installation of the final gravel base of the road; and
3. The size, type and location of street lights and utilities shall be shown on a site review plan and approved by the Planning Board.

#### b. SUBSURFACE WASTEWATER DISPOSAL

Subsurface Wastewater Disposal: No permit shall be issued for a project with subsurface wastewater disposal unless:

1. There is an area of sufficient size of suitable soils, under the Maine State Plumbing Code, to accommodate the proposed system;
2. An acceptable plan to construct the absorption area is prepared in accordance with the Maine State Plumbing Code; and

## SECTION 5: LAND USE STANDARDS (General)

3. In lieu of 1) and/or 2) above, the applicant demonstrates that any deficiencies of the soil for purposes of sewage disposal can and will be overcome by a suitable engineering solution.

### c. WASTE DISPOSAL

The proposed development shall provide for adequate disposal of solid wastes and hazardous wastes.

1. All solid waste shall be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.
2. All hazardous wastes shall be disposed of at a licensed hazardous waste disposal facility and evidence of a contractual agreement with the facility shall be submitted.

### d. WATER SUPPLY

The development shall be provided with a system of water supply that provides each use with an adequate supply of water meeting the standards of the State of Maine for drinking water.

- e. The owner of a dwelling must provide written verification to the municipality that the accessory dwelling unit is connected to adequate water and wastewater services before the municipality may certify the accessory dwelling unit for occupancy. Written verification under this subsection must include:

1. If a dwelling is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the accessory dwelling/affordable housing development unit and proof of payment for the connection to the sewer system;
2. If a dwelling is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by the Local Plumbing Inspector pursuant to 30-A M.R.S. §4221, as may be amended. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. Ch. 241, *Subsurface Wastewater Disposal Rules*;
3. If a dwelling is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit; and
4. If a dwelling is connected to a well, proof of access to potable water, including the standards outlined in 01-672 C.M.R. Ch. 10§ 10.25(J), Land Use Districts and Standards, as may be amended. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

### 34. WATER EXTRACTION

See Hancock Water Extraction Ordinance.

### 35. WIRELESS TELECOMMUNICATIONS FACILITIES (WTF)

a. Purpose. The purpose of the Wireless Telecommunications Facilities (WTF) section is to establish a set of standards for the construction of wireless telecommunications facilities in order to:

1. permit and manage reasonable access for wireless telecommunications on a competitively neutral basis;
2. encourage the collocation of wireless communications facilities in order to maximize the use of approved or pre-existing sites within the coverage area; and
3. minimize adverse impact on the Town's aesthetic resources and to protect the scenic, historic, environmental, natural resources, and visual character of the community.

## SECTION 5: LAND USE STANDARDS (General)

### B. 35. WIRELESS TELECOMMUNICATIONS FACILITIES (WTF) (continued)

- b. Exemptions. The following activities and structures with a maximum tower height, including antenna, of one hundred ninety-five (195) feet above original grade are exempt from the provisions of this ordinance.
  - 1) Temporary wireless telecommunications facilities for emergency communications by public officials.
  - 2) Amateur (ham) radio and private mobile radio service towers licensed by the Federal Communications Commission (FCC).
  - 3) Antennas that are accessory to a residential dwelling.
- c. Expansion or colocation
  - 1) Applicants seeking approval for wireless telecommunications facilities shall first evaluate the suitability of existing approved sites. Only after finding that there are no suitable existing or approved sites for expansion or colocation, shall a provider propose a new facility.
  - 2) The applicant shall have the burden of proving that there are no expansion or colocation opportunities which are suitable for its WTF.
  - 3) Applications for new wireless telecommunications facility towers or any expansion or colocation on an existing tower that increases tower height shall require Site Plan Review by the Planning Board.
  - 4) Applications for wireless telecommunications facility expansion or colocation on an existing wireless telecommunications tower that do not increase tower height shall require approval by the Code Enforcement Officer following standards in Section 6: Code Enforcement Officer Permits, B.4.
- d. Dimensional Requirements
  - 1) Minimum site area for a WTF shall be 40,000 square feet.
  - 2) The maximum height of the WTF shall not exceed one hundred ninety-five (195) feet above mean original grade.
  - 3) WTF tower shall be set back a distance equal to 150% of the height of the WTF tower, including any antennas or other appurtenances, to any property line or public road. The setback may be satisfied by securing a recorded easement on areas outside the property boundaries.
  - 4) Guy anchors and accessory buildings shall be set back the same distance as accessory structures.
- e. Design Requirements
  - 1) Access
    - a) A security fence or wall not less than 8 (eight) feet in height from the finished grade shall be provided around the tower. Access to the tower shall be through a locked gate.
    - b) A single access roadway is permitted, which must be designed to harmonize with topographic and natural features of the site by minimizing filling, grading, excavation, or similar activities which result in unstable soil conditions and erosion.
  - 2) Tower Type. All tower types shall be mounted on the ground. Towers mounted on buildings are prohibited.
  - 3) Visual Appearance
    - a) A new WTF must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.
    - b) Signs shall be limited to those needed to identify the property and the owner and to warn of potential hazards.
    - c) Tower lighting only if FFA required. Security lighting may be used as long as it is shielded to retain light within the boundaries of the site to the maximum extent practicable.
    - d) For Buffering and Screening standards See Section 5:B.3. Buffering and Screening Standards and Appendix A: Screening.

## SECTION 5: LAND USE STANDARDS (General)

### B. 35. WIRELESS TELECOMMUNICATIONS FACILITIES (WTF) (continued)

#### f. Monitoring

- 1) The WTF tower owner shall provide the CEO with copies of current FCC licenses, renewals, and copies of any reports filed with the FCC when changes occur.
- 2) The WTF tower owner shall arrange for a professional engineer licensed in the State of Maine to conduct inspections of the towers' structural integrity and safety.
  - a) Towers shall be inspected initially after five years, then every two years, at the tower owner's expense.
  - b) A report of the inspection results shall be submitted to the CEO and Planning Board.
  - c) Modification of existing facilities which include changes to dimension or antenna number or type may require a new structural inspection at the Planning Board or CEO's discretion.
  - d) The WTF tower owner shall pay for an independent radio frequency engineer approved by the Planning Board or their designee to evaluate the electromagnetic radiation emitted from all users of the wireless telecommunications facility every year, with the first evaluation occurring within 30 days after transmission begins. The levels of electromagnetic radiation emissions must comply with the most up-to-date FCC standards at the time of the monitoring test. A report detailing the monitoring test shall be submitted to the Code Enforcement Officer within 30 days of completion of the monitoring test. Failure to provide required inspection reports in the time schedule shall be a violation of this Ordinance.

Should the monitoring of a facility reveal that electromagnetic radiation emitted from the site exceeds the current FCC standards and guidelines, the owner(s) of any and all facilities exceeding the FCC standards and guidelines shall be notified by the CEO. In accordance with FCC requirements, the owner(s) must immediately reduce power or cease operation as necessary to protect persons having access to the site, tower, or antennas. In addition, the owner(s) shall submit to the Town an analysis of what caused the problem and a plan for the reduction of emissions to a level in compliance with the current FCC standards within 10 business days. Failure to accomplish this reduction of emissions within 15 business days of initial notification of noncompliance shall be a violation of this Ordinance.

#### g. Abandonment or Discontinuation of Use

- A WTF tower that is not listed as having a license in the FCC Database or is out of operation for a continuous period of twelve (12) months or more shall be considered abandoned.
- 1) At least thirty (30) days prior to the time that the tower owner plans to abandon or discontinue use of a WTF tower, said owner must notify the CEO by certified mail.
  - 2) If the CEO considers a WTF tower abandoned, the CEO shall notify the owner of an abandoned tower in writing by certified mail and order the removal of the tower within one hundred eighty (180) days of receipt of the written notice. The owner of the tower shall have forty (40) days from the date of the written notice to demonstrate to the CEO that the tower has not been abandoned.
  - 3) If the WTF tower owner fails to show that the tower is actively being operated, the tower owner shall have one hundred eighty (180) from the date of the notice required in 2) above, to remove the tower.

#### h. Removal

- 1) Any WTF tower, or upper portion thereof, that ceases to operate must be removed at the expense of the tower owner within one hundred eighty (180) days from the notice required in g.2) above.
- 2) Removal shall include, but not be limited to, antennas, mounts, and security barriers. Waste materials must be properly disposed of at an offsite location.
- 3) The site of the WTF tower must be restored to its pre-construction condition. The owner of the tower shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including removal of roads, and re-establishment of vegetation.
- 4) The permit holder or land owner may apply for a change of use permit that will allow the existing facilities, not including towers, to be retained for future use.

## SECTION 5: LAND USE STANDARDS (General/Shoreland)

### B. 35. WIRELESS TELECOMMUNICATIONS FACILITIES (WTF) (continued)

5) If the tower owner fails to remove a WTF tower in accordance with the provisions of this section, the Selectboard of the Town of Hancock and/or their representatives shall have the authority to enter the property and dismantle the tower at the tower owner's expense.

#### i. Performance Guarantee for Removal

After approval of an application, and prior to initiating construction of an WTF tower within the Town of Hancock, the tower owner must guarantee the costs for removal of the WTF tower. See Section 9: Administrative Fees / WTF Performance Guarantee For Removal.

### C. SHORELAND STANDARDS

APPLICABILITY: The following standards apply to all land areas within 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 75 feet, horizontal distance, of the normal high-water line of a stream.

These standards also apply 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.

#### 1. AGRICULTURE

- a. 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).
- b. Manure shall not be stored or stockpiled within one hundred feet (100'), horizontal distance, of a great pond or a river flowing to a great pond, or within seventy-five feet (75'), 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 stormwater.
- c. 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 and approved by the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- d. There shall be no new tilling of soil within one hundred feet (100'), horizontal distance, of the normal high-water line of a great pond or salt water body; within seventy-five feet (75'), horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five feet (25'), 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.

## SECTION 5: LAND USE STANDARDS (Shoreland)

### C. 1. AGRICULTURE (continued)

- e. Newly established livestock grazing areas shall not be permitted within one hundred feet (100'), horizontal distance, of the normal high-water line of a great pond or salt water body; within seventy-five feet (75'), horizontal distance, of other water bodies and coastal wetlands; nor within twenty-five feet (25'), 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.

### 2. ARCHAEOLOGICAL SITES

The application for 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 Planning Board 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 Planning Board. The Planning board shall consider comments received from the Commission prior to rendering a decision on the application.

A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

### 3. CLEARING OR REMOVAL OF VEGETATION FOR ACTIVITIES OTHER THAN TIMBER HARVESTING

- a. In a Resource Protection Zone (RP) abutting a great pond, there shall be no cutting of vegetation within the strip of land extending seventy-five feet (75'), horizontal distance, inland from the normal high-water line, except for the removal of safety hazards and with a permit from the Code Enforcement Officer. Elsewhere, in any Resource Protection Zone (RP) the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.
- b. Except in areas as described in 3.a. above, and except to allow for the development of permitted uses, within a strip of land extending one hundred feet (100'), horizontal distance, inland from the normal high-water line of a great pond, salt water body or a river flowing to a great pond or salt water body, and seventy-five feet (75'), 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:
  - 1) There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy (or other existing 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 feet (6') in width as measured between tree trunks is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

## SECTION 5: LAND USE STANDARDS (Shoreland)

### C. 3. CLEARING OF VEGETATION FOR ACTIVITIES OTHER THAN TIMBER HARVESTING (continued)

- 2) 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 this section a “well-distributed stand of trees” adjacent to a great pond or a river or stream flowing to a great pond, shall be defined as maintaining a rating score of twenty-four (24) or more in each twenty-five (25) foot by fifty (50) foot rectangular (1,250 square feet) area as determined by the following rating system:

Diameter of Tree at 4½ Feet Above Ground Level	Points
2 – < 4 inches	1
4 – < 8 inches	2
8 – < 12 inches	4
12 inches 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 sixteen (16) per twenty-five (25) foot by fifty foot (50) rectangular area.

The following shall govern in applying this point system:

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

For the purposes of Section 5:C.3.b.2) “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 forty percent (40%) of the total volume of trees four (4) inches or more in diameter, measured at four and one-half feet (4 ½) above ground level may be removed in any ten (10) year period.

- 3) In order to protect water quality and wildlife habitat, existing vegetation under three feet (3') 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 paragraphs 3.b and 3.b.1) above.
- 4) Pruning of tree branches, on the bottom third (1/3) of a tree is allowed.
- 5) 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 5: LAND USE STANDARDS (Shoreland)

### C. 3. CLEARING OF VEGETATION FOR ACTIVITIES OTHER THAN TIMBER HARVESTING (continued)

The provisions contained in paragraph 3.b above do 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.

- c. At distances greater than one hundred feet (100'), horizontal distance, from a great pond or river flowing to a great pond, and seventy-five feet (75), 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 percent (40%) of the volume of trees four (4) inches or more in diameter, measured four and one-half feet (4½') above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty percent (40%) 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, twenty-five percent (25%) of the lot area within the Shoreland Zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared.

- d. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
  - e. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.
- ### 4. COMMERCIAL AND INDUSTRIAL USES

The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to a great pond or salt water body, and rivers and streams which flow to great pond:

- a. Auto washing facilities
- b. Auto or other vehicle service and/or repair operations, including body shops
- c. Chemical and bacteriological laboratories
- d. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms
- e. Commercial painting, wood preserving, and furniture stripping facilities
- f. Dry cleaning establishments
- g. Electronic circuit assembly facilities
- h. Laundromats, unless connected to a sanitary sewer
- i. Metal plating, finishing, or polishing facilities
- j. 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
- k. Photographic processing facilities
- l. Printing facilities

### 5. EROSION AND SEDIMENTATION CONTROL

- a. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit under this Ordinance shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the Code Enforcement Officer or Planning Board for approval, as required, and shall include, where applicable, provisions for:

## SECTION 5: LAND USE STANDARDS (Shoreland)

### C. 5. EROSION AND SEDIMENTATION CONTROL (continued)

- 1) Mulching and revegetation of disturbed soil.
  - 2) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  - 3) Permanent stabilization structures such as retaining walls or riprap.
- b. 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.
- c. 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.
- d. 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:
- 1) 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.
  - 2) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - 3) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of stacked hay bales and/or silt fences.
- e. Natural and man-made drainageways 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 rip-rap.

### 6. ESSENTIAL SERVICES

- a. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- b. The installation of essential services, other than road-side distribution lines, is not allowed in the Resource Protection Zone (RP) or Stream Protection Zone (SP) except to provide services to a permitted use within said zone, or except where the applicant demonstrates that a clear necessity exists and that there is a lack of a reasonable alternative. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- c. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

### 7. INDIVIDUAL PRIVATE CAMPSITES

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

## SECTION 5: LAND USE STANDARDS (Shoreland)

### C. 7. INDIVIDUAL PRIVATE CAMPSITES (continued)

- a. One campsite per lot of record existing on the effective date of this Ordinance, or per forty thousand (40,000) square feet of lot area within the shoreland zone, whichever is less dense, may be permitted.
- b. Campsite placement on any lot, including the area intended for a tent platform, shall be set back one hundred feet (100'), horizontal distance, from the normal high-water line of a great pond, salt water body or river flowing to a great pond or salt water body, and seventy-five feet (75'), horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- c. Campsites shall not be located on any type of permanent foundation except for a gravel pad. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except a canopy shall be attached to the recreational vehicle.
- d. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in the Resource Protection Zone shall be limited to one thousand (1000) square feet.
- e. 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.
- f. 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.

### 8. 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, so as to restore disturbed areas and to protect the public health and safety.

Mineral extraction is not permitted in the shoreland zone.

### 9. MINIMUM LOT STANDARDS

- a. All lots in the Shoreland Residential (SR) Zone shall contain a minimum of (40,000 square feet) and have a minimum shore frontage of two hundred feet (200').
- b. 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.
- c. 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.

## SECTION 5: LAND USE STANDARDS (Shoreland)

### C. 9. MINIMUM LOT STANDARDS (continued)

- d. The minimum width of any portion of any lot within one hundred feet (100'), 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.
- e. 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.
- f. For any accessory dwelling unit within the Shoreland Zone, it may only be established on a lot where the accessory dwelling unit itself can meet the minimum lot area and minimum shore frontage requirements of Section 5:B.7. (e.g., for single-family residence and an ADU on a lot in the Shoreland Zone, the lot must have twice the minimum lot area and twice the minimum shore frontage). An accessory dwelling unit may be constructed only: within an existing dwelling unit on the lot; attached to or sharing a wall with a single-family dwelling unit; or as a new structure on the lot for the primary purpose of creating an accessory dwelling unit.

