

SUMMARY EXPLANATION

Article 1 - General
Article 2 - Establishment of Districts
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Article 5 - Performance Standards
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ARTICLE 1

Article 1 deals with standard legal provisions which cover such day to day matters as: the purpose of the Ordinance, basic requirements of the Ordinance, procedures dealing with non-conforming uses, and the date the Ordinance takes effect.

ARTICLE 2

This Article states the name of each District being adopted in the Town and refers to a Zoning Map which shows the location of the Districts.

ARTICLE 3

This Article defines certain terms or words used in the Ordinance. The purpose of defining these words or terms is to avoid misunderstanding.

ARTICLE 4

This Article contains the three Land Use Districts:

1. Resource Protection District
2. Shoreland Zone District
3. Little Ossipee River District
4. General Purpose District

1. **Resource Protection District** - This District is specifically designed to protect fragile or ecologically important areas such as swamps, bogs or wetlands.

Permitted Uses: All open space use.

Uses Permitted By Review: Agriculture, timber harvesting and accessory structures.

Prohibited Uses: All residential, commercial, or industrial uses.

2. **Shoreland Zone District** - This District is designed for the use of the municipality to protect its undeveloped or relatively undeveloped shoreline areas from development which would adversely effect water quality.

Permitted Uses: Open space uses, agricultural and timber harvesting.

Uses Permitted By Review: Campgrounds, residences, commercial uses such as marinas, and boatyards, and public buildings or utilities.

Prohibited Uses: All other commercial and industrial facilities, schools, cemeteries and waste disposal facilities other than sewage treatment facilities.

3. **Little Ossipee River District** - This District is similar to the Shoreland District except that it has been modified to meet the criteria of the Saco River Corridor Commission.
4. **General Purpose District** - This District is designed so that it applies to all remaining portions of the town.

Permitted Uses: Open space uses, agriculture, recreation facilities, residential uses, small commercial and industrial facilities, public buildings and schools.

Uses Permitted By Review: Campgrounds, multi-family homes, mobile home parks, large commercial and industrial facilities and waste disposal facilities.

Prohibited Uses: Uses which would create a public nuisance or health hazard, or which would be prohibited by State Law.

ARTICLE 5

Article 5 establishes minimum performance standards for a variety of different types of land use. Any or all of the standards may be incorporated into the local Zoning Ordinance. The most important standards are those dealing with sanitary provisions, filling, grading or lagooning; signs and billboards; multi-family dwellings; mobile home parks; cluster development; and campgrounds. Others may be included as necessary.

ARTICLE 6

This Article establishes the procedures for administering and enforcing the Ordinance. It authorizes a local Code Enforcement Officer to administer and enforce the Ordinance, describes in detail the procedures an applicant must follow, authorizes the Planning Board to review special exception uses and establishes a Board of Appeals to hear and decide on appeals. This section also sets up fees for a building permit and sets fines for violators.

TOWN OF ACTON, MAINE ZONING ORDINANCE

Consisting of the following Districts:

1. **Resource Protection District:**
This District is specifically designed to protect fragile or ecologically important areas such as swamps, bogs or wetlands.
2. **Shoreland District:**
This District is designed for the use of Municipality to protect its undeveloped or relatively undeveloped shoreline areas from development which would adversely effect water quality.
3. **Little Ossipee River District:**
This District is similar to the Shoreland District except that it has been modified to meet the requirements of the Saco River Corridor Commission.
4. **General Purpose District:**
This District is designed so that it will apply to all remaining portions of the Town. General in nature it nevertheless provides adequate standards for most uses which might be encountered.

ARTICLE 1 - GENERAL

1.1 Short Title

This Ordinance shall be known and cited as the "Zoning Ordinance of the Town of Acton, Maine," and will be referred to herein as this "Ordinance."

1.2 Purpose

To further the maintenance of safe and healthful conditions and the general welfare, prevent and control water pollution, protect spawning grounds, fish, aquatic life, bird and other wildlife habitat, control building sites, placement of structures and land uses to protect buildings and lands from flooding and accelerated erosion, conserve shore cover, and visual as well as actual points of access to waters, to conserve natural beauty and open space, protect archeological and historic resources, to protect wetlands, and to anticipate and respond to the impacts of development in shoreland areas.

This Ordinance does not grant any property rights; it does not authorize any person to trespass, infringe upon or injure the property of another; it does not excuse any person of the necessity of complying with other applicable laws and regulations.

1.3 Basic Requirements

All buildings or structures hereinafter erected, reconstructed, altered, enlarged or moved, and uses of premises in the Town of Acton shall be in conformity with the provisions of this Ordinance. No building, structure, land or water area shall be used for any purpose or in any manner except as permitted within the district in which such **building, structure, land, or water** area is located. No lot shall be created which is not in conformance with this Ordinance. Permitted and conditional uses shall conform to all dimensional requirements and other applicable requirements of this Ordinance. A plumbing permit and building permit (in that order) shall be required for all buildings, uses and sanitary facilities, according to the provisions of Article 6 of this Ordinance.

1.4 Non-Conforming Uses

1.4.1 Continuance of Non-Conforming Uses

1.4.1.1 The use of land, building or structure, lawful at the time of adoption or subsequent amendment of this Ordinance, may continue although such use does not conform to the provisions of this Ordinance.

