

March 13, 2008

5.6.2 GOOD NEIGHBOR AND DESIGN STANDARDS

The standards contained in this Section shall apply to all uses in all zoning districts unless otherwise stated.

This section shall not repeal, annul or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit or provision of law. Where this section imposes a greater restriction upon the use of land, buildings or structures, the provisions of this section shall control.

5.6.2.A Exterior Lighting

The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated.

Lighting may be used which serves security, safety and operational needs, but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways. Lighting fixtures must be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians or from adjacent dwellings and so that they do not unnecessarily light the night sky. Direct or indirect illumination must not exceed 0.5 foot candles at the lot line or upon abutting residential properties.

All exterior lighting, except security lighting, must be turned off between 11 p.m. and 6 a.m. unless located on the site of a commercial or industrial use which is open for business during that period.

Wiring to light poles and standards must be underground.

5.6.2.B Buffering of Adjacent Uses

The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical equipment, service and storage areas.

Buffering must be designed to provide a year-round visual screen in order to minimize adverse impacts. It may consist of fencing, evergreens, berms, rocks, boulders, mounds or a combination thereof.

- 1) A development must provide sufficient buffering when topographical or other barriers do not provide reasonable screening and where there is a need to:

- a) shield neighboring properties from any adverse external effect of the development, or
- b) shield the development for the negative impacts of adjacent uses.

The width of the buffer may vary depending on the treatment of the area. Within densely built-up areas, a buffer with dense plantings, fencing or changes in grade must be as little as five (5) feet in width. A buffer with moderate levels of planting should be ten (10) feet to fifteen (15) feet in width. In suburban and rural settings, the width of the vegetated buffer should be increased to a minimum of twenty-five (25) feet. Areas adjacent to service, loading or storage areas should be screened by dense planting, berms, fencing or a combination thereof with a width of a minimum of five (5) feet.

5.6.2.C Noise

Findings and Purpose

It is recognized that people have a right to and should be ensured an environment free from excessive noise that may jeopardize their health, safety, welfare or degrade the quality of life. This section is enacted to protect, preserve and promote the health, safety, welfare and quality of life through the reduction, control and prevention of excessive noise.

1) Definitions

The following definitions shall apply in the interpretation and enforcement of this section:

AMBIENT NOISE LEVEL – The encompassing noise level associated with a given environment, being a composite of sounds from many distant, individually indistinguishable sources, excluding the alleged offensive noise and excluding noise from isolated identifiable vehicles in the location and approximate time at which a comparison with the alleged offensive noise is to be made.

CODE ENFORCEMENT OFFICER – A municipal employee trained in the use of sound-level meters.

CONSTRUCTION – Any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition for or of public or private rights-of-way, structures, utilities or similar property.

CONSTRUCTION EQUIPMENT – Any equipment or device operated by fuel or electric power used in construction or demolition work.

DAYTIME HOURS – The hours between 7:00 AM and 10:00 PM Monday through Saturday and the hours of 9:00 AM through 10:00 PM on Sundays.

dB(a) – The abbreviation designating both the unit measure sound level, the decibel and the mode of measurement that uses the A-weighting of a sound-level meter.

DECIBEL (dB) – The practical unit of measurement for sound-pressure level. The number of decibels of a measured sound is equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (twenty [20] micropascals); abbreviated dB.

DEMOLITION – Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

DOMESTIC POWER EQUIPMENT – Includes, but is not limited to, power saws, drills, grinders, lawn and garden tools and other domestic power equipment intended for use in residential areas by a homeowner.

EMERGENCY – Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

EMERGENCY VEHICLE – Any motor vehicle authorized by the Town to have sound warning devices, such as sirens and bells, which can lawfully be used when responding to an emergency.

EMERGENCY WORK – Work made necessary to restore property to a safe condition following an emergency or work required to protect persons or property from exposure to imminent danger.

LOUD AND UNREASONABLE NOISE – Any sound, the intensity of which exceeds the standards set forth in Section 5.6.2.(3).a

MOTOR VEHICLE – Any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger automobiles, trucks, truck trailers, semi-trailers, campers, go-carts, snowmobiles, amphibious craft on land, dune buggies or racing vehicles, but not including motorcycles, trail bikes or minibikes.

MUFFLER – A device for abating sounds such as escaping gases of an internal combustion engine.