### 10. PARKING AREAS

- a. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the zone in which such areas are located.
- b. 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.
- c. In determining the appropriate size of proposed parking facilities, the following shall apply:
  - 1) Typical parking space: Approximately nine feet (9') wide and eighteen feet (18') long, except that parking spaces for a vehicle and boat trailer shall be forty feet (40') long.
  - 2) Internal travel aisles: Approximately twenty feet (20') wide.

### 11. PIERS, DOCKS, WHARFS, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BELOW THE NORMAL HIGH-WATER LINE OF A WATER BODY OR WITHIN A WETLAND

- a. Access to the shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- b. The location shall not interfere with existing developed or natural beach areas.
- c. The facility shall not be 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.
- d. 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.
- e. 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.

## SECTION 5: LAND USE STANDARDS (Shoreland)

### C. 11. PIERS, DOCKS, WHARFS, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BELOW THE NORMAL HIGH-WATER LINE OF A WATER BODY OR WITHIN A WETLAND (continued)

- f. 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.

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

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### 12. PRINCIPAL AND ACCESSORY STRUCTURES

- a. All new principal and accessory structures shall be set back at least one hundred feet (100'), horizontal distance, from the normal high-water line of a great pond, and rivers that flow into a great pond, and seventy-five feet (75'), horizontal distance, from the normal high-water line of any salt water body tributary stream, or the upland edge of a wetland. In the Resource Protection Zone the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that zone in which case the setback requirements specified above shall apply.

Except:

- 1) The water body, tributary stream or wetland setback provision shall not apply to structures which require direct access to the water body or wetland as an operation necessity, such as piers, docks and retaining walls, or to other functionally water-dependent uses.
- 2) 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 code enforcement officer 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.
- 3) 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.

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NOTE: All tidal land which is subject to tidal action during the maximum spring tide is coastal wetland.

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## SECTION 5: LAND USE STANDARDS (Shoreland)

### C. 12. PRINCIPAL AND ACCESSORY STRUCTURES (continued)

- b. Principal or accessory structures and expansions of existing structures which are permitted in the Shoreland Residential Zone (SR) and Shoreland Development Zone (SD) shall not exceed thirty five feet (35') in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area. SWES height shall not exceed sixty (60) feet. Amateur (ham) radio tower height, including antenna, shall not exceed one hundred ninety-five (195) feet above original grade.
- c. All new principal structures must be placed outside the floodplain, as depicted on the National Flood Insurance Program's Flood Insurance Rate Maps, except in a "developed" area. "Developed" area means one existing principal structure per 500 feet over a length of shoreline of 1,000 feet. The principal structure must be located within the 250 foot Shoreland Zone.
- d. 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 one hundred (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. For accessory structures within the 100-year floodplain, the standards of the Town of Hancock Floodplain Management Ordinance shall apply.
- e. The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland area shall not exceed twenty percent (20%) of the lot or a portion thereof, located within the Shoreland Residential Zone (SR), including land area previously developed.
- f. 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:
  - 1) The site has been previously altered and an effective vegetated buffer does not exist;
  - 2) 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;
  - 3) 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;
  - 4) The total height of the wall(s), in the aggregate, are no more than 24 inches;
  - 5) 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.
  - 6) 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
  - 7) 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:

## SECTION 5: LAND USE STANDARDS (Shoreland)

### C. 12. PRINCIPAL AND ACCESSORY STRUCTURES (continued)

- (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 5.C.3.b.1), may traverse the buffer;

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

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- g. 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 feet (4') in width; that the same 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 Board 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.
- h. An accessory dwelling unit must comply with municipal shoreland zoning requirements (Section 5:B.7).
- i. An affordable housing development must comply with municipal shoreland zoning requirements (Section 5:B.7).

### 13. ROADS AND DRIVEWAYS

See Appendix C for Standards for construction of roads and/or driveways and drainage systems, culverts, and other related features.

### 14. SEPTIC WASTE DISPOSAL

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.

## SECTION 5: LAND USE STANDARDS (Shoreland)

### 15. SIGNS (Shoreland)

The following provisions shall govern the use of signs in the shoreland zones in addition to those in Section 5.B.28. :

- a. 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.
- b. 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.
- c. No sign shall extend higher than twenty (20) feet above the ground.

### 16. SMALL WIND ENERGY SYSTEMS (SWES)

The following provisions shall govern the use of Small Wind Energy Systems (SWES) in the shoreland zones in addition to those in Section 5:B.30. and in Section 5:C.12.

SWES are permitted in the Shoreland Residential and Shoreland Development Zones and shall be set back as required in Section 5: Land Use Standards. B.7.b. Dimensional Requirements Development Zones and in Section 5:B.30.

Clearing of vegetation shall be as required in Section 5: Land Use Standards C. Shoreland Standards 3. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

### 17. 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 prepared by a state-certified professional. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, 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 groundwater 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.

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

## SECTION 5: LAND USE STANDARDS (Shoreland)

### 18. STORM WATER RUNOFF

- a. All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural pre-development conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces, and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.

### 19. TIMBER HARVESTING

See Appendix D for Standards related to timber harvesting.

### C. 20. 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.

## SECTION 6: CODE ENFORCEMENT OFFICER PERMITS

### A. CODE ENFORCEMENT OFFICER PERMIT REQUIRED

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

1. FLOOD HAZARD DEVELOPMENT PERMIT: All construction or earth moving activities or other improvements within the 100-year floodplain designated on the Flood Insurance Rate Maps published by the Federal Emergency Management Agency.
2. SHORELAND ZONING PERMIT: All construction or earth moving activities or other improvements within the Shoreland Zones. (Refer to Shoreland Zone and Coastal Wetland in Section 12: Definitions.)
3. BUILDING PERMIT:
  - a. New construction, conversion, additions, relocations and replacement or significant segment thereof, including all trailers, manufactured homes and/or recreational vehicles when connected to any utility, and/or used as a residence for a period of more than 30 days. 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 permit is not required for the construction or placement of a dog house, children's playhouse, tool shed or similar small building having not more than 100 square feet, providing such structures shall meet all other requirements of this Ordinance. See additional reference in Section 5: Land Use Standards (Shoreland) C.12.a.3)
  - b. The replacement of existing road culverts in the Shoreland Area, unless the replacement culvert is:
    - 1) Not more than twenty-five percent (25%) longer than the culvert being replaced;
    - 2) Not longer than seventy-five feet (75'); and
    - 3) Provided that adequate erosion control measures are taken to prevent sedimentation of the water, and that the crossing does not block fish passage in the water course.
  - c. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.
4. MOVING OR DEMOLITION PERMIT: All buildings or structures which are removed from or moved onto, or moved around within a lot, or demolished in a hazardous manner.
5. CHANGE OF USE PERMIT: The change of any premises from one category of land use to any other land use. A change of use may also require a permit from the Local Plumbing Inspector (LPI).
6. SEASONAL CONVERSION: The conversion of a seasonal dwelling unit to year-round use requires a permit from the Local Plumbing Inspector (LPI).
7. ACTIVITIES LISTED IN THE SCHEDULE OF USES: Any activity listed in Section 4, of this Ordinance, as requiring a permit from the Code Enforcement Officer.
8. SITE PLAN REVIEW ACTIVITIES: Any buildings or structures approved by the Planning Board under the Site Plan Review provisions of Section 7, of this Ordinance.
9. SIGN PERMIT: Refer to Sections 5.B.28 and 5.C.15 for standards.

## SECTION 6: CODE ENFORCEMENT OFFICER PERMITS

### B. PROCEDURE

1. APPLICATION: All applications for a Code Enforcement Officer permit shall be submitted in writing to the Code Enforcement Officer on forms provided for the purpose, together with such fees as required in Section 9 of this Ordinance.
2. SUBMISSIONS: All applications for a Code Enforcement Officer permit shall be accompanied by a plan, accurately drawn to scale, and showing:
  - a. The actual shape and dimensions of the lot for which a permit is sought;
  - b. The location and size of all buildings, structures, and other significant features currently existing on the lot, as well as all water bodies and wetlands within two hundred fifty feet (250') of the property boundaries;
  - c. The location of new buildings, structures or portions thereof to be constructed;
  - d. The existing and intended use of each building or structure;
  - e. Where applicable, the location of soils test pits, subsurface sewage disposal system, parking lots and driveways, signs, buffer strips and private wells; and
  - f. Such other information as may be reasonably required by the Code Enforcement Officer to provide for the administration and enforcement of this Ordinance.
  - g. Additional information regarding proposed wireless telecommunications facility (WTF) expansion or colocation on an existing wireless telecommunications tower that does not increase tower height.

The following information regarding the WTF expansion or colocation is required:

1. The name, address, and telephone number of the applicant and any co-applicants, as well as their agents. Corporations must list any local as well as national offices, addresses and telephone numbers and names of contact persons.
  2. Documentation of the applicant's right, title or interest in the property where the facility is to be sited.
  3. The Tax Map and Lot Number and the Hancock 911 Address of the parcel.
  4. A copy of the FCC license for the facility or a signed statement from the owner of the facility attesting that the facility complies with current FCC regulations, EIA/TIA and ANSI codes.
  5. A copy of the signed contract with the owner of the facility guaranteeing the colocator agrees to abide by the owner's permit conditions.
  6. A drawing of the colocator's location on the WTF tower with a description of the expansion.
3. TO WHOM ISSUED: No permit shall be issued except to the owner of record or an authorized agent. Written proof of authorization shall be required.
  4. COMPLIANCE WITH LAND USE STANDARDS: All activities undertaken pursuant to a permit issued under this Section shall comply with all applicable standards set forth in Section 5 of this Ordinance. An application for WTF expansion or colocation shall meet the following standards:
    - a. The proposed facility is an expansion, accessory use, or colocation to a structure existing at the time the application is submitted.
    - b. The applicant has sufficient right, title, or interest to locate the proposed facility on the existing structure.
    - c. The proposed expansion shall not increase the height of the existing WTF tower.

## SECTION 6: CODE ENFORCEMENT OFFICER PERMITS

### B. PROCEDURE (continued)

5. **DEADLINE FOR DECISION:** The Code Enforcement Officer shall, within thirty (30) days of receipt of an application, issue the permit, if all proposed construction and uses meet the provisions of the Ordinance, refer the applicant to the Planning Board for Site Plan Review, or deny the application. All decisions of the Code Enforcement Officer shall be in writing. Failure of the Code Enforcement Officer to act within thirty (30) days shall constitute denial of the application.
6. **COPIES:** Two (2) copies of the application, with the permit or other written decision of the Code Enforcement Officer, shall be returned to the applicant, and two (2) copies, with a copy of the permit or written decision shall be retained by the Code Enforcement Officer as a permanent public record.
7. **POSTING:** The applicant shall conspicuously post any permit issued, on the lot where the activity will occur, at a location clearly visible from the road.
8. **COMMENCEMENT AND COMPLETION OF WORK:** Construction and alteration activities on projects for which a permit has been granted under this Section shall commence within twelve (12) months of the date of issuance of the permit and shall be substantially completed within twenty-four (24) months of that date.

Activities which are not commenced or substantially completed within the time limits provided above shall be subject to new application and the permit issued under this Section shall be considered void.

Activities may be extended for up to twelve (12) months by the Code Enforcement Officer, for good cause, if an application for an extension is submitted not later than thirty (30) days prior to expiration of the prior permit.

9. **APPEALS:** Appeals from decisions of the Code Enforcement Officer may be taken pursuant to Section 11 of this Ordinance.

## SECTION 7: SITE PLAN REVIEW

### A. PURPOSE

The purpose of Site Plan Review is to promote the public health, safety, and general welfare by requiring Planning Board review of plans for certain uses or structures which have a significant potential impact on the neighborhood or the environment.

### B. ACTIVITIES REQUIRING SITE PLAN REVIEW

Except as provided in Sub-Section 7.C, below, Site Plan Review and Approval by the Planning Board may be required for:

1. Any proposed use designated in Section 4, (items marked P on chart) as requiring review by the Planning Board and possible site plan review;
2. The construction, substantial alteration or external enlargement of any existing building or structure devoted to a use requiring Site Plan Approval from the Planning Board; and
3. The enlargement or expansion of the parking, loading, outdoor display or storage area of any commercial or industrial use.

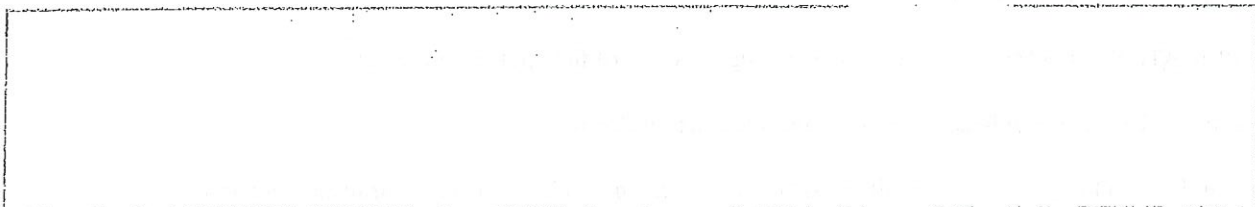
### C. ACTIVITIES NOT REQUIRING SITE PLAN REVIEW

Unless specifically required by Section 4, Site Plan Review shall not be required for:

1. Uses designated in Section 4 as requiring only a permit from the Code Enforcement Officer or as requiring no permit at all;
2. External enlargement of a building otherwise requiring Site Plan Review, provided that such enlargement shall not exceed three hundred (300) square feet in gross floor area; that the use doesn't change or require additional review, i.e., parking, septic and other criteria of site plan review; and that only one (1) such enlargement shall be permitted in any five (5) year period without Site Plan Review; and
3. Any hazardous activity identified by the Maine Department of Environmental Protection, as exempt from the definition of hazardous activity in 38, M.R.S.A., Section 482, Sub-Section 2-C, including domestic and other uses of substances in quantities too small to present a significant risk of groundwater contamination.

### D. CLASSIFICATION OF PROJECTS

Projects subject to Site Plan Review shall be classified by the Code Enforcement Officer as either major or minor development.



1. MAJOR DEVELOPMENTS: Projects involving any of the following shall be classified by the Code Enforcement Officer as a Major Development:
  - a. Any project which contemplates drilling for or excavating natural resources, including mineral extraction, on land or underwater where the area affected is in excess of 30,000 square feet;

## SECTION 7: SITE PLAN REVIEW

### D. CLASSIFICATION OF PROJECTS (continued)

b. Hazardous activities involving the consumption, generation, or handling of:

- 1) Hazardous wastes as defined in 38 M.R.S.A., Section 1303-C;
- 2) Hazardous materials as defined in 38 M.R.S.A., Section 1317;
- 3) Oil, as defined in 38 M.R.S.A., Section 542; and
- 4) Low-level radioactive wastes, as defined in 38 M.R.S.A., Section 1451.

c. Any building or buildings on a single parcel constructed or erected with a fixed location which occupies a ground area (footprint) in excess of 20,000 square feet;

d. Any project where parking lots, roads, paved areas, or other areas to be stripped or graded and not to be revegetated causes the total project, including any buildings, to occupy a ground area in excess of 60,000 square feet;

e. Any project which is a conversion of an existing project meeting the description in c and d, above; and

f. Any multi-unit housing development involving a building or buildings built for the purpose of providing ten (10) or more housing units located on a single parcel of land.

2. MINOR DEVELOPMENTS: Projects not classified by the Code Enforcement Officer as a Major Development shall be considered a Minor Development under this Section.

### E. PROHIBITION

No activity or use described in Section 7.B shall commence until the property owner has received Site Plan Approval from the Planning Board and has received any necessary permits from the Code Enforcement Officer under Section 6.

### F. SITE PLAN REVIEW APPLICATION

Applications for Site Plan Review shall be submitted on application forms provided by the Town. The complete application form, required fees, and the required plans and related information shall be submitted to the Code Enforcement Officer who shall forward it to the Planning Board. The submission shall contain at least the following exhibits and information:

1. APPLICATION FORM: A fully executed and signed copy of the application form;
2. FEES: Site Plan Review Fees in the amounts specified in Section 9.C;
3. ORIGINALS: One (1) original of all maps and drawings on durable, permanent transparency material;
4. COPIES: Ten (10) copies of written materials including ten (10) sets of maps or drawings containing the information listed below. The written materials for major site plan review shall be contained in a bound report or a three-ring notebook. The maps or drawings shall be at a scale sufficient to allow review of the items listed under the criteria for approval, not less than 1" = 40' or a scale acceptable to the Code Enforcement Officer and Planning Board.