1.4.1.2 A non-conforming building or structure may be repaired, maintained or improved, but the area in non-conforming use may not be extended or expanded except in conformity with the provisions of this Ordinance.

1.4.1.3 Non-conforming use may not be expanded.

1.4.2 Discontinuance of Non-Conforming Use

A non-conforming use which is discontinued for a period of two years may not be resumed. The uses of the land, building or structure shall thereafter conform to the provisions of this Ordinance.

1.4.3 Rule of Precedence

Whenever a non-conforming use is superseded by a permitted use of a structure, or structure and land in combination, such structure or combination of land and structure shall thereafter conform to the provisions of this Ordinance and the non-conforming use

may not thereafter be resumed.

1.4.4 Transfer or Ownership

Ownership of land and structures which remain lawful but become non-conforming by the adoption or amendment of this Ordinance may be transferred and the new owner may continue the non-conforming uses subject to the provisions of this Ordinance.

1.4.5 Non-Conforming Lots of Record

A non-conforming lot of record as of the effective date of this Ordinance may be built upon provided that such lot shall be in separate ownership and not contiguous with any other lot in the same ownership and can meet all provisions of this Ordinance except lot size and road and shore frontage.

In case of absence of road frontage, a driveway, which is a deeded right of way at least 30 ft. wide, shall lead to the proposed buildings and the building lot shall have at least one lot line of 250 ft. Variances relating to setback or other requirements of this Ordinance shall be taken to the Acton Board of Appeals.

1.4.5.1 If two or more contiguous lots or parcels are in the same 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 and Subsurface Wastewater Disposal Rules are complied with.

1.4.5.2 If two or more contiguous lots or parcels are in the same 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.

1.4.6 Restoration of Unsafe Property

Nothing in this Ordinance shall prevent the strengthening or restoring to safe condition any part of any building or structure declared unsafe by the Code Enforcement Officer.

1.4.7 Pending Application for Building Permits

Nothing in this Ordinance shall require any change in the plans, construction, size, or designated use for any building, structure, or part thereof for which application for building permit has been made or a building permit has been issued or upon which construction shall start within 60 days after issuance of such permit.

1.4.8 Non-Conforming Structures

1.4.8.1 EXPANSIONS:

A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, providing such addition or expansion does not increase the non-conformity of the structure by encroaching any further on any of the setbacks.

FURTHER LIMITATIONS:

- a. After January 1, 1989, if any portion of a dwelling is less than the required setback from the normal high water line of a water body or upland edge of a wetland, that portion of the dwelling shall not be expanded more than 30% by volume and nor more than 30% by square footage during the lifetime of the structure.
- b. Construction or enlargement of a foundation beneath the existing dwelling shall not be considered an expansion of the structure provided: that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in subsection 1.4.8.2 below; that the completed foundation does not extend beyond the exterior dimensions of the structure and that the foundation does not cause the structure to be elevated by more than three (3) additional feet.
- 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.

1.4.8.2 Relocation

A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, 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 compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

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

1.4.8.3 Reconstruction or Replacement

Any non-conforming structure, which does not meet one or more of the required setbacks, and which is removed, or damaged or destroyed by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced

provided that a permit is obtained within one year of the date of said damage, destruction or removal, and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board 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.

Any non-conforming structure which is damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit from the Code Enforcement Officer.

In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent the Planning Board shall consider in addition to the criteria in Section 1.4.8.2 above, the physical condition and type of foundation present, if any.

1.4.8.4 Change of Use of a Non-Conforming Structure

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

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

1.5 Validity and Severability

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

1.6 Conflict with Other Ordinances

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

1.7 Amendment

This Ordinance may be amended as follows:

- a. By a majority vote of the governing body if the proposed amendment is recommended by the Planning Board.
- b. By 2/3 majority vote of the governing body if the proposed amendment is not recommended by the Planning Board.

In either case, the Planning Board shall hold a public hearing at least 30 days prior to the meeting of the governing body. Notice of the hearing shall be posted in the town office at least 14 days before the hearing and at least 10 days in advance in a newspaper of general circulation in the area. If the amendment prohibits commercial or industrial uses where previously prohibited, notice of the hearing shall be mailed at least 14 days before the hearing to all owners of property in and abutting the area to be rezoned. The notice shall contain a map indicating the property to be rezoned.

1.8 Repetitive Petitions

No proposed change in this Ordinance which has been unfavorably acted upon by the governing body shall be considered on its merits by the governing body within two (2) years after the date of such unfavorable action unless adoption of the proposed change is recommended by unanimous vote of the Planning Board, or requested by a petition signed by a number of required voters in the town at least 10% the number of votes cast in the last gubernatorial election.

1.9 Effective Date

This Ordinance, was originally adopted by the municipal legislative body on March 9, 1974 and amended most recently on June 5, 2004. Except as provided, amendments shall take effect upon adoption by the Town Meeting.

Amendments to any provision effecting the Shoreland District shall not be effective unless approved by the Department of Environmental Protection. A certified copy of the Ordinance, attested and signed by the Municipal Clerk, shall be forwarded to the Department of Environmental Protection for approval. If the Department of Environmental Protection fails to act on the amendment within forty-five (45) days of its receipt of the amendment, it shall be deemed approved.