NIGHTTIME HOURS – The hours between 10:00 PM and 7:00 AM Sunday evening through Saturday morning, except that “night” shall mean the hours between 10:00 PM Saturday and 9:00 AM Sunday.

NOISE LEVEL – The sound-pressure level as measured with a sound-level meter using the A-weighting network. The level so read is designated db(A) or dB(A).

PERSON – Any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency or political or administrative subdivision of the state or other legal entity of any kind.

PREMISES – Any building, structure, land or portion thereof, including any appurtenances and shall include yards, lots, courts, inner yards and real properties without buildings or improvements, owned or controlled by a person. The emitter’s premises include contiguous publicly dedicated streets and highway rights-of-way, all road rights-of-way and water rights-of-way.

PROPERTY LINE – That real or imaginary line along the ground surface and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person and separates real property from the public right-of-way. In situations involving multiple buildings on the same lot or multiple occupancies within the same building, the lot line shall be deemed to be the exterior wall (including floors and ceilings).

RECREATION VEHICLE – Any internal-combustion engine powered vehicle which is being used for recreational purposes.

RESIDENTIAL ZONE – All zoning districts that allow residential uses.

SOUND LEVEL – The sound-pressure level measured in decibels with a sound-level meter set for A-weighting; sound level is expressed in dB(A).

SOUND-LEVEL METER – An instrument for the measurement of sound levels conforming to ANSI Type I or II Standards.

SOUND-PRESSURE LEVEL – The level of a sound measured in dB units with a sound-level meter which has a uniform response over the band of frequencies measured.

2) **Noise Levels**

It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his/her premises in excess of the noise levels established in this section.

- a) **Noise level standards** – Sound from any source controlled by this section shall not exceed the following limits at the property line of the receiving property:

Sound-Pressure Level Limits

[dB(A)]

<u>District</u>	<u>Day</u>	<u>Night</u>
Commercial	60	50
Residential	55	45

- 1) Where the emitting and receiving premises are in different zones, the limits governing the stricter zone shall apply to any regulated noise entering that zone.
 - 2) The levels specified may be exceeded by 10 dB(A) for a single period, no longer than fifteen (15) minutes, in any one day.
- b) **Exclusions** – These levels shall not apply to noise emitted by or related to:
- 1) Natural phenomena;
 - 2) Any bell or chime from any building, clock, school or church;
 - 3) Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm systems used in an emergency situation, provided, however, that burglar alarms not terminating within thirty (30) minutes after being activated shall be unlawful;
 - 4) Warning devices required by OSHA or other state or federal safety regulations;

- c) **Exemptions** – The following shall be exempt from these regulations, subject to special conditions as spelled out:
- 1) Noise from domestic power equipment, such as, but not limited to, power saws, sanders, grinders, lawn and garden tools or similar devices, operated during daytime hours;
 - 2) The noises of safety signals, warning devices, emergency pressure-relief valves, any other emergency activity and aircraft;
 - 3) Timber harvesting (falling trees and removing logs from the woods);
 - 4) Noise generated by construction or demolition equipment which is operated during daytime hours, provided that the operation of construction equipment during nighttime hours shall not exceed the maximum noise levels as specified in paragraph a) above. Emergency construction or repair work by public utilities shall also be exempt;
 - 5) Noise created by refuse and solid waste collection, provided that the activity is conducted during daytime hours;
 - 6) Noise created by recreational activities which are permitted by law and for which a license or permit has been granted by the Town, including, but not limited to, parades, sporting events, concerts and fireworks displays;
 - 7) Noise created by blasting other than that conducted in connection with construction activities shall be exempted provided that the blasting is conducted between 8:00 AM and 5:00 PM local time, at specified hours previously announced to the local public or provided that a permit for such blasting has been obtained from the Code Enforcement Officer.
 - 8) Existing industrial noise sources which are in operation at the time of enactment of this section shall be permitted a permanent 10 dB(A) noise level allowance otherwise required herein.
 - 9) Noise created by any agricultural use either by motorized or animal.

d) **Prohibited Noise Activities**

The following activities are specifically prohibited:

- 1) Motor vehicle noise:
 - a) No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with the original muffler or equivalent replacement in good working order and in constant operation.
 - b) No sound-amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in Section 5.6.2.(3).a.
 - c) All moving motor vehicles operated within the Town shall be subject to the noise standards below, given in dB(A) and measured at a distance of fifty (50) feet from the path of the vehicle:
 - 1) Trucks with gross vehicle weight of ten thousand (10,000) pounds:
 - i) Speed limit 35 miles per hour or less: 86 dB(A);
 - ii) Speed limit over 35 miles per hour: 90-dB(A).
- 2) Any motorcycle, trail bike or minibike:
 - i) Speed limit 35 miles per hour or less: 82 dB(A);
 - ii) Speed limit over 35 miles per hour: 86 dB(A);
 - iii) Other rights-of-way and trails: 84 dB(A).
- 3) Other motor vehicles:
 - i) Speed limit 35 miles per hour or less: 76 dB(A);
 - ii) Speed limit over 35 miles per hour: 82 dB(A);
 - iii) Other rights-of-way and trails: 80 dB(A).
- 4) Sound level in dB(A) at fifteen (15) feet from the edge of the lane of vehicle travel. Any motor vehicle or motorcycle with a gross vehicle weight less than ten thousand (10,000): 80 dB(A).

5) Truck idling.

No person shall operate an engine or any standing motor vehicle with a weight in excess of ten thousand (10,000) pounds manufacturer's gross vehicle weight for a period in excess of ten (10) minutes within any eight (8) hour period during nighttime hours, when such vehicle is parked on residential premises or on a Town road next to a residential premises.

e) **Noise Level Measurement Procedures**

For the purpose of determining noise levels as set forth in this chapter, the following guidelines shall be applicable:

- 1) All personnel conducting sound measurement shall be trained in the current techniques and principals of sound measuring equipment and instrumentation.
- 2) Instruments used to determine sound-level measurements shall conform to the sound-level meters as defined by this section. Specifically, they shall be ANSI Type 1 or Type II meters.
- 3) The general steps listed below shall be followed when preparing to take sound-level measurements:
 - i) The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed;
 - ii) The sound-level meter shall be calibrated before and after each set of measurements. (The meter and calibrator itself shall be recalibrated at least once every year.);
 - iii) When measurements are taken out of doors, a wind screen shall be placed over the microphone of the sound-level meter as per the manufacturer's instructions. No sound-level measurements shall be taken at wind speeds greater than twelve (12) miles per hour;

- iv) The sound-level meter shall be placed as specified by the manufacturer's instructions and at least four (4) feet above the ground. It shall be placed so as not to be interfered with by individuals conducting the measurements.
- v) Where possible, measurements shall be taken at a point that is located about one (1) foot beyond the boundary of the emitter's premises within the receptor's premises. The emitter's premises include his/her individual unit of land or group of contiguous parcels under the same ownership as indicated by public land records.

f) **Inspections/Interference with Authorized Personnel**

- 1) For the purpose of determining compliance with the provisions of this section, the Code Enforcement Officer is authorized to make inspections of all noise sources, to take measurements and make tests whenever necessary to determine the quantity and character of the noise.
- 2) No person shall hinder, obstruct, delay, resist, prevent in any way or interfere or attempt to interfere with any authorized person while in the performance of his/her duties under this section.

g) **Manner of Enforcement**

- 1) The Code Enforcement Officer is directed to enforce the provisions of this section.
- 2) No person shall interfere with, oppose or resist any authorized person charged with the enforcement of this section while such person is engaged in the performance of his duty.
- 3) Violations of this section shall be prosecuted in the same manner as other misdemeanor violations, provided, however, that in the event of an initial violation of the provisions of this section, a written notice shall be given the alleged violator which specifies the time by which the condition shall be corrected or an application for a variance shall be received by the Code Enforcement Officer. No complaint or further action shall be taken in the event the

cause of the violation has been removed or the condition abated or fully corrected within the time period specified in the written notice.

- 4) In the event the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required herein shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his last known address or at the place where the violation occurred, in which event the specified time period for abating the violation or applying for a variance shall commence at the date of the day following the mailing of such notice. Subsequent violations of the same offense shall result in the immediate filing of a misdemeanor complaint.

h. Violations and Penalties

Any person in violation of any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not to exceed \$100. Each day such violation continues after the time for correction of the violation has been given in an order shall constitute a continuing violation and the amount of the fine shall be doubled for each day said violation continues, said fine not to exceed \$400 per day.