## SECTION 7: SITE PLAN REVIEW

### F. SITE PLAN REVIEW APPLICATION (continued)

5. GENERAL INFORMATION: The following general information is required:

- a. Name of owner of record and address;
- b. Applicant's name and address if different;
- c. The name of the proposed development;
- d. Names and addresses of all property owners within three hundred (300) feet, and one thousand (1,000) feet for Wireless Telecommunications Facilities (WTF), of the edge of the property line;
- e. Sketch map showing general location of the site within the Town;
- f. Location map showing the boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time;
- g. The tax map(s), lot number(s), and 911 address of the parcel or parcels;
- h. A copy of the deed to the property, option to purchase the property or other documentation to demonstrate right, title, or interest in the property on the part of the applicant; and
- i. The name(s), registration number(s), and seal(s) of the land surveyor, architect, engineer, and/or similar professionals assisting with the preparation of the plan.

6. INFORMATION REGARDING EXISTING CONDITIONS: The following information regarding existing conditions is required:

- a. Zoning classifications(s) of the property and the location of zoning district boundaries if the property is located in more than one (1) zoning district or abuts a different district;
- b. The bearings and distances of all property lines of the property to be developed and the source of this information, prepared by a registered land surveyor as a Standard Boundary Survey;
- c. Location and size of any existing sewer and water mains, culverts, and drains on the property to be developed and of any that will serve the development from abutting streets or land;
- d. Location, names, and present widths of existing streets and rights-of-way within or adjacent to the proposed development;
- e. The location, dimensions, and ground floor elevations of all existing buildings on the site;
- f. The location and dimensions of existing driveways, streets, parking and loading areas, and walkways on the site;
- g. Location of roads or driveways within two hundred (200) feet of the boundaries of the site;
- h. Existing Topography of the site at an appropriate contour interval (1', 2', or 5') depending on the nature of the use and character of the site;

## SECTION 7: SITE PLAN REVIEW

### F. SITE PLAN REVIEW APPLICATION (continued)

- i. Major natural features on the site and including within two hundred fifty feet (250') of the boundaries of the site, wetlands, streams, ponds, flood plains, groundwater aquifers, significant wildlife habitats or other important natural features;
  - j. Soils information if on-site sewage disposal is proposed. This information should be detailed enough to allow those portions of the site not suitable for on-site disposal systems to be identified;
  - k. The location of open drainage courses, wetlands, significant stands of trees, and other important natural features, with a description of such features to be retained;
  - l. The direction of existing surface water drainage flow across the site;
  - m. The location and dimensions of existing signs;
  - n. The location and type of all existing exterior lighting; and
  - o. A copy of such covenants or deed restrictions, if any, as are intended to cover all or part of the tract. Such covenants or deed restrictions shall be referenced on the plan.
  - p. Identification of historic sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed in the National Register of Historic Places.
7. INFORMATION REGARDING PROPOSED DEVELOPMENT ACTIVITY: The following information regarding the proposed development activity is required:
- a. The location of all building setbacks, yards, and buffers required by this Ordinance;
  - b. The location, dimensions, including heights, and ground floor elevations of all proposed buildings on the site;
  - c. The location and dimensions of proposed driveways, parking and loading areas, and walkways;
  - d. The location and dimensions of all proposed water supply and wastewater disposal systems;
  - e. The direction of proposed surface water drainage flow across the site;
  - f. Location, front view, and dimensions of proposed signs;
  - g. Location and type of proposed exterior lighting;
  - h. Proposed landscaping and buffering; and
  - i. A schedule of construction, including anticipated beginning and completion dates.
  - j. Proposed topography of the site at one (1), two (2), or five (5) foot contour intervals, or such closer intervals as the Planning Board may determine;

## SECTION 7: SITE PLAN REVIEW

### F. SITE PLAN REVIEW APPLICATION (continued)

8. ADDITIONAL INFORMATION REGARDING PROPOSED SMALL WIND ENERGY SYSTEMS (SWES): The following information regarding proposed small wind energy systems is required:

- a. Specific information on the tower type and height, rotor diameter and material, rated power output, performance, safety and noise characteristics of the system including name and address of the manufacturer, and model.
- b. A site plan to scale showing, in addition to information required in F.7., the planned location of the SWES and location of and distance to setback lines, property lines, roads, driveways, ROWs, overhead utility lines, existing and proposed structures, including their use, tree cover and average height of trees on the subject property, and adjacent properties within 300 feet.
- c. A plan at an appropriate scale showing within 2500 feet of the proposed SWES any areas designated as historic sites or important bird areas identified as significant wildlife habitat by the State.
- d. Proposal for landscaping and screening, if applicable.
- e. A scaled representation of the SWES showing system height and evidence that the proposed height does not exceed the height recommended by the manufacturer of the system.
- f. Structural drawings from manufacturer or engineer showing tower, foundation and anchor design along with specifications for soil conditions at the site. Also an analysis, including standards, for ice and wind loading.
- g. A line drawing of the electrical components of the system in sufficient detail to determine that the installation conforms to all applicable electrical codes.
- h. Emergency and normal shutdown procedures.
- i. Evidence that the provider of electrical service of the property has been notified of the intent to install an interconnected customer-owned electricity generator unless the system will not be connected to the electricity grid.
- j. Photographs of the proposed site.

### 9. ADDITIONAL INFORMATION REGARDING PROPOSED WIRELESS TELECOMMUNICATIONS FACILITIES (WTF).

The following information regarding proposed wireless telecommunications facility is required:

- a. New facilities, expansion or colocation on an existing wireless telecommunications facility tower that increases the WTF tower height.
  - 1) The name, address, and telephone number of the applicant and any co-applicants, as well as their agents. Corporations must list any local as well as national offices, addresses and telephone numbers and names of contact persons.
  - 2) Copy of applicant's recorded right, title or interest with a legal description of the lease.
  - 3) Recorded easement(s), if required to satisfy setback requirements.

## SECTION 7: SITE PLAN REVIEW

### F. SITE PLAN REVIEW APPLICATION (continued)

#### 9. ADDITIONAL INFORMATION REGARDING PROPOSED WIRELESS TELECOMMUNICATIONS FACILITIES (WTF). (continued)

- 4) A copy of the FCC license for the facility or a signed statement from the owner of the facility attesting that the facility complies with current FCC regulations.
- 5) A United States Geological Survey 7.5 minute topographic map showing the current location of all structures and wireless telecommunication facilities above 100 feet in height from the ground level, except antennas located on rooftops, within a 5 (five) mile radius of the proposed facility. This requirement may be met by submitting information from the FCC Tower Registration Database current within thirty days prior to the date the application is filed.
- 6) A site plan, prepared and certified by a professional engineer licensed in the State of Maine indicating: the location, type, height of the proposed tower and antenna capacity, on-site and abutting off-site land uses; means of access; setbacks from property lines; and easements.
- 7) Certification by a professional engineer licensed in the State of Maine that the proposed facility meets industry standards and satisfies all Federal, state and local building code requirements. Certificates of compliance with American National Standards Institute (ANSI) and Electronics Industry Association Telecommunications Industry Standards Institute (EIA/TIA) codes included with prefabricated towers may be submitted as an alternative.
- 8) Location map and elevation drawings of the proposed tower and equipment shelter(s) showing height above ground level, color, and identifying structural materials.
- 9) Scaled elevation drawing showing maximum future colocator capacity and antenna array.
- 10) A landscaping plan indicating the proposed placement of the facility on the site; protections for any ecologically sensitive areas within the boundary of the facility; the type and location of plants proposed to screen the facility; and the method and color of fencing, and the color of the structures.
- 11) Color photo simulations of the proposed facility. Each photo should be labeled with line of site, elevation, and the date taken. Photos must show the color of the facility, tower, transmission lines and method of screening of the proposed facility.
- 12) A balloon test, or other comparable test, showing the proposed height and location of a WTF tower, may be required at the applicant's expense prior to public hearing. Adequate notice to the public of the test shall be given as directed by the Planning Board.
- 13) A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.
- 14) Evidence demonstrating that no existing colocation can accommodate the applicant's proposed facility, the evidence for which may consist of any one or more of the following:
  - a) Evidence that no existing facilities are located within the targeted market area as required to meet the applicant's engineering requirements.
  - b) Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements.

## SECTION 7: SITE PLAN REVIEW

### F. SITE PLAN REVIEW APPLICATION (continued)

#### 9. ADDITIONAL INFORMATION REGARDING PROPOSED WIRELESS TELECOMMUNICATIONS FACILITIES (WTF). (continued)

- c) Evidence that existing facilities do not have sufficient structural strength to support the applicant's proposed antenna and related equipment. Specifically:
    - i) Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.
    - ii) The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.
    - iii) Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.
  - 15) Evidence that the applicant has made diligent good faith efforts to negotiate colocation on an existing WTF tower and has been denied access.
  - 16) A signed statement stating that the owner of the wireless service facility agrees to the following standard conditions of approval:
    - a) to respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
    - b) to negotiate in good faith for shared use of the wireless service facility by third parties;
    - c) to allow shared use of the wireless service facility if an applicant agrees in writing to pay reasonable charges for co-location.
    - d) to require no more than a reasonable charge for shared use. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation; and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility; and
    - e) to maintain the structures in good condition. Such maintenance shall include, but is not limited to, painting, structural integrity of the mount and security barrier, buffer areas, and landscaping.
  - 17) Two estimates for the cost of removal of the tower for a letter of credit performance guarantee.
- b. Expansions or colocation on an existing wireless telecommunications facility tower that does not increase the tower height requires approval by the Code Enforcement Officer. See Section 6: Code Enforcement Officer Permits B.2. Submissions., and B.4. Compliance with Land Use Standards.

## SECTION 7: SITE PLAN REVIEW

### G. ADDITIONAL INFORMATION REQUIRED OF MAJOR DEVELOPMENTS

Applications for major developments shall include the following additional information:

1. A storm water drainage and erosion control program showing:
  - a. The existing and proposed method of handling storm water run-offs;
  - b. The direction flow of the run-off through the use of arrows;
  - c. The location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers;
  - d. Engineering calculations used to determine drainage requirements based upon the 25-year 24-hour storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed; and
  - e. Methods of controlling erosion and sedimentation during and after construction.
2. A groundwater impact analysis prepared by a groundwater hydrologist for projects involving common on-site water supply or sewage disposal facilities with a capacity of two thousand (2,000) gallons or more per day.
3. A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, telephone, and any other utility services to be installed on the site.
4. A planting plan and schedule keyed to the site plan and indicating the general species and sizes of trees, shrubs, and other plants to be planted on the site.
5. A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets.
6. A written statement from a professional engineer as to the adequacy of the water supply in terms of quantity and pressure for both domestic and fire flows.
7. Fire fighting water capacity certified as adequate by the Hancock Fire Chief.
8. The location, width, typical cross-section, grades and profiles of all proposed streets and sidewalks.
9. Construction drawings for streets, sanitary sewers, water and storm drainage systems, designed and prepared or approved by a professional engineer registered in the State of Maine.

## SECTION 7: SITE PLAN REVIEW

### G. ADDITIONAL INFORMATION REQUIRED OF MAJOR DEVELOPMENTS (continued)

10. The location of any pedestrian ways, lots, easements, open spaces, and other areas to be reserved for or dedicated to public use and/or ownership. For any proposed easement, the developer shall submit the proposed easement language with a signed statement certifying that the easement will be executed upon approval of the development. In the case of any streets or other ways dedicated to public ownership, the developer shall submit a signed statement that he will maintain such streets or ways year-round until such time as they may be accepted by the Town.
11. Written offers of dedication or conveyance to the municipality, in a form satisfactory to the Town Attorney, of all land included in the streets, highways, and such easements, parks, or other open space dedicated for public use as required by the Planning Board, and copies of agreements or other documents showing the manner in which spaces, title to which is reserved by the developer, are to be maintained.
12. If the development is a condominium or a clustered development, evidence that all requirements relative to establishment of a homeowners' association or condominium owners' association have been met. If the development is a clustered development, evidence shall be presented that all other requirements of this Ordinance pertaining to clustered development have been met. The submission shall include copies of the by-laws of any homeowners' or condominium association charged with maintaining common spaces and lands. Homeowners' associations or condominium documents shall clearly state that the association or condominium shall properly maintain private roadways serving the development after the developer has legally relinquished that responsibility and until such time as the Town may accept them as public ways.
13. Cost of the proposed development and evidence of financial capacity to complete it. This evidence should be in the form of a letter from a bank or other source of financing indicating the name of the project, amount of financing proposed, and their interest in financing the project.

### H. REVIEW PROCEDURES

The procedures for Site Plan Review are as follows:

#### STEP 1: SUBMISSION OF COMPLETED APPLICATION TO THE CODE ENFORCEMENT OFFICER

The applicant shall submit the requisite number of copies of his/her application and supporting information required by Sub-Section 7.F.

#### STEP 2: CODE ENFORCEMENT OFFICER CLASSIFICATION AND REVIEW

1. DATED RECEIPT: The Code Enforcement Officer shall issue the applicant a dated receipt.
2. CLASSIFICATION: The Code Enforcement Officer shall review the application and classify it as either a Major or Minor Development in accordance with the provisions of Sub-Section 7.D. If the proposal is classified as a Major Development, the applicant shall be required to submit the additional information required in Sub-Section 7.G of this Section.
3. FEES SUBMITTED: After classification, the applicant shall provide the Code Enforcement Officer with the applicable fees established in Section 9.C.
4. REVIEW FOR COMPLETENESS: The Code Enforcement Officer shall initially review the application and determine whether or not it is complete.

## SECTION 7: SITE PLAN REVIEW

### H. REVIEW PROCEDURES (continued)

5. NOTICE OF INCOMPLETE APPLICATION: If the application is found to be incomplete, the Code Enforcement Officer shall, within ten (10) days, notify the applicant in writing of the information needed to complete the application. Upon the applicant's submission of such additional information, Steps 1 through 4 shall be repeated.
6. APPLICATION FORWARDED: If the application is found to be complete, the Code Enforcement Officer shall forward copies of the application and supporting documents to the Planning Board and place the project on the agenda of the next Planning Board meeting occurring in not less than fourteen (14) days.
7. NOTICE TO ABUTTERS: Abutting property owners shall be notified by mail by the Town, of all pending applications for Site Plan Review. This notice shall indicate the time, date, and place of Planning Board consideration of the application.

### STEP 3: PROFESSIONAL CONSULTANT REVIEW

The Town may at its discretion retain the services of a professional consultant to advise on any proposed development who, after being provided with supporting documents, will determine whether the application is complete.

1. COMPLETE APPLICATION: Whether or not the information has been submitted required by Sub-Section 7.F and if applicable Sub-Section 7.G;
2. COMPLIANCE WITH LAND USE STANDARDS: Whether or not the proposed development meets the requirements of the applicable Land Use Standards contained in Section 5 of this Ordinance; and
3. CRITERIA OF APPROVAL: Whether or not the applicant has adequately addressed the Criteria for Approval contained in Sub-Section 7.I of this Section.

### STEP 4: PLANNING BOARD REVIEW

At the meeting of the Planning Board at which the proposed development is scheduled to be reviewed, the Planning Board shall:

1. CEO AND PROFESSIONAL CONSULTANT REPORTS: Hear any report of the Code Enforcement Officer and if the town has retained the services of a professional planner or consultant, their report(s) regarding the proposed development;
2. APPLICANT'S RESPONSE: Hear any comments of the applicant regarding the Code Enforcement Officer's and any other report(s);
3. REQUEST FOR WAIVERS: Hear any requests from the applicant for waivers pursuant to Sub-Sections 7.P and 7.Q;
4. DETERMINATION OF COMPLETENESS: Determine whether or not the application is complete;
5. NOTICE OF INCOMPLETENESS: If the application is determined to be incomplete, the Board shall inform the Code Enforcement Officer of the information required to make the application complete. The Code Enforcement Officer shall, within ten (10) days, inform the applicant, in writing, of the additional information required by the Planning Board. Upon the applicant's submission of such additional material, Steps 1, 2, 3, and 4 shall be repeated.

## SECTION 7: SITE PLAN REVIEW

### H. REVIEW PROCEDURES (continued)

6. DECIDING ON PUBLIC HEARING: If the application is determined to be complete, the Board shall deem the application pending and shall determine whether or not to set the matter to public hearing. If a public hearing is set, such hearing shall take place within forty-five (45) days of the Planning Board's determination that the application is complete. This deadline may be extended by mutual agreement of the Board and the applicant, either in writing or orally, on the record at a public meeting.