Notwithstanding the provision of Section 1.4.7, any application for a permit within the Shoreland District submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if the amendment is approved by the Department of Environmental Protection.

ARTICLE 2 - ESTABLISHMENT OF DISTRICTS

2.1 Zoning Districts

To implement the provisions of this Ordinance, the Town of Acton is hereby divided into the following Districts:

2.1.1 Resource Protection District

2.1.2 Shoreland District - those portions of the shoreland area not included in the Resource Protection District or Little Ossipee River District

2.1.3 Little Ossipee District

2.1.4 General Purpose District

2.2 Location of Districts

Said Districts are located and bounded as shown on the Official Zoning Map consisting of two pages, entitled "Zoning Map of Acton, Maine," dated _____ and on file in the office of the Municipal Clerk. The Official Map shall be signed by the Municipal Clerk and Chairman of the Planning Board at the time of adoption or amendment of this Ordinance certifying the date of such adoption or amendment. Additional copies of this Map may be seen in the Office of the Selectmen, or Code Enforcement Office.

2.3 Uncertainty of Boundary Location

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:

- 2.3.1 Boundaries indicated as approximately following the center lines of street, highways, or alleys shall be construed to follow such center lines.
- 2.3.2 Boundaries indicated as approximately following well-established lot lines shall be construed as following such lot lines.
- 2.3.3 Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits.
- 2.3.4 Boundaries indicated as following shorelines shall be construed to follow such shorelines; and in the event of natural change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center line.
- 2.3.5 Boundaries indicated as being parallel to or extensions of features indicated in subsections (1) through (4) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the Map.
- 2.3.6 Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (1) through (5) above, the Board of Appeals shall interpret the district boundaries.

2.4 Division of Lots by District Boundaries

- 2.4.1 Where a zoning district boundary line, other than a boundary line of the Resource Protection Districts, Little Ossipee River District, or Shoreland District, divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulations applicable to the less restricted portion of the lot may be extended not more than fifty (50) feet into the more restricted portion of the lot, subject to the provisions of Section 2.4.2 below.
- 2.4.2 Extension of use shall be considered a conditional use, subject to approval of the Planning Board and in accordance with the criteria set forth in Paragraph 6.7.3.7.

ARTICLE 3 - CONSTRUCTION OF LANGUAGE AND DEFINITIONS

3.1 Construction of Language

In this Ordinance, certain terms or words shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust,

company or corporation as well as any individual; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the words "used" or "occupied" include the words "intended," "designed," or "arranged to be used or occupied;" the word "building" includes the word "structure," and the word "dwelling" includes the word "residence;" the word "lot" includes the words "plot" or "parcel." In case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

Terms not defined shall have the customary dictionary meaning.

3.2 Definitions

In this Ordinance the following terms shall have the following meanings unless a contrary meaning is required by the content or is specifically prescribed.

Accessory Use or Structure: a use or structure of a nature customarily incidental and subordinate to those of 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.

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: any change, addition, or modification in construction, or any change in the structural members of a building, such as bearing walls, columns, beams, or girders.

Aquifer: a water bearing geologic formation capable of yielding a usable amount of groundwater to a well.

Auto Service Station: a place where gasoline, or any other automobile engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease (for operation of motor vehicles) are retailed directly to the public on the premises; including the sale of minor accessories and the servicing and minor repair of automobiles, not including storage of unlicensed vehicles and not including body, frame, or fender straightening and repair.

Auto Repair Garage: a place 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; overall painting and undercoating of automobiles.

Automobile Graveyard: a yard, field or other area used as a place of storage for three (3) or more unserviceable, discarded, worn out or junked motor vehicles.

Basement: a portion of the building partly underground but having less than half its clear height below the average grade of the adjoining ground.

Billboard: a sign, structure or surface larger than six (6) square feet which is available for advertising purposes for goods or services rendered off the premises, excluding directional signs.

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

Boathouse: a non-residential structure designed for the purpose of storing boats for non-commercial purposes.

Building: a structure built for the support, shelter or enclosure of persons, animals, goods or property of any kind.

Building Height: the vertical distance between the highest point of the roof and the average grade of the ground adjoining the building.

Campground: any premises established for overnight use for the purpose of temporary camping, and for which a fee is charged.

Cellar: a portion of the building partly underground, but having half or more of its clear height below the average grade of the adjoining ground.

Channel: a natural or artificial watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow is water flowing within the limits of the defined channel.

Code Enforcement Officer: a person appointed by the Municipal Officers to administer and enforce this Ordinance. Reference to the code Enforcement Officer shall be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like where applicable.

Commercial or Industrial Groundwater Extraction: removal of groundwater from the subsurface by pumping or other means for commercial or industrial use.

Conforming Use: a use of buildings, structures or land which complies with all applicable provisions of this Ordinance.

Constructed: includes built, erected, reconstructed, moved 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.

Convey: to sell, lease, rent, give, or allow occupance of a dwelling unit.

Dimensional Requirements: numerical standards relating to spatial relationships including, but not limited to, set back, lot area, shore frontage and height.

District: a specified portion of the municipality, delineated on the Official Zoning Map within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

Driveway: a vehicular access-way serving two dwelling units or less.

Dwelling: a fixed structure, containing one or more dwelling units.

Dwelling Unit: a room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking, and eating. The term shall

include manufactured homes but shall not include recreational vehicles.