5.6.2.C Storage of Materials

Exposed non-residential storage areas, exposed machinery and areas used for the storage or collection of discarded automobiles, automobile parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.

All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or public street, it must be screened by fencing or landscaping.

Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.

5.6.2.D Landscaping

Landscaping must be provided as part of a site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development and protect abutting properties.

Landscaping may include plant materials such as trees, shrubs, groundcovers, perennials and annuals and other materials such as rocks, water, sculpture, art, walls, fences, paving materials and street furniture.

5.6.2.E Building Placement

The site design should avoid creating a building surrounded by a parking lot. In urban, built-up areas and in villages, buildings should be placed close to the street in conformance with existing adjacent setbacks. Parking should be to the side or preferably in the back.

In rural uncongested areas, buildings should be set well back from the road so as to conform with the rural character of the area. If the parking is in front, a generous landscaped buffer between road and parking lot is to be provided. Unused areas should be kept natural as field, forest, wetland, etc..

Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks. Tree planting should be used to provide shade and break up the scale of the site. Parking areas should be separated from the building by a minimum of five (5) to ten (10) feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

5.6.2.F Building Illumination

Building facades may be illuminated with soft lighting of low intensity that does not draw inordinate attention to the building. The light source for the building façade illumination must be concealed.

Building entrances may be illuminated using recessed lighting in overhangs and soffits or by use of spotlighting focused on the building entrances with the light source concealed (e.g., in landscaped areas). Direct lighting of limited exterior building areas is permitted when necessary for security purposes.

5.6.2.G Building Entrances

The main entrance to a building should be oriented to the street unless the parking layout or the grouping of the buildings justifies another approach and should be clearly identified as such through building and site design, landscaping and/or signage.

At building entrance areas and drop-off areas, site furnishings such as benches and sitting walls and, if appropriate, bicycle racks shall be encouraged. Additional plantings may be desirable at these points to identify the building entrance and to complement the pedestrian activity at this point.

5.6.2.H Setback and Alignment of Buildings

Where there is a reasonably uniform relationship between the front walls of buildings and the street, new buildings must be placed on a lot in conformance with the established relationship. For buildings on corner lots, the setback relationship of both streets should be maintained. The creation of “empty corners” should be avoided through the placement of the building and other site features.

5.6.2.I Sidewalks

Where an existing or planned public sidewalk is interrupted by a proposed project driveway, the sidewalk material must continue to be maintained across the driveway or the driveway must be painted to distinguish it as a sidewalk. Further, if street trees exist on the adjacent property, street trees must be planted, in a like manner, on the new site. In village situations, a widening of the sidewalk onto private property to encourage window shopping and an improved streetscape should be encouraged. Benches, sculpture, planters and other street furniture should be encouraged.

5.6.2.J Location of Off-Street Parking

In suburban and rural areas, smaller uses that may need public visibility from the street should be sited as close to the street as possible. In this case, no more than one row of parking shall be allowed between the building and the street with the balance of the parking located at the side and/or rear of the building. Larger scale uses and uses which do not require visibility from the road may be located further from the road with a landscaped buffer between the building and the street.

5.6.2.K Landscaped Roadside Buffers

Whenever the area between the street and the front of the building is used for parking or vehicle movement, a vegetated buffer strip must be established along the edge of the road right-of-way. This buffer strip must soften the appearance of the site from the road and must create defined points of access to and egress from the site. The width of the buffer strip must increase with the setback of the building as follows:

<u>Building Setback</u>	<u>Buffer Width</u>
≤50 feet	10 feet
50 to 74 feet	15 feet
75 to 99 feet	20 feet
100 feet or more	25 feet

Where the buffer cannot be achieved, a low wall, fence or hedge may be used to create the buffer.

5.6.2.L Landscaping of Parking Lots

Landscaping around and within parking lots shades hot surfaces and visually “softens” the hard surface look of parking areas. Parking areas must be designed and landscaped to create a pedestrian-friendly environment. A landscaped border must be created around parking lots. Any parking lot containing ten (10) or more parking spaces must include one (1) or more landscaped islands within the interior of the lot. There must be at least one (1) island for every twenty (20) spaces. Landscaping must screen the parking area from adjacent residential uses and from the street.