If the proposed development has been classified as a Major Development or is a Wireless Telecommunications Facility (WTF) such public hearing shall be mandatory. If the proposed development has been classified as a Minor Development such public hearing shall be held at the discretion of the Planning Board.

Public hearing held for the purpose of hearing testimony regarding proposals requiring Site Plan Approval under this Ordinance and notice thereof, shall be governed by Sub-Section 7.J. of this Section.

### STEP 5: PLANNING BOARD DELIBERATION AND DECISION

#### 1. DELIBERATION

Within thirty-five (35) days after the public hearing on an application, or within thirty-five (35) days of a determination of completeness by the Board, if no hearing is held, the Planning Board shall deliberate to determine whether the proposed Site Plan complies with all applicable land use standards set forth in Section 5 and meets the Criteria of Approval set forth in Sub-Section 7.1. This deadline may be extended by mutual agreement of the Board and the applicant, either in writing or orally, on the record at a public meeting.

#### 2. DECISION

If the Planning Board finds that the proposed Site Plan complies with all such standards it shall issue an order granting Site Plan Approval subject to such terms and conditions as the Board considers advisable to ensure conformity with Site Plan Review Standards and criteria of this Ordinance, or to protect the public's health, safety, or general welfare. If the Planning Board finds that the proposed Site Plan does not comply with all applicable review standards, it shall issue an order denying Site Plan Approval. In either case the Planning Board shall, within ten (10) working days after the completion of its deliberations, issue specific written findings of fact supporting its decision.

### STEP 6: CEO BUILDING PERMIT

If the Board approves the Site Plan Application, the Code Enforcement Officer shall issue a building permit, provided that, in his/her opinion, all other requirements of the Ordinance have been met.

### I. SITE PLAN REVIEW CRITERIA

The Planning Board in reviewing projects requiring Site Plan Approval under this Ordinance shall make positive written findings that the applicant has submitted clear and convincing evidence that:

1. Adequate provision has been made for off street parking and loading;
2. Adequate provision has been made for traffic movement of all types, including pedestrian, into, out of, and within the proposed project. The Board shall consider traffic movement both on-site and off-site in making its determination under this criteria;
3. Any traffic increase attributable to the proposed project will not result in unreasonable congestion or unsafe conditions on a road in the vicinity of the proposed development;

## SECTION 7: SITE PLAN REVIEW

### I. SITE PLAN REVIEW CRITERIA (continued)

4. That the proposed project will be built on soil types which are suitable to the nature of the project and that adequate provision has been made to avoid erosion, contamination of ground or surface waters, interference with adjacent land, over-burdening of natural or artificial drainage systems, and/or any other adverse effects of inadequate drainage;
5. Adequate provision has been made to locate and design proposed outdoor display and/or storage areas so as to avoid any safety hazard to vehicular and pedestrian traffic on and off the site;
6. Adequate provision has been made to avoid any hazard to travel on public or private ways, or any glare or other nuisance to the use of adjoining public or private property;
7. Adequate provision has been made with regard to Buffers, Screening, Landscaping, and the preservation and Enhancement of Significant natural features;
8. Adequate provision has been made to avoid unreasonable adverse effects on the scenic or natural beauty of the area, aesthetics, historic sites, rare and irreplaceable natural areas, existing uses, air quality, water quality, or other natural resources within the town or in neighboring towns;
9. Whenever a project is situated, in whole or in part, within two hundred fifty feet (250'), horizontal distance, of the normal high-water line of any water body, or within two hundred fifty feet (250') horizontal distance, of the upland edge of a freshwater wetland, or within seventy five feet (75'), horizontal distance, of the normal high-water line of a stream, adequate provision has been made to conserve shoreland vegetation, visual points of access to waters as viewed from public facilities, and actual points of public access to waters;
10. Adequate provision has been made to prevent any significant adverse effect upon the public health, safety, or general welfare of the neighborhood or community;
11. Adequate provision has been made to prevent any undue adverse effect upon the property values of adjacent or nearby properties;
12. Adequate provision has been made to avoid any undue burden on municipal services;
13. Adequate provision has been made to assure the proper operation of the proposed business(es) or activity(ies) on the site through the provision of adequate and appropriate utilities, drainage, water supply, sewage disposal, solid waste disposal, access, parking and loading, and other necessary site improvements; and
14. Adequate provision has been made to assure that the proposed development conforms in all respects with the provisions of this Ordinance.

### J. PUBLIC HEARING PROCEDURES

Site Plan Review public hearings and notice thereof shall comply with the following procedures:

1. PUBLISHED NOTICE: Notice of said hearing shall be published in a newspaper of general circulation in the Town of Hancock at least seven (7) days prior to the hearing.

## SECTION 7: SITE PLAN REVIEW

### J. PUBLIC HEARING PROCEDURES (continued)

2. MAILED NOTICE: At least fourteen (14) days prior to the hearing date, written notice of said hearing shall also be mailed to the applicant, to the owners of all property within three hundred feet (300'), or one thousand (1,000) feet for a WTF, of the property in question, to the Chair of the Hancock Board of Selectpersons. The owners of property shall be considered to be those shown on the Town's tax list as the persons against whom taxes are assessed. The Planning Board shall, in each case, maintain a list of property owners so notified. Notice shall be deemed received if mailed to an owner's last known address according to the Town tax records. Failure of any property owner to actually receive notice shall not necessitate another hearing or invalidate any actions of the Planning Board.
3. CONTENT OF NOTICE: Notice of said hearing shall identify the applicant and the property involved, describe the specific nature of the proposal, state the date, time and place of the hearing, and explain how the recipient of the notice may attend and present evidence.
4. RULES: Said hearings shall be conducted according to rules adopted by the Planning Board.
5. REPRESENTATION: At any hearing a party may be represented by an agent or attorney provided, however, if any party is not present, any person acting as that party's agent or attorney shall provide written evidence of such authority.
6. CONTINUATION: Any hearing may be continued or recessed to another time for good cause shown or upon written or recorded agreement of the Board and the applicant.

### K. PROFESSIONAL REVIEW

1. ADDITIONAL STUDIES: The Planning Board may require the applicant to undertake any additional studies which it deems reasonable and necessary to insure that the requirements of the Ordinance are met. The cost of all such studies shall be borne by the applicant.
2. INDEPENDENT TECHNICAL REVIEW: The Planning Board may require that an independent consultant(s) review one (1) or more submissions of an application. The independent consultant(s) shall report to the Planning Board as to the project's compliance or noncompliance with the applicable provisions of this Ordinance and recommend, if appropriate, those actions which will result in compliance. Such consultants shall be fully qualified to provide the required information, and may include:
  - a) An Attorney;
  - b) A Community Planner;
  - c) A Registered Professional Engineer;
  - d) A Registered Architect;
  - e) A Registered Landscape Architect;
  - f) A Registered Geologist;
  - g) A Licensed Soil Scientist;
  - h) A Registered Land Surveyor; or
  - i) Any other Registered/Licensed Professional or independent Expert Witness deemed fully qualified and mutually acceptable to the Town and the applicant.

The consultant(s) selected shall estimate the cost of such review and the applicant shall deposit with the Town the full estimated cost in accordance with Section 9.C.

## SECTION 7: SITE PLAN REVIEW

### L. FAILURE TO ACT

Failure of the Planning Board to act within any of the time requirements set forth herein shall constitute a denial of the application.

### M. EXPIRATION OF APPROVALS

All Site Plan Approvals shall expire within eighteen (18) months of the date of issuance unless work thereunder is commenced within eighteen (18) months from the date of issuance. If work is not substantially completed within two (2) years from the date of issuance, a new application shall be required. The Planning Board may grant an extension upon application.

### N. OTHER PERMITS

The granting of Site Plan Approval does not relieve the applicant from the need to obtain any other permits or approvals required prior to the commencement of any activity or use. Such other required permits or approvals may include, but are not limited to, subdivision approval, building, plumbing and electrical permits, licenses granted pursuant to 38 M.R.S.A., Sub-Section 1022, Maine Department of Environmental Protection and United States Army Corps of Engineer's approvals, subsurface wastewater disposal permits, sewer connection permits, Maine Department of Transportation approvals, and the like. The fact that the applicant may have obtained or may have been granted such permits or approvals prior to Site Plan review may be considered by the Planning Board as evidence as to the plan's compliance with applicable review standards, but shall not be deemed conclusive evidence as to compliance.

### O. ACCESS TO SITE AND RECORDS

The Town shall have access to the site at all times to review the progress of the work and shall have the authority to review all records and documents related to the project. The applicant, by accepting a Building Permit, waives any objection to the Town having access to the site to review the progress of the work or to review all records and documents related to the Project.

### P. WAIVER OF SUBMISSIONS REQUIREMENTS

The Planning Board may, for good cause shown and only upon the written request of an applicant specifically stating the reasons therefore, waive any of the application requirements set forth in Subsection 7.F and 7.G of this Section provided such waiver will not unduly restrict the review process. The Planning Board may condition such a waiver on the applicant's compliance with alternative requirements. Good cause may include the Board's finding that particular submissions are inapplicable, unnecessary, or inappropriate for a complete review. Notwithstanding the waiver of a submission requirement, the Planning Board may, at any later point in the review process, rescind such waiver if it appears that the submission previously waived is necessary for an adequate review. A request for a submission previously waived shall not affect the pending status of an application.

### Q. WAIVER OF REVIEW CRITERIA

The Planning Board, may upon the written request of an applicant specifically stating the reasons therefore, waive any of the Review Criteria set forth in Sub-Section 7.I when it finds that such waiver is reasonable and that the public health, safety, or welfare would not be adversely affected by such a waiver.

## **SECTION 8: CERTIFICATE OF OCCUPANCY/USE**

A Certificate of Occupancy/Use certifying that all applicable provisions of this Ordinance have been satisfied shall be obtained from the Code Enforcement Officer:

1. After a building, structure, or part thereof has been erected, altered, enlarged or moved pursuant to a permit, site plan approval or subdivision approval, for the proposed use before the building or structure or part thereof may be used or occupied;
2. After a building has been modified to accommodate additional dwelling units before such units may be used or occupied;
3. After a building has been modified to accommodate additional commercial, institutional, or industrial uses before such spaces may be used or occupied;
4. After a building or structure has been modified to accommodate a home occupation before said home or structure may be used or occupied for a home occupation;
5. Before a change in use of a non-conforming structure or lot; and
6. Before the occupancy and use, or change in use, of vacant land, except for the raising of crops.

## **SECTION 9: ADMINISTRATIVE FEES/WTF PERFORMANCE GUARANTEE FOR REMOVAL**

### **A. GENERAL PROVISIONS**

1. **APPLICATIONS CONSIDERED INCOMPLETE UNTIL PAYMENT OF REQUIRED FEE:** Applications for any of the permits, approvals, or certificates specified below which are not accompanied by the required fee shall be considered incomplete and no action will be taken on said application until the required fee has been received by local officials.
2. **FEE TO BE PAID TO TOWN:** All fees shall be paid in the form of a check, cash or suitable legal tender, to the Town of Hancock and the purpose of the fee shall be clearly indicated on the receipt for the same.

### **B. BUILDING FEES**

**BUILDING PERMIT APPLICATIONS:** Fees for all applications for Building Permits issued by the Code Enforcement Officer, shall be set by the Selectboard.

Where a permit is not obtained until after construction begins the fee shall be tripled. This triple fee is in addition to any fine or penalty imposed for violating this Ordinance by failing to obtain a Building Permit prior to starting construction.

### **C. ORDINANCE AND SITE PLAN REVIEW FEES**

#### **1. COPIES OF ORDINANCE**

The non-refundable fee for each copy of this Ordinance is the cost of reproduction per copy, as the same may be established from time to time by the Selectboard, after notice and hearing. (See Fee Schedule)

#### **2. APPLICATION PROCESSING FEE**

The Application Processing Fee is required to cover the administrative handling costs associated with Site Plan Review under this Ordinance.

The non-refundable fee to accompany the application for Site Plan Review as the same may be established from time to time by the Selectboard, after notice and hearing. The fee shall reflect the reasonable cost of processing, review, regulation and supervision of the application. (see Fee Schedule)

## SECTION 9: ADMINISTRATIVE FEES/WTF PERFORMANCE GUARANTEE FOR REMOVAL

### C. ORDINANCE AND SITE PLAN REVIEW FEES (continued)

#### 3. TECHNICAL REVIEW FEE

In addition to the fees for copies of the Ordinance and the Application Processing Fee, the applicant may be required to pay a separate fee as the same may be established from time to time by the Selectboard, after notice and hearing (see Fee Schedule). This fee is to be used to reimburse the time and expenses incurred by the Town and such other independent consultant(s) the Board may deem necessary to assist it with its review of the application. Such other consultants shall be fully qualified to provide the required assistance, and may include:

- a. An Attorney;
- b. A registered Professional Engineer;
- c. A Registered Architect;
- d. A Professional Planning Consultant;
- e. A Registered Landscape Architect;
- f. A Registered Geologist;
- g. A Licensed Soil Scientist;
- h. A Registered Land Surveyor; or
- i. Any other Registered/Licensed Professional or independent Expert Witness deemed fully qualified and mutually acceptable to the Board and the applicant.

This Technical Review Fee shall be paid prior to the start of the Planning Board's review of any application for Site Plan Review.

This fee shall be paid in the form of a check, cash or suitable legal tender, paid to the Town of Hancock and the purpose of the fee shall be clearly indicated on the receipt for the same.

If the balance of the unexpended funds are drawn down by fifty percent (50%) or more, the applicant shall be notified and required to pay an additional amount as the same may be established from time to time by the Board of Selectpersons, after notice and hearing (see Fee Schedule). The applicant shall continue to be notified and required to pay the appropriate additional amounts as necessary whenever the balance of the funds is drawn down by 50% of the original amount. Failure to pay the required amount within 30 days shall also be a violation of this Ordinance and be cause to stop the review process.

Any balance remaining, after the completion and inspection of required improvements, shall be returned to the applicant.

### D. WTF PERFORMANCE GUARANTEE FOR REMOVAL

1. After approval of a permit application, and prior to initiating construction of any WTF tower within the Town of Hancock, the tower owner shall guarantee the costs for the removal of the WTF tower.
  - a. The amount of the guarantee shall be equal to the estimated removal cost, provided by the tower owner and certified by a professional engineer licensed in the State of Maine.
  - b. The owner of the WTF tower shall provide the Board of Selectmen with a revised removal cost estimate and structural evaluation prepared by a professional engineer licensed in the State of Maine every five (5) years from the date of the Planning Board's approval of the site plan.
  - c. If the cost has increased more than fifteen (15) percent, then the tower owner of the facility shall provide additional security in the amount of the increase.

**SECTION 9: ADMINISTRATIVE FEES/WTF PERFORMANCE GUARANTEE FOR REMOVAL**

D. WTF PERFORMANCE GUARANTEE FOR REMOVAL (continued)

2. TYPE AND CONTENTS OF GUARANTEE

An irrevocable letter of credit from a bank or other lending institution. The letter of credit shall indicate that funds have been set aside for the removal of the wireless telecommunications facility and may not be used for any other project or loan.

The conditions and amount of the performance guarantee shall be determined by the Selectboard with the advice of the Town Attorney, expenses paid for by the applicant.

3. RELEASE OF GUARANTEE

Prior to the release of any part of the performance guarantee, the selectboard shall determine to its satisfaction that the removal meets or exceeds the design requirements for which the release is requested.

4. DEFAULT

If upon inspection, the CEO or other inspecting official finds that any of the required removal has not been performed in accordance with the approved plans and specifications, they shall report in writing to the selectboard, and the permit holder and guarantor. The permit holder shall have thirty (30) days, unless otherwise specified by the CEO, to remedy any insufficiency noted. Thereafter, the selectboard shall take any steps necessary to enforce the guarantee and remedy the insufficiencies.

E. BOARD OF APPEALS ADMINISTRATION FEES

APPLICATION FOR ADMINISTRATIVE APPEALS AND VARIANCES: All applications for Administrative Appeals and the approval of Variances by the Board of Appeals, under this Ordinance shall be accompanied by a non-refundable fee as the same may be established from time to time by the Selectboard, after notice and hearing. The fee shall reflect the reasonable cost of processing the appeal (see Fee Schedule).

## SECTION 10: ENFORCEMENT

### A. ENFORCEMENT PROCEDURE

1. 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 is being violated, the Code Enforcement Officer 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. Any such notice is not a prerequisite to bringing any legal action noted in sub-paragraph (B), below, and the failure to give notice shall not in any way affect such legal action.
2. 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.
3. 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, violations investigated, violations found, and fees collected.