Earth: topsoil, sand, gravel, clay, peat, rock, or other minerals.

Essential Services: the construction, alteration or maintenance of 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.

Eutrophication: the process of nutrient enrichment of waterbodies.

Excavation: any removal of earth or earth material from its original position.

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

Expansion of Use: the addition of weeks or months to a uses' operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

Family: one or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, related by blood or marriage.

Filling: depositing or dumping any matter on or into the ground or water.

Flood: a temporary rise in stream flow or tidal surge that results in water overtopping its banks and inundating adjacent areas.

Flood Plain: Special Flood Hazard Area as designated on the Flood Insurance Rate Map for Acton, Maine, prepared by the Federal Emergency Management Agency, dated December 5, 1984.

Floodway: the channel of a stream and those portions of the flood plain adjoining the channel that are required to carry and discharge the flood water or flood flows of any river or stream.

Flood Proofing: a combination of structural provisions, changes, or adjustments to properties subject to flooding, primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures, and contents of buildings.

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

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

Forested Wetlands: A freshwater wetland dominated by woody vegetation that is 20 feet tall or taller.

Foundation: the supporting substructure of a building or other structure constructed to the adopted Building Code Standards of the Town of Acton.

Freestanding Stairs: an open, low impact stairway used to gain access to the shoreline or a residence, exempt from the road and water setbacks and follow other criteria set forth in Section 5.1.2 of this ordinance.

Frontage, Shore: the horizontal distance, measured in a straight line, between the intersections of the lot lines with the shoreline at normal high water line.

Frontage, Road or Street: the horizontal distance between the intersections of the side lot lines with the front lot line along the road or street.

Functionally Water-Dependent Uses: those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, waters and which cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational boating facilities, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to waters.

Generator: any person whose act or process produces a solid waste or whose act first causes a solid waste to be subject to regulation.

Grade, in Relation to Buildings: the average of the finished ground level at the center of all walls of a building.

Great Pond: any body of water which in a natural state has a surface area in excess of ten (10) acres, and any 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 body of water is completely surrounded by land held by a single owner. The great ponds of Acton are: Balch Pond, Great East Lake, Hansen Pond, Horn Pond, Loon Pond, Moose Pond, Mousam Lake, Square Pond, Swan Pond, and Wilson Lake.

Groundwater: the subsurface water that occurs beneath the water table in soils and geologic formations that are fully saturated.

Growth Permit Application: an application designed to collect information about proposed residences, to be used as a basis for rating them for approval.

High Waterline, Normal: around great ponds and wetlands, the elevation where vegetation changes from predominantly aquatic to predominantly terrestrial; and along rivers and streams, the highest elevation on the bank of a channel at which the water has left a definite mark. In the case of wetlands adjacent to rivers and great ponds the normal high water line is the upland edge of the wetland, and not the edge of the open water.

Home Occupation: an occupation or profession which is: customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes.

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 are not limited to, gravel pads, parking areas, fire places, or tent platforms.

Junkyard: a yard, field, or other area used as a place of storage for:

1. Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;
2. Discarded, scrap and junked lumber;
3. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or non-ferrous materials; and
4. Garbage dumps, waste dumps and sanitary fills.
5. Tires, disassembled cars, and manufactured housing which is not weathertight or cannot be made secure against entry.

Lagoon: an artificial enlargement of a waterbody, primarily by means of dredging and excavation.

Lot: a parcel of land described on a deed, plot, or similar legal document.

Lot Area: the total horizontal area within the lot lines, minus land below the normal high water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Lot, Corner: a lot with at least two contiguous sides, each abutting upon a street. All corner structures must meet all road and street setbacks.

Lot, Coverage: the percentage of the plot or lot covered by all structures, parking lots and other non-vegetated surfaces.

Lot, Interior: any lot other than a corner lot.

Lot, Lines: the lines bounding a lot as defined below.

Front Lot Line: on an interior lot, the line separating the lot from the road or street. On a corner or through lot, the lines separating the lot from both road or streets.

Rear Lot Line: the lot line opposite the front lot line. On a lot point at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot lines, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.

Side Lot Line: any lot line other than the front lot line or rear lot line.

Lot Width: the horizontal distance between the side lot lines, measured at the setback line.

Lot of Record: a parcel of land, the dimensions of which are shown on a document or map on file with the County Registrar of Deeds or in common use by City or County Officials.

Lot, Shorefront: any lot abutting a waterbody or wetland.

Lot, Through: any interior lot having frontages on two more or less parallel streets, or between

a street and a waterbody, or between two waterbodies, as distinguished from a corner lot. All sides of through lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.

Manufactured Housing Unit: a structure, transportable in one or two sections which was constructed in a manufacturing facility and was transported to a building site and designed to be used as a dwelling.

Manufactured Home Park: a parcel of land under unified ownership designed and/or used to accommodate three or more manufactured housing units.

Marina: a shorefront commercial facility with provisions for one or more of the following: boat storage, boat launching, or the sale of supplies and services for watercraft and their equipment and accessories.

Mineral Extraction: any operation 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.

Net Residential Acreage: the gross acreage available for development, excluding the area for streets or access and the areas which are unsuitable for development.

Net Residential Density: the number of dwelling units per net residential acre.