5.6.2.M Building Orientation

New buildings within a built-up area should be compatible with the neighborhood such that they reflect the overall building bulk, square footage, dimensions, placement of the building on the lot and rhythm of buildings and spaces along the street edge and minimize the visual impact on the neighborhood. The visual impact of a building shall be measured by the relationship to other buildings on the lot, design of the front of the building and the rhythm of buildings and open spaces along the street.

5.6.2.N Building Scale

When large new buildings or structures are proposed in built-up areas where their scale (size) and other features may be significantly different from that which already exists in the immediate neighborhood, care must be taken to design the new building or structure so that it is compatible

with its neighbors. This may include making the building appear small, using traditional materials, styles and/or proportions.

5.6.2.O Design of Drive-Through Facilities

Any use that provides drive-through service must be located and designed to minimize the impact on neighboring properties and traffic circulation. No drive-through facility shall be located in the area of the site adjacent to a residential use or residential zone. Communication systems must not be audible on adjacent properties in residential use. Vehicular access to the drive-through shall be through a separate lane that prevents vehicle queuing normal parking areas. Adequate queuing space must be provided to prevent any vehicles from having to wait on a public street, within the entry from the street or within designated parking areas. The drive-through must not interfere with any sidewalk or bicycle path.

5.6.2.P View Protection

When a proposed development is located within the viewshed of a view, as identified in the comprehensive plan, from a public street or facility, the development must be designed to minimize the encroachment of all buildings, structures, landscaping and other site features on the identified view.

5.6.2.Q Ridgeline Protection

When a proposed development is located on a hillside that is visible from a public street, road, water body or facility, the development must be designed so that buildings, structures and other improvements do not extend above the existing ridgeline or alter the ridge profile significantly when viewed from the public streets, roads, water bodies or facilities. This provision may be waived for communication towers, spotting towers and similar facilities that must be located above the ridgeline for operational reasons.

5.6.2.R Hillside Development

When a proposed development is located on a hillside that is visible from a public street, road, water body or facility, the development must be designed so that it fits harmoniously into the visual environment when viewed by the public from public areas. In predominantly natural environments, site clearing must be minimized and vegetation must be retained or provided to minimize the visual intrusion of the development. In developed environments, the appearance of the new development, when viewed by the public from public areas, must be compatible with the

existing visual character in terms of scale, massing and height to the maximum extent reasonable.

5.6.2.S Shoreland Development

When a proposed development is immediately visible from a great pond, river, or stream the development must be designed so that it fits harmoniously into the visual environment when viewed from the water body. In predominately natural environments, site clearing must be minimized, natural vegetation must be maintained adjacent to the shoreline to soften the appearance of the development and vegetation must be retained or provided to minimize the visual intrusion of the development. In developed shoreland environments, the appearance of the new development when viewed from the water must be compatible with the existing visual character in terms of scale, massing and height to the maximum extent possible. Storage and service areas must be screened or landscaped to minimize their visual impact.

5.6.2.T Odor

All site plans shall demonstrate that the proposed development will not result in undue air pollution and that it will comply with the following standards:

- a. No emission of dust, ash, smoke or other particulate matter or gases and chemicals shall be allowed which can cause damage to human or animal health, safety, vegetation or property by reason of concentration or toxicity which can cause soiling beyond the property boundaries or which fails to meet or cannot meet the standards set by the Maine Department of Environmental Protection Agency.
- b. No person, wherever located, shall cause or allow the emission of odorous air contaminants from any source such as to result in detectable odors at the lot line of the source which are measured in excess of the following limits:
 - 1) For the purposes of this regulation, two odor measurements shall be made within a period of one (1) hour, these measurements being separated by at least fifteen (15) minutes.
 - 2) An odor or odors beyond a lot line constitutes a nuisance if it unreasonably interferes with the enjoyment of life or use of property. Based on the following nuisance levels, the Code Enforcement Officer shall exclude or restrict uses that

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produce or emit an odor beyond a lot line that is above a Level 2.

ODOR LEVELS	
Level 1	An odor that would ordinarily not be noticed by the average person, but could be detected by the experienced inspector or hypersensitive individual.
Level 2	An odor, so weak, that the average person might detect it if attention was called to it, but would not otherwise attract attention.
Level 3	An odor of moderate intensity that would be readily detected and would be regarded with disfavor.
Level 4	An odor that would force itself upon the attention of the average person and that would make the air very unpleasant.
Level 5	An odor of such intensity that the air would be absolutely unfit to breathe.