### B. LEGAL ACTION

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 consent agreements for the purpose of eliminating violations of this Ordinance and recording fines without Court action. Such agreements should 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.

### C. CIVIL PENALTIES, FEES & COSTS

As provided in 30-A M.R.S.A. Section 4452, as amended, any person found to have violated any provision of this Ordinance, including, but not limited to, a landowner, the landowner's contractor or agent, or the occupant of premises, shall pay to the town a civil penalty of not less than \$100 nor more than \$2,500, for each offense. Each day that a violation occurs may be deemed to constitute a separate offense. Provided, nevertheless, that if the violation has resulted in an economic benefit, the maximum penalty may be increased to an amount equal to twice the amount of the economic benefit. In addition, any such person found to have violated this Ordinance shall reimburse the town for its reasonable attorney fees, expert witness fees, and costs.

### D. NUISANCE; INJUNCTIVE RELIEF

Each violation of this Ordinance shall be deemed to constitute a nuisance and subject to 30-A M.R.S.A., Sec. 4452. The violator(s) may be ordered to correct or abate the violation(s). When the violation is found to have been willful, the violator(s) shall be ordered to correct or abate the violation(s) unless that action will result in substantial environmental damage or injustice.

## SECTION 11: ZONING BOARD OF APPEALS

### A. ESTABLISHMENT AND ORGANIZATION OF BOARD OF APPEALS

There shall be a Board of Appeals of five (5) members and two (2) associate members appointed by the Municipal Officers as provided in 30-A M.R.S.A., Section 4353.

Members shall be selected according to the Ordinances of the Town for terms of not less than three (3) years.

The Board shall keep minutes of its proceedings, recording the vote of each member on all matters coming before that Board. The minutes of that Board and all correspondence shall be a public record. Three (3) members of that Board shall constitute a quorum for conducting a meeting and taking action, and the concurring vote of at least three (3) members is necessary to grant any variance request or reverse any action of the Code Enforcement Officer. The Board is governed by the procedures set forth in 30-A M.R.S.A., Section 2691 and in this Ordinance. In addition, the Board may adopt any procedural rules not in conflict with that Title or this Ordinance, which it deems necessary or proper for the conduct of its business.

### B. POWERS AND DUTIES

1. ADMINISTRATIVE APPEALS: To hear and decide appeals where it is alleged that there is an error in any order, requirements, decision, or determination made by, or failure to act by, the Code Enforcement Officer in the administration of this Ordinance. When the Board of Appeals reviews a decision of the Code Enforcement Officer it 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 errors of administrative procedures or interpretation are found, the case shall be remanded back to the Code Enforcement Officer for correction.

2. VARIANCE APPEALS: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

a. Dimensional variances may be granted only from dimensional requirements including: frontage (including shore frontage, subject to the provisions of Subsection 11:B.2.e), lot area, lot width, 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 the strict application of the terms of this Ordinance would result in undue hardship.

The term "undue hardship" as used in this Subsection 11:B.2.c. shall mean all of the following:

1) The land in question can not yield a reasonable return unless a variance is granted;

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;

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 the prior owner.

d. The Board 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

## SECTION 11: ZONING BOARD OF APPEALS

## B. POWERS AND DUTIES (continued)

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. A variance may be granted in cases of undue hardship to the petitioner or the petitioner's property for the set-back requirements for single-family dwellings that are the primary year-round residence of the petitioner. The term "undue hardship" as used in this Subsection 11:B.2.e. means all of the following:
- 1) The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
  - 2) The granting of a variance will not alter the essential character of the locality;
  - 3) The hardship is not the result of action taken by the applicant or a prior owner;
  - 4) The granting of a variance will not substantially reduce or impair the use of abutting property; and
  - 5) That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

A variance under this subsection may not exceed 20% of a set-back requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage. Setbacks may exceed this 20% limit, except for minimum setbacks from a wetland or water body required within shoreland zones by rules adopted pursuant to 38, Chapter 3, subchapter I, article 2-B, if the petitioner has obtained the written consent of an affected abutting landowner.

- f. The Board 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.
- g. 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, where such variances apply to structures or land within the Shoreland Area.
- h. A copy of all variances granted by the Board of Appeals shall be recorded in the Hancock County Registry of Deeds, within ninety (90) days of the date of their being granted, and a photocopy of such returned to the Board of Appeals.
3. CODE ENFORCEMENT OFFICER ENFORCEMENT DECISIONS: Decisions by the Code Enforcement Officer related to enforcement shall not be appealable to the Board of Appeals.

## C. APPEAL PROCEDURE

1. TIME LIMIT: An administrative or variance appeal may be taken to the Board by an aggrieved party from any decision other than an enforcement decision of the Code Enforcement Officer. Such 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.

## SECTION 11: ZONING BOARD OF APPEALS

### C. APPEAL PROCEDURE (continued)

2. **WRITTEN NOTICE:** Applications for appeals shall be made by filing with the Board 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; and
- 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 requested.

3. **RECORD OF CASE:** Upon receiving an application for an administrative appeal or variance, the Code Enforcement Officer shall transmit to the Board all of the papers constituting the record of the decision or action being appealed.

If affecting shoreland provisions, a copy of all variance requests shall be forwarded to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. This includes a copy of the application and all other supporting information provided by the applicant. 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.

4. **PUBLIC HEARING:** The Board shall hold a public hearing on the appeal or variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

#### 5. DECISION BY BOARD

a. **QUORUM:** A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.

b. **BURDEN OF PROOF:** The person filing the appeal shall have the burden of proof.

c. **ACTION ON APPEAL:** Following the public hearing on an appeal, the Board may reverse the decision, or failure to act, of the Code Enforcement Officer only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.

d. **TIME FRAME:** The Board shall decide all administrative and variance appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision within seven (7) days of the Board's decision.

e. Board decisions shall only be made by voting at a public meeting. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, and the appropriate order, relief or denial thereof. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the Municipal Officers.

6. **RECONSIDERATION:** In accordance with 30-A M.R.S.A. Section 2691(3)(F), the Board of Appeals on its own motion, any member of the Board, the Code Enforcement Officer, or any aggrieved party may request the reconsideration of any decision reached by the Board, 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

## SECTION 11: ZONING BOARD OF APPEALS

C. APPEAL PROCEDURE (continued)

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.

D. APPEAL TO SUPERIOR COURT: An appeal may be taken by any aggrieved party to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board. Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

**SECTION 12: DEFINITIONS**

## A. CONSTRUCTION OF LANGUAGE

1. In this Ordinance, certain terms or words should be interpreted as follows:
  - a. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual;
  - b. The present tense includes the future tense, the singular number includes the plural and plural includes the singular;
  - c. The word "shall" is mandatory;
  - d. The word "may" is permissive;
  - e. The words "used" or "occupied" includes the words "intended", "designed", or "arranged to be used or occupied"; and
  - f. The word "dwelling" includes the word "residence".

In the case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the map shall control.

2. Terms not defined shall have the customary dictionary meaning.

## B. DEFINITIONS OF WORDS

For the purpose of interpreting this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein.

**ABUTTING:** Having a common border with.

**ACCESS:** A means of approach or entry to or exit from property.

**ACCESS DRIVE:** A private roadway primarily intended to transport vehicles from a public or private way to a point within private property.

**ACCESSORY DWELLING UNIT:** A self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the same parcel of land.

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

The raising of animals or produce for personal domestic use or incidental sales in every Zone is considered an accessory use, provided that any buildings housing animals shall be located not closer than seventy-five feet (75') of any lot line.

**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.

## SECTION 12: DEFINITIONS

### B. DEFINITIONS OF WORDS (continued)

**AFFORDABLE HOUSING DEVELOPMENT:**

- a. For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units without spending more than 30% of the household's monthly income on housing costs; and
- b. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units without spending more than 30% of the household's monthly income on housing costs.
- c. For purposes of this definition, "majority" means more than 51%.
- d. For purposes of this definition, "housing costs" means:
  - (i) For a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and
  - (ii) For an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner's insurance, condominium fees, and homeowners' association fees.

**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.

**ALTERATION:** As applied to a building or structure, a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another.

**AMATEUR (Ham) RADIO STATIONS:** Radio telecommunications services and facilities licensed by the FCC as such.

**ANTENNA:** Any system of poles, panels, rods, reflecting discs or similar devices used for transmission or reception of radio or electromagnetic frequency signals.

**APPEAL:** A means for obtaining review of a decision, determination, order or failure to act pursuant to the terms of this Ordinance as expressly authorized by the provisions of this Ordinance.

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

**ATTIC:** That part of a building which is immediately below, and wholly or partly within, the roof framing.

**AUTOMOBILE RECYCLING BUSINESS:** The business premises of a dealer or a recycler licensed under Title 29-A, sections 851 to 1112 who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, as long as 80% of the business premises

**SECTION 12: DEFINITIONS**

## B. DEFINITIONS OF WORDS (continued)

specified in the site plan in section 3755-A, subsection 1, paragraph C is used for automobile recycling operations.

**AUTOMOBILE SALES LOT:** A lot arranged, designed, or used for the storage and display for passenger automobiles and trucks up to three quarter (3/4) ton in size, and where no repair work is done except minor incidental repair of automobiles displayed and sold on the premises.

**AUTOMOBILE SERVICE STATION (Filling Station):** Any premises used for supplying gasoline and oil at retail, direct to the customer, including the sale of minor accessories and minor services for automobiles.

**AUTO REPAIR GARAGE:** A place of business where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair, over-all painting and undercoating of automobiles.

**BASEMENT:** The substructure of a building that is partially or wholly below ground level which may or may not be used for living space.

**BASAL AREA:** The area of cross-section of a tree stem at 4-1/2 feet above the ground level and inclusive of bark.

**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.

**BUFFERS:** Units of land, together with a specified type and amount of vegetative planting thereon and any structures which may be required between land uses to eliminate or minimize conflicts between them.

### **BUILDING:**

a. **Building:** Any structure, maintained, or intended for use as shelter or enclosure of persons, animals, goods or property of any kind. Where independent units with separate entrances are divided by walls, each unit is a building.

b. **Building, Accessory:** A building which (1) is subordinate in area, extent and purpose to the principal building or use served, (2) is located on the same lot as the principal building or use served except as otherwise expressly authorized by the provisions of this Ordinance, and (3) is customarily incidental to the principal building or use. Any portion of a principal building devoted or intended to be devoted to accessory use is not an accessory building.

c. **Building, Principal:** A building (structure) in which is conducted or in which is intended to be conducted, the main or primary use of the lot on which it is located.

**BUILDING FRONT LINE:** A line parallel to the front lot line transacting that point in the building face which is closest to the front lot line. This face includes porches whether enclosed or unenclosed but does not include steps.

**BUREAU OF FORESTRY:** State of Maine Department of Conservation's Bureau of Forestry.

**CAMPGROUND:** (See Transient Accommodations VIII Definition).

## **SECTION 12: DEFINITIONS**

B. DEFINITIONS OF WORDS (continued)

**CANOPY:** The more or less continuous cover formed by tree crowns in a wooded area.

**CHURCH:** A building, together with its accessory buildings and uses, where people regularly assemble for religious worship and which buildings, together with its accessory buildings, and uses, is maintained and controlled by a religious body organized to sustain public worship.

**CLINIC:** An establishment where patients who are not lodged overnight are admitted for examination and/or treatment by a physician or dentist or by a group of physicians or dentists.

**CLUSTER DEVELOPMENT:** The development, according to an approved plan, of a large tract of land where three (3) or more buildings are constructed on lots smaller than normally required in the zone where located, provided the overall density of the development of the tract does not exceed the density or requirements of the zone; and land not built upon is permanently preserved as common "open space." The term also refers to a Planned Unit Development.

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

**NOTE:** All areas below the maximum spring tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

**CODE ENFORCEMENT OFFICER:** A person appointed by the municipal officers to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector and the like where applicable.

**COMMERCIAL COMPLEX (Shopping Mall):** Commercial premises owned or managed as a single entity, which accommodates more than one retail or service business, including professional offices, and which contains more than twelve thousand (12,000) square feet of gross floor area, including department stores and grocery stores with more than twelve thousand (12,000) square feet of gross floor area.

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

**COMMERCIAL INDOOR RECREATION USE:** Includes, but is not necessarily limited to, the following commercial uses: arcades, bowling alleys, indoor sports arenas, tennis courts, race tracks, indoor animal exhibits, etc.

**COMMERCIAL OUTDOOR RECREATION USE:** Includes, but is not necessarily limited to, the following commercial uses: golf courses, tennis courts, amusement and theme parks, water slides, zoos and animal parks, race tracks, speedways, motorcycle tracks, riding stables, etc.

**COMMUNITY LIVING ARRANGEMENT:** A housing facility for 8 or fewer persons with disabilities that is approved, authorized, certified or licensed by the State. A community living arrangement may include a group home, foster home or intermediate care facility.

## SECTION 12: DEFINITIONS

B. DEFINITIONS OF WORDS (continued)

**CONDOMINIUM:** As defined in the "Maine Condominium Act of 1983," the term means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions under a declaration, duly recorded pursuant to this Act. A condominium is a legal form of ownership, not a land development type. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

**CONDOMINIUM CONVERSION:** A building that at any time before creation of the condominium was occupied wholly or partially by one or more persons other than purchasers and persons who occupy with the consent of purchasers.

**CONGREGATE HOUSING:** A private, licensed establishment operated for the purpose of providing domiciliary care for a group of persons who by reason of age or physical condition do not desire to, but are financially capable of providing such care for themselves, and who are not in need of medical or nursing treatment except in the case of temporary illness.

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

**CONSTRUCTION:** Build, erect, alter, reconstruct, move upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, and the like, shall be considered a part of construction.

**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.

**D.B.H. (Diameter Breast Height):** The diameter of a standing tree measured 4.5 feet from ground level.

**DAY CARE FACILITY:** As defined in 22 M.R.S.A., Section 1673, §8301-A:

- a. Child care center:
  - 1) A house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day, providing care and protection for 13 or more children under 13 years of age; or
  - 2) Any location or locations operated as a single child care program or by a person or persons when there are more than 12 children being cared for.
- b. Family child care provider means a person who provides day care in that person's home on a regular basis, for consideration, for 3 to 12 children under 13 years of age who are not the children of the provider or who are not residing in the provider's home. If a provider is caring for children living in that provider's home and is caring for no more than 2 other children, the provider is not required to be certified as a family child care provider.
- c. Small child care facility means a house or other place, not the residence of the operator, in which a person or combination of persons maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 3 to 12 children under 13 years of age.

## **SECTION 12: DEFINITIONS**

## B. DEFINITIONS OF WORDS (continued)

- DECK:** An accessory attachment to a principal structure. It shall be constructed primarily of wood and shall not be enclosed. It shall not have a roof, canopy or awning, nor shall it have framed or screened walls. It shall be supported above the ground on posts or beams and shall not have a foundation. It may contain railings with screening and gates to enclose pets or children. (The area shall be considered part of the footprint.)
- DEDICATION:** The transfer of property interests from private to public ownership for a public purpose. The transfer may be fee-simple interest or of a less-than-fee-simple interest, including an easement.
- DEVELOPED AREA, SHORELAND ZONES:** Means one existing principal structure per 500 feet over a length of shoreline of 1,000 feet. The principal structure must be located within the 250 foot Shoreland Zone.
- DEVELOPER:** The legal or beneficial owner(s) of a lot or parcel of any land proposed for inclusion in a development, including the holder of an option or contract to purchase, tenants, contractor, development corporation, or entity.
- DEVELOPMENT:** A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.
- DIMENSIONAL REQUIREMENTS:** Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.
- DISABILITY:** Any disability, infirmity, malfunction, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services. Disability has the same meaning as the term "handicap" in the federal Fair Housing Act, 42 United States Code, Section 3602.
- 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.
- DRAINAGE:** The removal of surface or ground water from land by drains, grading or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development, and includes the means necessary for water-supply preservation and prevention or alleviation of flooding.
- DRIVEWAY:** A vehicular access-way fewer than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.
- DROUGHT:** A period of abnormally dry weather that is sufficiently prolonged to cause serious hydrologic imbalance in the affected area. It is possible to index the severity of a drought by an impact grading system.