Non-Conforming Lot: a lot of record which, after the effective date of adoption or amendment of this Ordinance, does not meet one or more of the dimensional requirements.

Non-Conforming Structure: a structure which does not meet any one or more of the following dimensional requirements: setback, height, or lot coverage.

Non-Conforming Use: the use of buildings, structure, premises, land or parts thereof which is not permitted in the district in which it is situated.

Open Space Use: a use not involving a structure; earth-moving activity; or the removal or destruction of vegetative cover, spawning grounds, or fish, aquatic life, bird and other wildlife habitat.

Parking Space: a minimum area of two hundred (200) square feet, exclusive of drives, aisles or entrances, fully accessible for the storage or parking of vehicles.

Planned Unit Development: land under unified management, planned and developed as a whole according to comprehensive and detailed plans, including street, utilities, lots or building sites, site plans and design principles for all buildings intended to be located, constructed, used and related to each other, and for other uses and improvements on the land. Development may be a single operation or a programmed series of operations including all lands and buildings, with provision for operation and maintenance of such areas and improvements and facilities necessary for common use by the occupants of the development.

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

Principal Building: the building in which the primary use of the lot is conducted.

Principal Use: the primary use to which the premises are devoted, and the main purpose for which the premises exist.

Private Right-of-Way: an area over which a legal right of passage exists for one or more individuals.

Public Utility: any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public.

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

Resource Protection District: the land areas meeting the definition of Resource Protection District set forth in Section 4.1 of this Ordinance.

Residual: solid wastes generated from municipal, commercial or industrial facilities that may be suitable for agronomic utilization. These materials may include: food, fiber, vegetable and fish processing wastes; dredge materials, sludges; dewatered septage; and ash from wood or sludge fired boilers.

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) vertical or less.

River: the Salmon Falls River.

Road: a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

Seasonal Use: the occupancy, habitation, or use of a structure for less than seven months in a calendar year.

Setback: the minimum horizontal distance from a lot line, waterbody, or wetland to the nearest part of a structure.

Setback from Water: the minimum horizontal distance from the normal high water line to the nearest part of a structure, road, parking space or other regulated object or area.

Shoreland District: 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 (250) feet of the upland edge of a wetland; or within seventy-five (75) feet of the normal high water line of a stream.

Sign: a name, identification, description, display or illustration which is affixed to, painted or represented, directly or indirectly upon a building, structure, parcel or lot and which relates to an object, product, place, activity, person, institution, organization or business on the premises.

Sludge: non-hazardous solid, semi-solid or liquid residual generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or wet process air pollution control facility or any other such waste having similar characteristics and effect. The term does not include industrial discharges that are point sources subject to permits under Section 402 of the Federal Water

Pollution Control Act as amended.

Spring Water Extraction: removal for commercial use of ground water that comes to the surface under natural hydraulic pressures for at least six months of the year.

Stream: a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted by a blue line on the most recent edition of a United States Geological Survey 7.5 minutes series topographic map to the point where the body of water becomes a river.

Street: a public or private way which affords access to abutting lots and has been recorded as such.

Structure: anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground.

Subdivision: the division of a tract or parcel of land into three (3) or more lots, in a five (5) year period, for the purpose, immediate or future, of lease, sale, development or building, whether this division is accomplished by platting of the land or by sale of the land by metes and bounds. The term subdivision shall include the subdivision of land for non-residential purposes, mobile home parks and the re-subdivision of land.

Subdivision, Minor: any subdivision containing 3 divisions or fewer, and in which no street is proposed.

Subdivision, Major: any subdivision containing 4 or more divisions, or any subdivision containing a proposed street.

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

Timber Harvesting, Commercial: all timber harvesting activity that does not meet the definition of Timber Harvesting for personal use.

Timber Harvesting for Personal Use: the harvesting of ten cords or less per year, or up to ten thousand (10,000) board feet of lumber per year.

Trailer, Utility: a vehicle without motive power, designed to be towed by a motor vehicle but not designed for human occupancy and which may include a utility trailer, boat trailer, horse trailer, or snowmobile trailer.

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

Unserviceable Motor Vehicle: an automobile which is not registered, insured, and inspected for legal use on public streets.

Upland Edge: the boundary between upland and wetland.

Use: the purpose for which land or a structure is arranged, designed or intended, or for which land or a structure is or may be occupied.

Conditional Use: a use permitted only after review and approval by the Planning Board. A conditional use is a use that would not be appropriate without restriction but which, if controlled under the provisions of this Ordinance, would promote the purposes of this Ordinance. Such uses may be permitted if specific provision for such conditional uses is made in this Ordinance.

Conditional Use Permit: a permit issued by the Planning Board for a use with conditions. A conditional use permit may be issued only after the applicant has followed the procedures of this Ordinance.

Variance: a relaxation of the terms of this Ordinance where such 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. A financial hardship shall not constitute grounds for granting a variance. The crucial points of a variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case. As used in this Ordinance, a variance is authorized only for height, area, and size of structures or size of yards or open spaces. Establishment or expansion otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in adjoining zoning districts.

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

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

Water Body: any great pond, river, or stream.

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

Freshwater Wetlands: Freshwater swamps, marshes, bogs and similar area, other than Forested Wetlands, which are:

(1) Of ten or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of ten acres; and

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

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

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

Yard: the area of land on a lot not occupied by the principal building.

Yard, Front: the area of land between the front lot line and the nearest part of the principal building. Both through and corner lots shall be considered as having two front lot lines and two front yards.

Yard, Rear: the area of land between the rear lot line and the nearest part of the principal building.

Yard, Side: the area of land between the side lot line and the nearest part of the principal building.

Year-Round Use: the occupancy, habitation, or use of a structure for seven months or more in a calendar year.

ARTICLE 4 - LAND USE DISTRICT REQUIREMENTS

4.1 RESOURCE PROTECTION DISTRICT

4.1.1 PURPOSE

To protect the natural resources of the Town most vulnerable to degradation, including floodplains, wetlands, and unusual plants and animals.

4.1.2 DEFINITION

4.1.2.1 All wetlands ten (10) acres or more.

4.1.2.2 Deleted.

4.1.2.3 Deleted.

4.1.2.4 All land areas within two hundred fifty (250) feet, horizontal distance, from the upland edge of freshwater wetlands and wetlands associated with great ponds and rivers, and forested wetlands, which are rated "moderate" or "high" value by the Maine Department of Inland Fisheries and Wildlife.

4.1.2.5 Floodplains within two hundred fifty (250) feet of rivers.

4.1.2.6 Land areas of two or more contiguous undeveloped acres with sustained slopes of 20% or greater within two hundred fifty (250) feet, horizontal distance, of the normal high water line of any great pond, or river.

4.1.2.7 Land areas of two or more contiguous acres within two hundred fifty (250) feet, horizontal distance, of the normal high water line of any great pond or river supporting wetland vegetation and hydric soils, which are not part of a wetland, and which are not surficially connected to a water body during normal spring high water.

4.1.2.8 Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

4.1.3 PERMITTED USES

The following uses are permitted in the Resource Protection District.

4.1.3.1 Rural

Open space use
Forest Management activities
Timber Harvesting for personal use

4.1.3.2 Other

Piers and docks not requiring a Conditional Use Permit
Signs
Individual Private Campsites

4.1.4 CONDITIONAL USES

The following uses may be allowed only upon the granting of a Conditional Use Permit by the Planning Board, in accordance with the provisions of Article 6 of this Ordinance.

4.1.4.1 Rural

Agriculture and gardening
Timber Harvesting for commercial use
Structures accessory to permitted or conditional uses upon a finding of the Planning Board that the proposed structure will involve:

- a. No danger to the public health and safety;
- b. No significant degradation of air and water quality;
- c. No alteration of wetlands;
- d. No significant increase in erosion or sedimentation;
and,
- e. No significant interference with the natural, scenic and historic value of those areas designated by federal, state, or municipal agencies and approved for inclusion within this District.

4.1.4.2 Accessory Uses

Uses which are similar to the above.

4.1.5 PROHIBITED USES

The following uses are prohibited in the Resource Protection District.

4.1.5.1 Residential

Residential structures and uses

4.1.5.2 Commercial and Industrial

Commercial and industrial structures and uses

4.1.5.3 Public, Semi-Public, and Institutional

Public, semi-public, and institutional structures

4.1.5.4 Other

Billboards
All other uses except piers and docks, and signs

4.1.6 DIMENSIONAL REQUIREMENTS

4.1.6.1 No portion of any lot created after the effective date of adoption or amendment of this Ordinance and lying within the Resource Protection District may be used to meet the dimensional requirements of other Districts in which the remainder of the lot is situated. Where a residential structure is in existence on the effective date of adoption or amendment of this Ordinance, no lot containing such structure shall be created which does not meet the Dimensional requirements of the Shoreland District, and which does not contain a minimum of ninety thousand (90,000) square feet.

4.1.6.2 Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.

4.1.7 PERFORMANCE STANDARDS

Permitted uses, and uses permitted by conditional use, shall conform to the following performance standards delineated in Article 5 of this Ordinance.

Accessory buildings
Agriculture
Clearing of vegetation for development
Forest Management activities
Piers, docks, and other shoreland construction
Signs
Timber Harvesting for commercial use
Water quality protection

4.2 SHORELAND DISTRICT

4.2.1 PURPOSE

4.2.1.1 To further the maintenance of safe and healthful conditions and the general welfare; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; and conserve shore cover, visual as well as actual points of access to inland and coastal water and natural beauty.

4.2.1.2 To control the use and development of undeveloped shoreland areas, and to provide maximum protection to the land and water resources so that:

- (a)** The processes of eutrophication, sedimentation, and pollution, leading to the ultimate degradation or destruction of the water body, will be eliminated or delayed as long as possible;
- (b)** The process of accelerated nutrient enrichment of waterbodies, which almost always accompanies shoreland development, will be kept to a minimum; and,
- (c)** Waterbodies, particularly those with public access, will

be maintained in a condition fit for the present and future use and enjoyment of the public.