## SECTION 12: DEFINITIONS

### B. DEFINITIONS OF WORDS (continued)

## DWELLING:

- a. Dwelling: A building or portion thereof, used exclusively for residential occupancy, including single-family, two-family and multiple-family dwellings.
- b. Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) family, including provisions for living, sleeping, cooking and eating.
- c. Dwelling, Single-Family Detached: A dwelling designed for and occupied by not more than one (1) family and having no roof, wall, or floor in common with any other dwelling unit.
- d. Dwelling, Two-Family: A detached or semi-detached building used for residential occupancy by two (2) families living independently of each other.
- e. Dwelling, Multi-Family: A building or portion thereof used for residential occupancy by three (3) or more families living independently of each other and doing their own cooking in the building, including apartments, group houses and row houses.

**EASEMENT:** Authorization by a property owner of the use by another, and for a specified purpose, of any designated part of the property.

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

**ENLARGEMENT OR TO ENLARGE:** An "enlargement" is an addition to the floor area or the volume of an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use. To "enlarge" is to make an enlargement.

**ESSENTIAL SERVICES:** Gas, electrical, communication facilities, steam, fuel or water transmission or distribution systems, collection, supply or disposal systems. Such systems may include towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories, but shall not include 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 months to a user's operating season or the use of more floor area or ground area devoted to a particular use.

**FAA:** The Federal Aviation Administration, or its lawful successor.

**FAMILY:** One or more persons occupying a premise and living as a single housekeeping unit.

**FCC:** The Federal Communications Commission, or its lawful successor.

**FLOODPLAIN:** Floodplains may be either riverine or inland depressional areas. Riverine floodplains are those areas contiguous to a lake, river, stream, or stream bed whose elevation is greater than the normal waterpool elevation but equal to or lower than the projected one hundred (100) year flood elevation. Inland depressional floodplains, not associated with a stream system, are low points to which surrounding lands drain.

## **SECTION 12: DEFINITIONS**

### **B. DEFINITIONS OF WORDS (continued)**

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

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

**FLOWING WATER:** A surface water within a stream channel that has a perceptible flow and is substantially permanent in nature. Such waters are commonly referred to as rivers, streams, and brooks and can be further defined as:

- a. **Major Flowing Waters:** A flowing water downstream from the point where such water drains fifty (50) square miles or more; or
- b. **Minor Flowing Waters:** A flowing water upstream from the point where such water drains less than fifty (50) square miles.

**FOOD PROCESSING FACILITY:** A place housing any operation which changes the chemical composition or physical properties of food materials for human consumption. An example would be a creamery where dairy products such as butter, cheese and ice cream are made. The term does not include slaughterhouses nor does it include restaurants where food is prepared and sold at retail.

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

**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.

**FORESTED WETLANDS:** A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

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

**FRESHWATER WETLAND:** Freshwater swamps, marshes, bogs, and similar areas, other than forested wetlands, which are:

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

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

## **SECTION 12: DEFINITIONS**

### **B. DEFINITIONS OF WORDS (continued)**

**FRONTAGE, ROAD:** The continuous linear distance, measured along the lot line which separates the lot from a public or private way.

**FRONTAGE, SHORE:** The horizontal distance, measured in a straight line, between the intersections of the side lot lines with the shoreline at normal high water elevation. Shore frontage may be measured in running linear feet instead of the method herein proposed provided that such measurement is made by a licensed professional surveyor and is submitted to the board under the seal of such surveyor at the expense of the applicant.

**FUNCTIONALLY WATER-DEPENDENT USES:** Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses primarily provide general public access to coastal or inland waters.

**GARAGE, COMMERCIAL:** A structure used for parking or storage of motor vehicles, generally available to the public and involving payment of a charge for such parking or storage. A garage used solely in conjunction with a multiple-family dwelling or hotel shall not be construed to be a commercial garage, but rather a permitted accessory structure and use, even though not on the same premises as the multiple-family dwelling or hotel.

**GARAGE, RESIDENTIAL:** An accessory building for parking or temporary storage of motor vehicles belonging to residential occupants of the premises, or a part of the residence usually occupying the ground floor area of principal one-or-two family dwellings.

**GOVERNMENT FACILITIES AND GROUNDS:** Any facility, including but not limited to, buildings, structures, property, recreation areas, excluding roads, which are owned, wholly occupied or operated by the United States, State of Maine, or any political subdivision or agency of the United States or State of Maine.

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

**GREAT POND:** Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of 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.

**GREENHOUSE, COMMERCIAL:** An enclosed building, permanent or portable, which is used for the growth, sale of plants at wholesale or retail prices, or for business use.

**GREENHOUSE, NON-COMMERCIAL:** An accessory building to a residence designed or used for the growth of plants for personal use or incidental sales.

**GROUND COVER:** Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

## **SECTION 12: DEFINITIONS**

### **B. DEFINITIONS OF WORDS (continued)**

**GROCERY STORE:** A small neighborhood establishment retailing food and related commodities, as distinguished from a supermarket, which is defined as a "Major Retail Outlet".

**GROUND WATER IMPACT ANALYSIS:** See Section 5: Land Use Standards (General), 31. Uses Prohibited On Or Adjacent to Aquifers, for details.

**GUEST ROOM:** A room in a hotel, motel, tourist home or "bed and breakfast" residence offered to the public for compensation in which room no provision is made for cooking.

**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.

**HISTORIC or ARCHAEOLOGICAL RESOURCE:** Any site, building, structure or object, significant in American history, architecture, archaeology, engineering or culture, that are listed in the National Registrar of Historic Places (see 16 U.S.C.470w(5); 36 CFR 60 and 800).

**HOME OCCUPATION:** An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home. (Also see Section 5: Land Use Standards, B. General, 11. Home Occupations for more detailed information.)

**HOSPITAL:** An institution providing health services, primarily for in-patients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities and staff offices.

**IMPERVIOUS SURFACE:** Surfaces which do not absorb water, specifically all buildings, parking areas, driveways, roads, sidewalks and any areas of concrete or asphalt. In the case of lumber yards, areas of stored lumber constitute impervious surfaces.

**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 the water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

## **SECTION 12: DEFINITIONS**

### **B. DEFINITIONS OF WORDS (continued)**

**INDIVIDUAL PRIVATE CAMPSITE:** An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platforms.

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

**INDUSTRY:** Use of a premises for assembling, fabricating, finishing, manufacturing, packaging, or processing. These include but are not limited to assembly plants, laboratories, power plants, pumping stations and repair shops.

**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.

**JUNKYARD/ AUTOMOBILE GRAVEYARD:**

- a. **Automobile Graveyard:** A yard, field or other outdoor area used to store three (3) or more unregistered or uninspected motor vehicles, as defined in Title 29-A, section 101, subsection 42, or parts of the vehicles. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations.
- b. **Junkyard:** A yard, field or other outside area used to store, dismantle or otherwise handle: discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances or furniture, discarded scrap and junked lumber, and old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and scrap iron, steel and other ferrous or nonferrous material.

**KENNEL, COMMERCIAL:** Any place in or at which any number of dogs or cats are kept for the purpose of sale or in connection with boarding, care, training, or breeding, for which a fee is charged.

**KENNEL, NON-COMMERCIAL:** An accessory building to a residence designed or used for the accommodation of dogs or cats owned by the occupant of the residence.

**LAKES AND PONDS:** Natural or artificial bodies of water which retain water year-round. Artificial ponds may be created by dams or may result from excavation. State regulations apply to any body of water which has a surface area in excess of ten (10) acres except a man-made body of water completely surrounded by land held by a single owner.

**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.

**LARGE-SCALE WATER EXTRACTION ACTIVITIES:** Extraction of 5,000 or more gallons of water from a single or multiple extraction points located within the Town of Hancock within any twenty-four-hour period by any individual, business association or entity, consortium or association of related individuals or related business entities for transport out of the Town of Hancock.

**LEVEL OF SERVICE:** A qualitative measure that incorporates the collective factors of speed, travel time, traffic interruptions, freedom to maneuver, safety, driving comfort and convenience, and operating costs provided by a highway facility under a particular volume condition, as established by the Institute of Transportation Engineers Transportation and Traffic Engineering Handbook, 2nd edition (or updates).

## **SECTION 12: DEFINITIONS**

B. DEFINITIONS OF WORDS (continued)

LICENSED CARRIER: A company authorized by the FCC to construct and operate a commercial mobile radio services system.

LICENSED FORESTER: A forester licensed under 32 M.R.S.A. Chapter 76.

LOADING SPACE: An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

LOT: A parcel of land undivided by any street or public road and occupied by, or designated to be developed for, one (1) building or principal use and the accessory buildings or uses incidental to such building, use, or development, including such open spaces and yards as are designed, and arranged or required by this Ordinance for such building, use, or development.

LOT AREA: The area of land enclosed within the boundary lines of a lot, minus land considered not suitable for development under Sections 5.B.13. and 5.C.9. of this Ordinance.

LOT, CORNER: A lot abutting two or more streets at their intersection.

LOT COVERAGE: The maximum combined ground floor area of all principal and accessory buildings on a lot, divided by the area of such lot, the result expressed as a percentile. In the Shoreland Area lot coverage also includes all unrevegetated areas.

LOT DEPTH: The mean horizontal distance between the front and rear lot lines, measured within the lot boundaries.

LOT LINE: A line bounding a lot which divides one lot from another, or from a street or any other public or private space, as defined below:

- a. Front Lot Line: In the case of a lot abutting only one street, the street line separating such lot from such street; in the case of a double frontage lot, each street line separating such lot from a street shall be considered to be the front lot line, except where the rear yard requirement is greater than the front yard requirement in which case one of two opposing yards shall be a rear yard. In the case of a lot with no road frontage, the front lot line shall be considered to be the line parallel to the front of the building.
- b. Rear Lot Line: That lot line which is parallel to and most distant from the front lot line of the lot; in the case of an irregular, triangular, or gore-shaped lot, a line twenty (20) feet in length, entirely within the lot, parallel to and at the maximum possible distance from, the front line shall be considered to be the rear lot line. In the case of lots which have frontage on more than one road or street, the rear lot line shall be opposite the lot line along which the lot takes access to a street.
- c. Side Lot Line: Any lot line other than a front or rear lot line.

MANUFACTURED HOUSING: A structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site. Manufactured housing is permitted where single-family dwellings are allowed, Subject to the same requirements as single-family dwellings. Such homes shall have pitched roofs, a permanent foundation and siding that is residential in appearance. For purposes of this Ordinance, two (2) types of manufactured housing will be referred to:

**SECTION 12: DEFINITIONS**

## B. DEFINITIONS OF WORDS (continued)

- a. **MOBILE HOMES:** Those units constructed after June 15, 1976, which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards and complies with the Manufactured Housing Construction and Safety Standards Act of 1974, et.seq., which in the traveling mode, are 14 body feet or more in width and are 750 or more square feet and are constructed on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation; and
- b. **MODULAR HOMES:** Those units which the manufacturer certifies are constructed in compliance with the State's Manufactured Housing Act and regulations, 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 therein.

**MARINA:** A business establishment having frontage on navigable water within the town and, as its principal use, providing for hire off-shore mooring or docking facilities for boats and accessory services and facilities such as: boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

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

**MEAN ORIGINAL GRADE:** The grade calculated by averaging the highest and lowest original grade.

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

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

**MINIMUM LOT WIDTH:** The closest distance between the side lot lines of a lot. When only two lot lines extend into the Shoreland Zone, both lot lines shall be considered to be side lot lines.

**MOBILE HOME PARK:** A parcel of land under unified ownership approved by the Town of Hancock for the placement of three (3) or more manufactured homes.

**MOTOR VEHICLE:** Every vehicle which is self-propelled and designed for carrying persons or property or which is used for the transportation of persons.

**MOTOR VEHICLE, UNSERVICEABLE:** Any motor vehicle which is wrecked, dismantled, cannot be operated legally on any Maine public highway, or which is not being used for the purpose for which it was manufactured.

## SECTION 12: DEFINITIONS

### B. DEFINITIONS OF WORDS (continued)

**MULTI-UNIT RESIDENTIAL:** A residential structure containing three (3) or more residential dwelling units.

NATIVE: Indigenous to the local forests.

NON-CONFORMING CONDITION: A non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

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

NON-CONFORMING STRUCTURE: A structure which does not meet any one or more of the following dimensional requirements; setback, height, 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: Use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

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.

NOTE: Adjacent to tidal waters, setbacks are measured from the upland edge of the "coastal wetland."

NORMAL MAINTENANCE AND REPAIR: Any work necessary to maintain an improvement or structure in its original or previously improved state or condition. Normal maintenance and repair shall not include reconstruction, change in design, change in structure, change in uses, change in location, change in size or capacity.

NUISANCE: Each violation of this ordinance shall be deemed to constitute a nuisance and subject to 30-A M.R.S.A., Sec 4452.

NURSERY, COMMERCIAL: An enterprise which conducts the retail and wholesale sale of plants grown on the site, as well as accessory items (but not power equipment such as gas or electric lawnmowers and farm implements directly related to their care and maintenance). The accessory items normally sold are clay pots, potting soil, fertilizers, insecticides, hanging baskets, rakes and shovels.

NURSING HOME: A facility for the care of the aged or infirmed person, or a place of rest for those suffering bodily disorders; but not including facilities for surgical care or institutions for the care and treatment of mental illness, alcoholism, or narcotics addiction.

OPEN SPACE USE: A use which does not disturb the existing state of the land except to restore this land to a natural condition.

OWNER: The person or persons having the right of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

## **SECTION 12: DEFINITIONS**

### **B. DEFINITIONS OF WORDS (continued)**

**PARKING LOT:** An open area other than a street used for the parking of more than four motor vehicles and available for public use whether free, for compensation, or as an accommodation for clients or customers.

**PARKING SPACE:** A surfaced area, not less than nine (9) feet wide and eighteen (18) feet long, enclosed or unenclosed, sufficient in size to store one motor vehicle and permit ingress and egress of that motor vehicle without the necessity of moving any other automobile.

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

**PIERS, DOCKS, WHARFS, BRIDGES, AND OTHER STRUCTURES AND USES EXTENDING OVER OR BELOW THE NORMAL HIGH-WATER LINE OR WITHIN A WETLAND:**

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

**PLANNED UNIT DEVELOPMENT:** See CLUSTER DEVELOPMENT.

**PORCH:** An accessory attachment to a principal structure. It shall be constructed primarily of wood and have a roof, canopy, or awning and may have framed or screened walls. It shall be supported above the ground on post, beams, or by a foundation. It may contain railings with screening and gates to enclose pets or children.

**PRINCIPAL STRUCTURE:** A building which is used for purposes that are essential (such as a residence) and not incidental to another building or use on the same premises.

**PRINCIPAL OR YEAR-ROUND DWELLING UNIT:** A dwelling which existed on December 31, 1981, and which was used as a principal or year-round residence during the period from 1977 to 1981. Evidence of use as a principal or year-round residence includes, but is not limited to: the listing of that dwelling as an occupant's legal residence for the purpose of voting, filing a state tax return, or automobile registration, or the occupancy of that dwelling for a period exceeding 7 months in any calendar year.

**PRINCIPAL USE:** A use which is the primary function and is not accessory to another use on the same premises.

**PROFESSIONAL OFFICE BUILDING:** A building in which there is located the office of a professional such as an architect, accountant, dentist, doctor of medicine, lawyer, etc., or in which a business conducts its administrative, financial or clerical operations, but not including any other manufacturing, commercial, or industrial activity.

**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 UTILITY:** Any person, firm, corporation, municipal department, board or commission authorized by the Maine Public Utilities Commission to furnish gas, steam, electricity, communication facilities, or transportation of water to the public.

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

## **SECTION 12: DEFINITIONS**

### **B. DEFINITIONS OF WORDS (continued)**

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

**RECONSTRUCTION:** The restoration, remodeling or rebuilding of a structure, whether necessitated by deterioration, obsolescence, casualty or other occurrence, where the costs of such work equal or exceed the value of the property in its existing condition.

**RECREATIONAL FACILITY:** A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreation 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 motorhome. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, must be stationed only in an authorized campground or trailer park or as an accessory use on the premises of a consenting private property owner for use only by members of the property owner's family or social guests, and must be registered with the State Bureau of Motor Vehicles.

**REPLACEMENT SYSTEM:** A sewage disposal system intended to replace:

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

**RESEARCH FACILITY:** A building or part of a building devoted to scientific inquiry and ancillary functions. No manufacturing is conducted on the premises except as related to the scientific research being conducted.