- 4.2.1.3 To provide minimum standards, as a stopgap measure, until such time as research establishes precisely the susceptibility of various waterbodies to degradation, and the exact nature of the effects of shoreland development on that degradation process.
- 4.2.1.4 To enhance the enjoyment and use of waterbodies through the protection of fish and aquatic life from destruction that results from advanced stages of man-induced eutrophication.
- 4.2.1.5 To minimize expenditures of public monies for flood control projects.
- 4.2.1.6 To minimize rescue and relief efforts undertaken at the expense of the general public.
- 4.2.1.7 To minimize floodway damage to public facilities such as water main, sewer lines, streets and bridges.
- 4.2.1.8 To protect the storage capacity of flood plains and assure retention of sufficient floodway area to convey flood flows which reasonably can be expected to occur.
- 4.2.1.9 To encourage open space uses such as agriculture and recreation.
- 4.2.1.10 To control building sites.

4.2.2 PERMITTED USES

The following uses are permitted in the Shoreland District.

APPLICATION FOR PERMIT

A Conditional Use Permit application shall be made as follows:

- a. Any construction or repair in the Shoreland Zone requires a Shoreland Zone Permit.
- b. Any new construction within 100 feet of the high water mark which requires a Conditional Use Permit by the Planning Board, the Code Enforcement Officer, at his discretion, may exempt this requirement for a Conditional Use Permit.

4.2.2.1 RURAL

- Open space use
- Agriculture and gardening
- Forest Management activities
- Timber Harvesting for personal use
- Accessory uses and structures

4.2.2.2 OTHER

- Individual Private Campsites
- Filling, grading or other earth moving activity operated in accordance with existing state laws and local Ordinances.
- Piers and docks not requiring a Conditional Use Permit.

Signs

4.2.2.3 RESIDENTIAL

One single family dwelling per lot

4.2.3 CONDITIONAL USES

The following uses may be allowed only upon the granting of a Conditional Use Permit by the Planning Board, in accordance with the provisions of Article 6 of this Ordinance.

CONDITIONS OF PERMIT

The Planning Board may issue a permit providing the following conditions shall be met. The proposed activity shall not:

- a. Unreasonably interfere with existing recreational and navigation uses, nor unreasonably alter scenic and aesthetic qualities.
- b. Unreasonably interfere with or harm the natural environs of any lake, pond, tributary stream or river nor harm any fish or wildlife habitat.
- c. Cause unreasonable soil erosion nor lower the quality of any waters.
- d. Unreasonably alter the natural flow or storage capacity of any waterbody.
- e. Create or cause to be created unreasonable noise or traffic of any kind.

4.2.3.1 RURAL

Sale of produce and plants raised on the premises, or seasonal sales of produce and plants not raised on the premises.
Public or private recreation facilities including parks, playgrounds, golf courses, driving ranges, and swimming pools.
Campgrounds
Accessory uses and structures
Uses which are similar to the above uses

4.2.3.2 RESIDENTIAL

Attached Two family dwelling
Multi-family dwelling
Planned unit development or cluster development
Manufactured Housing Parks
Timber Harvesting for commercial use
Home Occupation

4.2.3.3 COMMERCIAL AND INDUSTRIAL USES REQUIRING A SHOREFRONT LOCATION

Facilities which by nature of their operation require a shorefront location.
Such facilities shall include, but are not limited to, boatyards, marinas, bath houses, and commercial fishing facilities.
Accessory uses and structures.

4.2.3.4 PUBLIC, SEMI-PUBLIC AND INSTITUTIONAL

Church or other place of worship, parish house, rectory, convent, and other religious institutions.
Public buildings such as libraries, museums, civic centers.

Utilities, including sewage collection and treatment facilities.
Accessory uses and structures
Uses which are similar to the above uses

4.2.4 PROHIBITED USES

Mineral Extraction, Commercial or Industrial Groundwater Extraction, and uses that are not specifically allowed as permitted uses or conditional uses are prohibited in the Shoreland District.

4.2.5 DIMENSIONAL REQUIREMENTS

4.2.5.1 Residential Uses

Minimum Lot Size per dwelling unit	40,000 sq. ft.
Minimum Road Street Frontage per dwelling unit	150 feet
Minimum Shore Frontage per dwelling unit	200 feet

Commercial, Industrial, and Institutional Uses

Minimum Lot Size	60,000 sq. ft.
Minimum Road or Street Frontage	150 feet
Minimum Shore Frontage	300 feet

- a. If shorefront privileges are conveyed to lots not having shore frontage then the dimensions of the lot to which the rights have been conveyed must meet the above standards with an additional width of twenty-five (25) feet on the shore and one hundred (100) feet in depth for each privilege conveyed. This also applies to any shore rights given in connection with manufactured housing, parks or campgrounds.
- b. The ratio of lot length to width shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.

4.2.5.2 STRUCTURE REQUIREMENTS

All structures shall meet the following minimum requirements:

- a. Setback from normal high water line or upland edge: one hundred (100) feet from a great pond; seventy-five (75) feet from a river, stream, wetland, or tributary stream.
- b. Setback from street: seventy-five (75) feet from center line of street except on undersized lots of record as of March 9, 1974, in which case the setback may be no less than fifty (50) feet from the centerline of the street.
- c. Setback from side or rear lot lines: twenty-five (25) feet, except on undersized lots of record in existence prior to March 9, 1974, in which case a ten (10) foot

- minimum setback shall be maintained.
- d. Maximum of non-vegetative lot coverage: 20%.

4.2.5.3 VISIBILITY AT CORNER LOTS

All corner lots shall be kept free from visual obstructions for a distance of 25 feet measured along with intersecting street lines.