**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.

**RESIDUAL STAND:** A stand of trees remaining in the forest following timber harvesting and related activities.

**RESTAURANT:** An establishment whose principal business is the sale of food and/or beverages to consumers in a ready-to-consume state, and whose principal method of operation includes one or more of the following characteristics:

- a. Customers normally provided with an individual menu, are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed;
- b. A cafeteria type operation where food and beverages generally are consumed within the restaurant building;

## **SECTION 12: DEFINITIONS**

### **B. DEFINITIONS OF WORDS (continued)**

- c. A carry-out or delivery service, drive-in service, and service or consumption outside fully-enclosed structure; or
- d. Fast-food restaurant that provides drive-through service.

RETAIL ESTABLISHMENT: Any business, housed in a permanent structure, engaged primarily in the sale of goods and services to the ultimate consumer for direct consumption and/or use, but not for resale.

RIGHT-OF-WAY: A street or other area over which is given legal right of passage.

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

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

NOTE: The portion of a river that is subject to tidal action is a coastal wetland.

ROAD: A thoroughfare or way 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.

- a. Private Road: A thoroughfare or way designated for private use and maintained by a property owner or group of property owners.
- b. Public Road: A public thoroughfare, way, or easement permanently established for passage of persons or vehicles.

ROADSIDE STAND: A roadside stand selling at retail on the premises only farm produce, camp firewood, or garden, greenhouse or nursery products, and between Labor Day and Christmas, cut Christmas trees, garlands, wreaths, and wreath materials primarily produced on the property.

SALT MARSH: Areas of a 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 three square occurs in fresher areas.

SCHOOL, MUNICIPAL: A publicly owned facility within which educational classes for any grades, kindergarten through twelve, are conducted pursuant to a program approved by the State Board of Education or similar governmental agency.

SCHOOL, PRIVATE: A privately-owned facility within which instruction is provided for a fee.

## SECTION 12: DEFINITIONS

### B. DEFINITIONS OF WORDS (continued)

SEASONAL CONVERSION PERMIT: Written authorization issued by the plumbing inspector to allow the conversion of a seasonal dwelling unit to year-round use.

SEASONAL CONVERSION: The conversion of a seasonal dwelling unit to year-round use.

SEASONAL DWELLING UNIT: A dwelling which existed on December 31, 1981, and which was not used as a principal or year-round residence during the period from 1977 to 1981.

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

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

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

- a. SETBACK, FRONT: The setback between the front lot line and the nearest part of a structure or other regulated object or area.
- b. SETBACK, REAR: The setback between the rear lot line and the nearest part of a structure or other regulated object or area.
- c. SETBACK, SIDE: The setback between the side lot line and the nearest part of a structure or other regulated object or area. No part of any driveway shall be located within ten (10) feet of a side property line. However, the appropriate authority may permit a driveway serving two (2) or more adjacent sites to be located on or within ten (10) feet of a side property line between the adjacent sites.
- d. SETBACK, SHORELINE: The nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland and the nearest part of a structure or other regulated object or area.

SHORE FRONTAGE: The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

SHORELAND ZONE: The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within two hundred fifty (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.

## SECTION 12: DEFINITIONS

### B. DEFINITIONS OF WORDS (continued)

**SHORELINE:** The normal high-water line, or upland edge of a freshwater or coastal wetland.

**SITE SEARCH RING ANALYSIS REPORT:** The standard industry report of an analysis of the potential sites within an identified circular broadcast area of service.

**SKID ROAD OR SKID TRAIL:** A route repeatedly used by forwarding machinery or animals to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

**SLASH:** The residue, e.g., treetops and branches, left on the ground after a timber harvest.

**SMALL WIND ENERGY SYSTEM (SWES):** A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 10kW and which will be used primarily to produce electrical power.

**SMALL WIND ENERGY SYSTEM HEIGHT:** The height above grade to the tip of the turbine blade when it reaches its highest elevation. The SWES height shall not exceed sixty (60) feet above ground level.

**SMALL WIND ENERGY SYSTEM TOWER:** The structure on which the small wind energy system is mounted.

**SMALL WIND ENERGY SYSTEM TOWER HEIGHT:** The height above grade of the fixed portion of a tower, excluding the wind turbine.

**SMALL WIND ENERGY SYSTEM TURBINE:** The parts of the small wind energy system including blades, generator and tail.

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

**STREET:** Any public way.

**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, but does not include mobile or modular homes held for inventory and displayed for sale in the ordinary course of a mobile home dealer's business in a location established prior to the approval of the 1994 ECO. Structures such as a dog house, children's playhouse, toolshed, or similar small buildings having not more than one hundred (100) square feet do not require a permit for construction, provided that such structures shall meet all other requirements of this ordinance. See additional reference in Section 5: Land Use Standards (Shoreland) C.12.a.3. Small Wind Energy System (SWES) height shall not exceed sixty (60) feet.

**SUBDIVISION:** The division of a tract or parcel of land into three (3) or more lots within a five (5) year period whether accomplished by sale, lease, development, buildings or otherwise and as further defined in State Statutes, 30-A M.R.S.A., Section 4401, as amended.

## **SECTION 12: DEFINITIONS**

### **B. DEFINITIONS OF WORDS (continued)**

**SUBSTANTIAL COMPLETION/SUBSTANTIALLY COMPLETED:** Completion of eighty-five percent (85%) of a permitted structure or use measured as a percentage of estimated total cost.

**SUBSTANTIAL START:** Completion of thirty percent (30%) of a permitted structure or use measured as a percentage of estimated total cost.

**SUBSURFACE WASTEWATER SEWAGE DISPOSAL SYSTEM:** Any system designed to dispose of waste or waste water on or beneath the surface of the earth; including, but not limited to: septic tanks; disposal fields; legally existing, nonconforming 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 wastewater disposal system, or any municipal or quasi-municipal sewer or wastewater treatment system.

An engineered subsurface waste disposal system is any subsurface wastewater disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of wastewater per day or more.

**SUSTAINED SLOPE:** A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**TEMPORARY USE:** A use established for a fixed period of time with the intent to discontinue such upon the expiration of such time. Such uses do not involve the construction or alteration of any permanent structure.

**TIDAL WATERS:** All waters affected by tidal action during the maximum spring 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 Section 5:C.3., Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

**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.

**TOWN:** The Town of Hancock, Maine.

**TRANSIENT:** A non-resident person working, residing or visiting within the town less than thirty (30) days..

**TRANSIENT ACCOMMODATIONS I:** (Also referred to as "Bed and Breakfast") Include building(s) where accommodations are provided for compensation as a business in the private year-round residence of the host family, consisting of a maximum of three guest rooms and 6 guests at any one time, not including children of the paying guests under twelve years of age. Breakfast is the only meal, if any, to be provided for compensation.

**TRANSIENT ACCOMMODATIONS II:** (Also referred to as small inns and boarding houses) Include building(s) where accommodations are provided for compensation, where a maximum of 10 guest rooms are provided at any one time and meals, if provided, are provided to guests only.

## **SECTION 12: DEFINITIONS**

### **B. DEFINITIONS OF WORDS (continued)**

TRANSIENT ACCOMMODATIONS III: (Also referred to as motels, hotels, and inns) Include buildings where accommodations are provided for compensation, where a maximum of 25 guest rooms are provided at any one time and no meals are provided.

TRANSIENT ACCOMMODATIONS IV: (Also referred to as motels, hotels, and inns) Include buildings where accommodations are provided for compensation, where a maximum of 25 guest rooms are provided at any one time and meals are provided to guests only.

TRANSIENT ACCOMMODATIONS V: (Also referred to as motels, hotels, and inns) Include buildings where accommodations are provided for compensation, where 25 or more guest rooms are provided at any one time and meals are provided for guests. Accessory uses such as restaurants, cocktail lounges, gift shops, conference rooms, and recreational facilities such as swimming pools and game rooms may be included on the premises. This type of accommodations and their accessory uses are subject to Site Plan Review.

TRANSIENT ACCOMMODATIONS VI: (short-term rentals in hotels, motels and inns) Buildings providing accommodations for compensation, where guest rooms are provided for a period of 30 days or less.

TRANSIENT ACCOMMODATIONS VII: (long-term rentals in hotels, motels and inns) Buildings providing accommodations for compensation, where guest rooms are provided for a period of 31 days or longer. Each guest room must include a kitchen area and bathroom with a minimum of 400 sf (square feet).

TRANSIENT ACCOMMODATIONS VIII: (Campgrounds) Any land area specifically designed and developed, containing two or more individual campsites which accommodate that segment of the traveling public seeking temporary camping accommodations for tents, recreational vehicles and/or towed travel trailers for compensation. Accessory uses, subject to Site Plan Review, include camper services and facilities such as shower and laundry facilities, electricity, fresh water, propane and gas sales, ice, outlet for camping supplies and equipment, recreational services, etc.

TRANSPORTATION FACILITIES: Structures and grounds used for transportation service activities, such as ticket booths, and waiting shelters for bus, taxi, or touring van.

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

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

NOTE: Water setback requirements apply to tributary streams within the Shoreland Zone.

UNDERTAKING ESTABLISHMENT: A dwelling or other structure used and occupied by a professional licensed mortician for burial preparation and funeral services.

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

## SECTION 12: DEFINITIONS

### B. DEFINITIONS OF WORDS (continued)

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.

USE: The purpose or activity for which land or any building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

USEABLE FLOOR AREA: Any floor area directly under a ceiling height of not less than seven feet (7'), except for the purpose of calculating the floor area of a bedroom, the floor area to a knee-wall, a minimum of five feet (5') high, may be counted as useable floor area.

VARIANCE: A relaxation of the terms of this Ordinance where such a variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship.

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

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

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

WAREHOUSING AND STORAGE FACILITY: A structure for the storage of merchandise or commodities, including bulk storage and bulk sales outlet.

WATER BODY: Any great pond, river or stream.

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

WATER EXTRACTION: The taking, or removal of water from groundwater or surface water sources, including aquifers, springs, wells, lakes, ponds and streams, or the like, by the same individual or entity, or consortium or association of individuals or entities, regardless of the number of extraction facilities utilized.

WATER-RELATED STRUCTURE: Includes piers, docks, wharves, floats, cribs, pilings, boathouses, breakwaters, causeways and similar structures projecting into water bodies.

WETLAND: A freshwater or coastal wetland.

WHOLESALE BUSINESS ESTABLISHMENT: Any business, housed in a permanent structure, engaged in the sale of goods in large amounts to retailers or jobbers, rather than directly to consumers.

## SECTION 12: DEFINITIONS

### B. DEFINITIONS OF WORDS (continued)

WILDLIFE: All vertebrate species (animals with backbones), except fish.

WILDLIFE MANAGEMENT PRACTICES: Activities engaged in for the exclusive purpose of management of wildlife populations by manipulation of their environment for the benefit of one or more species. Such practices may include, but not be limited to, harvesting or removal of vegetation; controlled burning; planting; impounding water; controlled hunting and trapping; relocation of wildlife; predator and disease control; and installation of artificial nesting sites, provided that such activities are specifically controlled and designed for the purpose of managing such species.

WINDFIRM: The ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

WIRELESS TELECOMMUNICATIONS: Includes any personal wireless service, radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, and personal communications service (PCS) or pager services.

WIRELESS TELECOMMUNICATIONS FACILITY (WTF): Includes all structures, equipment and security devices necessary for the broadcast or reception of wireless telecommunications services.

WTF ABANDONMENT: A WTF that is not listed as having a license in the FCC Database or is out of operation for a continuous period of twelve (12) months or more.

WTF COLOCATION: The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

WTF EQUIPMENT SHELTER: An enclosed structure, shed or box at or near the base of the mount within which equipment for wireless telecommunication facilities are housed.

WTF EXPANSION: The addition of antennas or other devices to an existing WTF or any enlargement to or construction of additional equipment shelters. Expansion that increases height requires Planning Board approval.

WTF FALL ZONE: The area on the ground from the base of a WTF that forms a circle with a radius equal to 150% of the height of the WTF tower, including any antennas or other appurtenances.

WTF PRIVATE MOBILE RADIO SERVICE: As defined in FCC Form 601 Regulatory Status, Item 41:

- a) Non-common carriers that do not hold themselves out indiscriminately for hire as carriers of communications provided by a customer.
- b) Private internal users are those entities that utilize telecommunications services purely for internal business purposes or public safety communications and not on a for hire or for profit basis.

WTF TOWER: A structure used primarily for the support of one or more antennas. The term includes radio and television towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and similar structures.

WTF TOWER HEIGHT: The vertical distance measured from the base of the antenna support structure at original grade to the highest point of the structure, even if said point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the mean original grade of the tower site. If the support structure is on a sloped grade, the average between the highest and lowest original grades shall be used in calculating the tower height.

WOODY VEGETATION: Live trees or woody, non-herbaceous shrubs.

## SECTION 12: DEFINITIONS

### B. DEFINITIONS OF WORDS (continued)

**YARD:** The area of land on a lot not occupied by buildings.

- a. **Front Yard:** The open, unoccupied space on the same lot with the principal building between the front lot line and the nearest part of any building on the lot, and extending the entire width of the lot.
- b. **Rear Yard:** The open, unoccupied space on the same lot with the principal building between the rear lot line and the nearest part of any building on the lot, and extending the entire width of the lot.
- c. **Side Yard:** The open, unoccupied space on the same lot with the principal building between a side lot line and the nearest part of any building on the lot, extending from the front yard to the rear line.

**ZONE:** A specified portion of the Town, delineated on the Official Zoning Map, within which certain regulations and requirements or various combinations thereof, apply under the provisions of this Ordinance.

## APPENDIX A: SCREENING

### 1. CLASSIFICATION OF SCREENS

Screening shall be classified as follows:

#### a) SCREENING WITH AN OPAQUE SCREEN

A visual screen that is opaque, from the ground to a height of at least six feet (6') with semi-opaque visual barrier from above the opaque barrier to a height of at least twenty feet (20'). The purpose of this screen is to exclude all visual contact between uses and create a strong impression of spatial separation. Such a screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, existing vegetation, or appropriate combinations thereof.

#### b) SCREENING WITH A SEMI-OPAQUE SCREEN

A visual screen that is opaque, from the ground to a height of three feet (3') with semi-opaque visual barrier from above the opaque barrier to a height of at least twenty feet (20'). The purpose of this screen is to partially block visual contact between uses and to create a strong separation of spaces. Such a screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, existing vegetation, or appropriate combinations thereof.

#### c) SCREENING WITH A BROKEN SCREEN

An intermittent visual screen from above the ground to a height of at least twenty feet (20'). The purpose of this screen is to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. Such a screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, existing vegetation, or appropriate combinations thereof.

### 2. SUGGESTED SCREENING COMBINATIONS

The following suggested screening combinations are considered a minimum to achieve the above screen classifications:

#### a) SCREENING WITH AN OPAQUE SCREEN

Small trees planted twenty feet (20') on center in combination with a six foot (6') high evergreen hedge planted four feet (4') on center;

Large trees planted thirty-five feet (35') on center in combination with a six foot (6') high wooden fence; or

Tall evergreen trees, stagger planted, with branches touching the ground.

#### b) SCREENING WITH A SEMI-OPAQUE SCREEN

Small trees planted twenty feet (20') on center in combination with a three foot (3') high stone wall or wood fence;

Small trees planted twenty feet (20') on center on top of a three foot (3') high seeded earth berm; or

Large trees planted thirty-five feet (35') on center in combination with a three foot (3') high evergreen hedge planted three feet (3') on center.

#### c) SCREENING WITH A BROKEN SCREEN

Small trees planted twenty feet (20') on center;

Small trees planted thirty feet (30') on center in combination with a split rail fence; or

Large trees planted thirty-five feet (35') on center in combination with assorted shrubbery.

## APPENDIX A: SCREENING

### 3. SCREENING REQUIRED

The screening required for various areas and purposes are as follows:

- a) In any buffer strip established between lots located in any of the Industrial, Commercial, Mixed Development or Rural/Commercial Zones which abuts any residential zone: Semi-Opaque Screening;
- b) In any buffer strip established for the purpose of preventing driver confusion between on-site roads running parallel to an off-site road: Semi-Opaque Screening;
- c) In any buffer strip established for the purpose of protecting or enhancing the scenic character along Routes 1 and 182: Broken Screening;
- d) In any buffer strip established for the purpose of shielding incompatible uses from one another: Opaque or Semi-Opaque Screening;
- e) In any buffer strip established for the purpose of blocking prevailing winds to stop wind-borne debris from leaving the site: Opaque or Semi-Opaque Screening;
- f) In any buffer strip established for the purpose of preventing any proposed lighting from interfering with residential properties or with safe driving: Opaque or Semi-Opaque Screening;
- g) In any buffer strip established for the purpose of deterring small children from entering areas with potential safety hazards: Opaque Screening; and
- h) In any buffer strip established for the purpose of screening exposed storage and service areas, sand and gravel extracting operations, utility buildings and structures, automobile salvage and junk yards, parking areas, garbage collection areas, and loading and unloading areas, to minimize their visual impact on adjoining traveled ways and properties: Opaque Screening.

### 4. PLANT MATERIAL SPECIFICATIONS

Unless otherwise specifically indicated by the Planning Board, all plant material used for any screening required under this Ordinance shall meet the following minimum requirements:

- a) All planting shall be of a type and species appropriate for the soil types, site conditions, and climatic conditions of the Town;
- b) Plant material used for screening shall meet the following minimum size standards:

PLANT TYPE	SIZE
Canopy Tree-Single Stem	2.5 inch caliper
Understory Tree	1.5 inch caliper
Evergreen Tree	5-7 feet high
Deciduous Shrub	24 inches high
Evergreen Shrub	18 inches high

- c) Evergreen trees can be used as screening, provided they are planted properly. An evergreen screen requires two (2) or three (3) rows of staggered plantings. The rows should be five feet (5') apart and the evergreens planted four feet (4') on center.

## APPENDIX A: SCREENING

### 5. MAINTENANCE OF BUFFERS AND SCREENING

Buffers and screening shall be located and maintained as follows:

- a) Fencing and screening shall be so located within the property line to allow access for maintenance on both sides without intruding upon abutting properties.
- b) Fencing and screening shall be durable and properly maintained at all times by the owner.
- c) All buffer strips shall be maintained in a neat and sanitary condition by the owner.

## APPENDIX B: FILTER STRIP WIDTHS

### 1. Required width of filter strips for mineral exploration activities.

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
0	50
10	90
20	130
Greater than 20	330

### 2. Required width of filter strips for mineral extraction activities.

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (percent)	Width of Strip Between Exposed Mineral Soil and a line parallel and one hundred feet (100) upland from the upland edge of a wetland stream, or normal high water mark of any river, lake or pond. (Feet Along Surface of the Ground)
0	50
10	90
20	130
Greater than 20	330

## APPENDIX C: ROAD AND DRIVEWAY STANDARDS

1. ROADS AND DRIVEWAYS: The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts, and other related features in the shoreland zones.

- a. Roads and driveways shall be set back at least one hundred feet (100'), horizontal distance, from the normal high-water line of a great pond or a river that flows to a great pond, and seventy-five feet (75'), 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 50 feet (50'), 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 percent (20%) the road and/or driveway setback shall be increased by ten feet (10'), horizontal distance, for each five percent (5%), or fraction thereof, increase in slope above twenty percent (20%).

Appendix C.1.a. does not apply to approaches to water crossings nor 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 Appendix C.1.a. except for that portion of the road or driveway necessary for direct access to the structure.

- b. 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.
- c. New roads and driveways are prohibited in a Resource Protection Zone (RP) 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 Zone upon a finding that a clear necessity exists and there is a lack of a reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection Zone the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- d. 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 5.C.5. of this section.
- e. Road and driveway grades shall be no greater than ten percent (10%) except for segments of less than two hundred feet (200').
- f. 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 fifty feet (50') 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.
- g. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road, driveway or ditch. To accomplish this, the following shall apply:

## APPENDIX C: ROAD AND DRIVEWAY STANDARDS

- 1) 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

- 2) Drainage dips may be used in place of ditch relief culverts only where the grade is ten percent (10%) or less.
- 3) On sections having slopes greater than ten percent (10%), 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.
- 4) Ditch relief culverts shall be sufficiently sized and be properly installed in order to allow for effective functioning with a minimum diameter of not less than fifteen inches (15"), and their inlet and outlet ends shall be stabilized with appropriate materials, as recommended by the Hancock County Soil and Water Conservation District.
- h. Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

## APPENDIX D: TIMBER HARVESTING

Timber Harvesting - Statewide Standards (Applies only to Shoreland and Resource Protection Zones - RP, SP, SR & SD. Contact Forest Service.

- (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. Appendix D. 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.

## APPENDIX D: TIMBER HARVESTING

- (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 (Bureau) 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.

## APPENDIX D: TIMBER HARVESTING

- (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 Appendix D.(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 Appendix D. (5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Appendix D. (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 along Significant River Segments as identified in 38 M.R.S.A. Section 437, nor in a Resource Protection Zone, 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 Appendix D. (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.

## APPENDIX D: TIMBER HARVESTING

- (f) Road closeout and discontinuance. Maintenance of the water control installations required in Appendix D. (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 Appendix D. 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 Appendix D. (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 water bodies. 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 Appendix D. 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 Appendix D. 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 Appendix D.
  - (c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on water bodies 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.

## APPENDIX D: TIMBER HARVESTING

- (e) Notice to the 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 Appendix D. (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 Appendix D. (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 Appendix D. (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

## APPENDIX D: TIMBER HARVESTING

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 Appendix D. 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 Appendix D. (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

## APPENDIX D: TIMBER HARVESTING

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 Appendix D., but in no case shall be less than shown in the following table.

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

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Attested true copy of what was passed at Town Meeting November 06,  
2024.

Cheryl A. Robinson

Cheryl A. Robinson

Hancock, Maine Town Clerk





TOWN OF HANCOCK ) MANDATORY SHORELAND ZONING ACT  
HANCOCK COUNTY )  
SHORELAND ZONING ORDINANCE )  
ORDER # 53-2025 ) CONDITIONAL APPROVAL

- C. Section 4 *Schedule of Uses*, fails to prohibit ground mounted solar energy systems from the Resource Protection and Stream Protection Zones.
  - D. Section 5 *Land Use Standards: Dimensional Requirements*, fails to accurately represent applicable minimum shore frontage standards for the Resource Protection Zone.
  - E. Section 5 *Land Use Standards: Dimensional Requirements*, fails to accurately represent applicable setback standards for the Resource Protection Zone.
  - F. Section 5 *Land Use Standards: Principal and Accessory Structures*, fails to include all applicable shoreland zones for both height and lot coverage standards.
  - G. Section 7 *Site Plan Review: Expiration of Approvals*, fails to accurately represent the permit expiration timeline.
  - H. Section 12 *Definitions*, omits the definition of a great pond classified GPA.
5. On December 3, 2025, the Town of Hancock was notified by the Department of the above deficiencies, and the proposed conditional approval of the Ordinance.

BASED on the above Findings of Fact, the Commissioner makes the following CONCLUSION:

- 1. The deficiencies noted in paragraph 4 above can be addressed by the Commissioner approving the Ordinance with conditions. This will result in the Ordinance being substantially consistent with the requirements of the Mandatory Shoreland Zoning Act, 38 M.R.S., Section 438-A, and the minimum Guidelines.

THEREFORE, the Commissioner APPROVES the Ordinance, as amended on November 6, 2024, SUBJECT TO THE ATTACHED CONDITIONS:

- 1. Section 3 *Establishment of Zones*, shall be amended in part to add the highlighted language:  

(RP) Resource Protection Zone  
Land areas along rivers subject to severe bank erosion, undercutting, or riverbed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.
- 2. Section 3 *Establishment of Zones*, shall be amended in part to add the highlighted language:

**D. Establishment of Zones**

**Resource Protection – non rated: forested wetlands.**

3. Section 4 *Schedule of Uses*, shall be amended to prohibit new ground mounted solar energy systems from the Resource Protection and Stream Protection Zones.
4. Section 5 *Land Use Standards: Dimensional Requirements*, shall be amended in part to remove the ~~strike through~~ language and add the **highlighted** language:

**Dimensional Requirements: Resource Protection Zone**

Minimum Shore Frontage: ~~Na or 150 feet~~ **Tidal: 150 feet Non-tidal: 200 feet**

5. Section 5 *Land Use Standards: Dimensional Requirements*, shall be amended in part to remove the ~~strike through~~ language and add the **highlighted** language:

**Dimensional Requirements: Resource Protection Zone**

Minimum Setback From NHWL: ~~75 feet~~ **250 feet**

6. Section 5 *Land Use Standards: Principal and Accessory Structures*, shall be amended to include the Resource Protection and Stream Protection Zones in the maximum height standards. This section will also be amended to include the Resource Protection, Stream Protection, and Shoreland Development Zones in the twenty percent lot coverage standard. For Shoreland Development Zones adjacent to coastal wetlands, or rivers that do not flow to great ponds, non-vegetated surfaces shall not exceed a total of seventy (70) percent of the portion of the lot located within the shoreland zone.
7. Section 7 *Site Plan Review: Expiration of Approvals*, shall be amended in part to remove the ~~strike through~~ language and add the **highlighted** language:

All Site Plan Approvals shall expire within ~~eighteen (18)~~ **twelve (12)** months of the date of issuance unless work thereunder is commenced within ~~eighteen (18)~~ **twelve (12)** months from the date of issuance. If work is not substantially completed within two (2) years from the date of issuance, a new application is required. The Planning Board may grant an extension upon application.

8. Section 12 *Definitions* shall be amended in part to include the following language:

**Great pond classified GPA** - any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

TOWN OF HANCOCK ) MANDATORY SHORELAND ZONING ACT  
HANCOCK COUNTY )  
SHORELAND ZONING ORDINANCE )  
ORDER # 53-2025 ) CONDITIONAL APPROVAL

DONE AND DATED AT AUGUSTA, MAINE, THIS 15<sup>TH</sup> DAY OF DECEMBER 2025.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Mark Stebens  
For: Melanie Loyzim, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.



# DEP INFORMATION SHEET

## Appealing a Commissioner's Decision on a Shoreland Zoning Ordinance

Date: April 2025      Contact: [Clerk.BEP@maine.gov](mailto:Clerk.BEP@maine.gov) or (207) 314-1458

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### SUMMARY

This document provides information regarding a municipality's rights and obligations in filing an administrative or judicial appeal of a shoreland zoning ordinance decision made by the Commissioner of the Department of Environmental Protection ("DEP").

There are two methods available to a municipality seeking to appeal a shoreland zoning ordinance decision made by the DEP Commissioner: (1) an administrative process before the Board of Environmental Protection ("Board"), or (2) a judicial appeal before Maine's Superior Court.

### I. ADMINISTRATIVE APPEALS TO THE BOARD

#### **LEGAL REFERENCES**

A municipality filing an appeal with the Board should review the applicable rules and statutes, including the DEP's Chapter 2 rule, [Processing of Applications and Other Administrative Matters \(06-096 C.M.R. ch. 2\)](#); Organization and Powers, [38 M.R.S. §§ 341-D\(4\)](#) and [346](#); and the the Mandatory Shoreland Zoning laws [38 M.R.S. § 438-A\(3\)](#).

#### **DEADLINE TO SUBMIT AN APPEAL TO THE BOARD**

Within 30 calendar days of the date of a final license decision of the Commissioner; a municipality may appeal to the Board for review of that decision. "Aggrieved person" means any person whom the Board determines may suffer a particularized injury as a result of a Commissioner's license decision. A complete appeal must be received by the Board no later than 5:00 p.m. on the 30<sup>th</sup> calendar day of the decision being appealed. With limited exception, untimely appeals will be dismissed.

#### **HOW TO SUBMIT AN APPEAL TO THE BOARD**

An appeal to the Board may be submitted via postal mail or via electronic mail (e-mail) and must contain all signatures and the required appeal contents. An electronic filing must contain the scanned original signature of the appellant(s). The appeal documents must be sent to the following address.

Chair, Board of Environmental Protection  
c/o Board Clerk  
17 State House Station  
Augusta, ME 04333-0017  
[ruth.a.burke@maine.gov](mailto:ruth.a.burke@maine.gov)

The DEP may also request the submittal of the original signed paper appeal documents when the appeal is filed electronically. The risk of material not being received in a timely manner is on the sender, regardless of the method used.

At the time an appeal is filed with the Board, the appellant must send a copy of the appeal to the Commissioner of the DEP (Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017). **Please contact the Board Clerk at [clerk.bep@maine.gov](mailto:clerk.bep@maine.gov) or DEP staff at 207-287-7688 with questions or for contact information regarding a specific license.**

#### **REQUIRED APPEAL CONTENTS**

A written appeal must contain the information specified in Chapter 2, section 23(B) or section 24(B), as applicable, at the time the appeal is submitted. **Please carefully review these sections of Chapter 2**, which is available online at <https://www.maine.gov/sos/cec/rules/06/chaps06.htm>, or contact the Board Clerk to obtain a copy of the rule. Failure to comply with the content of appeal requirements may result in the appeal being dismissed pursuant to Chapter 2, section 23(C) or section 24(C).

#### **OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD**

1. *Be familiar with the administrative record.* Generally, the record on which the Board decides an appeal is limited to the record prepared by the agency in its review of the application, any supplemental evidence admitted to the record by the Board Chair and, if a hearing is held on the appeal, additional evidence admitted during the hearing. A municipality that seeks to appeal a decision to the Board is encouraged to contact the DEP to inspect the record before filing an appeal.
2. *Be familiar with the applicable rules and laws.* An appellant is required to identify the licensing criterion or standard the appellant believes was not satisfied in issuing the decision, the bases of the objections or challenges, and the remedy sought. Prior to filing an appeal, review the decision being appealed to identify the rules and laws that are applicable to the decision. An appellant may contact the DEP or Board staff with any questions regarding the applicable rules and laws or the appeal procedure generally.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a separate stay of the decision is requested and granted (*see* Chapter 2, section 23(M)), the licensee may proceed with an approved project pending the outcome of the appeal. Any activity initiated in accordance with the approved license during the pendency of the appeal comes with the risk of not knowing the outcome of the appeal, including the possibility that the decision may be reversed or modified by the Board.
4. *Alternative dispute resolution.* If the municipality agree to use mediation or another form of alternative dispute resolution (“ADR”) to resolve the appeal and so notify the Board, the Board will not hear the matter until the conclusion of that effort, provided the participants engaged in the alternative dispute resolution demonstrate satisfactory progress toward resolving the issues. *See* Chapter 2, section 23(H) or contact the Board Executive Analyst (contact information below) for more information on the ADR provision.

#### **WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD**

The Board will acknowledge receipt of each appeal and develop a service list of appeal participants and any interested persons for use in the appeal proceeding. Electronic mail (e-mail) is the preferred method of communication during an appeal proceeding; however, the Board reserves the right to require paper copies of all filings. Once the Board Chair rules on the admissibility of all proposed supplemental evidence, the licensee (if the licensee is not the appellant) may respond to the merits of the appeal. Instructions specific to each appeal will be provided in correspondence from the Board Executive Analyst or Board Chair. Generally, once all filings in an appeal proceeding are complete, the DEP staff will assemble a packet of materials for the Board (Board packet), including a staff recommendation in the form of a proposed Board Order. Once available, appeal participants will receive a copy of the Board packet and an agenda with the meeting location and start time. Once finalized, the meeting agenda will be posted on the Board’s webpage

<https://www.maine.gov/dep/bep/index.html>. Appeals will be considered based on the administrative record on appeal and oral argument at a regular meeting of the Board. *See* Chapter 2, Section 23(I). The Board may affirm all or part of the decision under appeal; affirm all or part of the decision under appeal with modifications, or new or additional conditions; order a hearing to be held as expeditiously as possible; reverse the decision under appeal; or remand the decision to the Commissioner or State Fire Marshal, as applicable, for further proceedings.

## **II. APPEALS TO MAINE SUPERIOR COURT**

The filing of an appeal with the Board is not a prerequisite for the filing of a judicial appeal. Maine law generally allows aggrieved persons to appeal final license decisions to Maine's Superior Court (*see* [38 M.R.S. § 346\(1\)](#); [Chapter 2](#); [5 M.R.S. § 11001](#); and [M.R. Civ. P. 80C](#)). A judicial appeal by a party to the underlying proceeding must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision.

### **ADDITIONAL INFORMATION**

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board Clerk at [clerk.bep@maine.gov](mailto:clerk.bep@maine.gov) or 207-287-2811 or the Board Executive Analyst at [bill.hinkel@maine.gov](mailto:bill.hinkel@maine.gov), or 207-314-1458 or for judicial appeals contact the court clerk's office in which the appeal will be filed.

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**Note:** This information sheet, in conjunction with a review of the statutory and rule provisions referred to herein, is provided to help a person to understand their rights and obligations in filing an administrative or judicial appeal, and to comply with the notice requirements of the Maine Administrative Procedure Act, 5 M.R.S. § 9061. This information sheet is not intended to supplant the parties' obligations to review and comply with all statutes and rules applicable to an appeal and insofar as there is any inconsistency between the information in this document and the applicable statutes and rules, the relevant statutes and rules apply.

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