4.2.5.4 BUILDING HEIGHT

No residential, commercial, industrial or institutional structure shall exceed two and one-half stories or 35 feet in height. All other structures exceeding 35 feet in height shall be set back from the nearest lot line a minimum of one foot for each foot of building height, unless a greater setback is required by other provisions of this Ordinance.

4.2.6 PERFORMANCE STANDARDS

Permitted uses and uses permitted by conditional uses shall conform to the following performance standards delineated in Article 5 of this Ordinance:

- Accessory buildings
- Agriculture
- Campgrounds
- Elevation of buildings above flood level
- Filling, grading, or other earth-moving activity
- Home Occupations
- Manufactured Housing and Manufactured Housing Parks
- Modifications to existing structures
- Multi-family dwelling units
- Off-street parking and loading requirements
- Planned unit development and cluster development
- Sanitary provisions
- Signs
- Timber Harvesting
- Vegetative cutting
- Water quality protection

4.3 LITTLE OSSIPPEE RIVER DISTRICT

4.3.1 PURPOSE

4.3.1.1 To control the use and development of undeveloped shoreland areas along the Little Ossipee River in conformance with the Limited Residential District established by the Saco River Corridor Commission.

4.3.1.2 To further the maintenance of safe and healthful conditions and the general welfare; prevent and control water pollution; protect spawning grounds; fish, aquatic life, bird or other wildlife habitat; control building sites, placement of structures and land uses; and conserve shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty.

4.3.2 PERMITTED USES

The following uses are permitted in the Little Ossipee River District.

4.3.2.1 RURAL

- Open space use
- Agriculture and gardening
- Timber Harvesting
- Accessory uses and structures

4.3.2.2 OTHER

- Filling, grading, or other earth-moving activity operated in accordance with state laws.
- Signs

4.3.3 CONDITIONAL USES

The following uses may be allowed only upon the authorization of a Conditional Use Permit by the Planning Board, in accordance with the provisions of Article 6 of this Ordinance.

4.3.3.1 RURAL

- Sale of produce and plants raised on the premises, or seasonal sales of produce and plants not raised on the premises.
- Public or private recreation facilities including parks, playgrounds, golf courses, driving ranges, swimming pools.
- Campgrounds
- Accessory uses and structures
- Uses which are similar to the above uses

4.3.3.2 RESIDENTIAL

- Housing, or recreational vehicle (see (a)).
- Attached Two-family dwelling (see (a))
- Multi-family dwelling (see (a))
- Planned unit development or cluster development (see (a))
- Manufactured Housing Park

a. Residential uses shall meet all of the following criteria:

- (1)** The minimum setback of each principal building shall be one hundred (100) feet from the normal high water elevation of any waterbody.
- (2)** No structures or fill shall be permitted within the flood plain.
- (3)** Where there is an accepted road as of the effective date of this Ordinance within five hundred (500) feet of the normal high water mark of the river with different land ownership on either side of the road, the landowner on the far side of the road from the river shall have an aggregate of setback from the river and frontage on the

far side of the road equal to five hundred (500) feet.

- (4) All applicable performance standards of the Shoreland Zone shall be met in full.

Accessory uses and structures
Uses which are similar to the above uses
Home Occupations

4.3.3.3 COMMERCIAL AND INDUSTRIAL USES REQUIRING A SHOREFRONT LOCATION

Facilities which by nature of their operation require a shorefront location. Such facilities shall include, but are not limited to, boatyards, marinas, bath houses, and commercial fishing facilities.
Accessory uses and structures

4.3.3.4 PUBLIC, SEMI-PUBLIC, AND INSTITUTIONAL

Church or other place of worship, parish house, rectory, convent and other religious institutions.
Public buildings such as libraries, museums, civic center
Utilities, including sewage collection and treatment facilities
Accessory uses and structures
Uses which are similar to the above uses

4.3.4 PROHIBITED USES

Commercial or Industrial Groundwater Extraction and uses which are not specifically allowed as permitted or conditional uses are prohibited.

4.3.5 DIMENSIONAL REQUIREMENTS

4.3.5.1 Lots in the Little Ossipee River District shall meet or exceed the following minimum requirements (additional area may be required by other provisions of this Ordinance):

Minimum Lot Size	90,000 sq. ft.
Minimum Road or Street Frontage:	250 ft.
Minimum Front setback:	75 ft. from center of road except 50 feet from the center of the road for nonconforming lots of record
Minimum Side setback:	25 feet except 10 ft for nonconforming lots of record
Minimum Rear setback:	20 ft.
Maximum Lot Coverage	20%

- a. A front yard abutting a public road shall have a minimum depth of seventy-five (75) feet from the center of the road. A front yard abutting the shoreline of a lake, pond, river, stream or tidal water shall have a minimum depth of one hundred (100) feet from the normal high water elevation. The depth of any yard

abutting a public road or any waterbody shall conform to the front yard requirements.

4.3.5.2 PRINCIPAL BUILDING

If more than one principal building is constructed on a single lot, all dimensional requirements shall be met separately for each such principal building.

4.3.5.3 REQUIRED YARD SPACES SHALL SERVE ONLY ONE LOT

No part of the yard or other open space required on any lot for any building shall be included as part of the yard or open space similarly required for another building or lot.

4.3.5.4 VISIBILITY AT CORNER LOTS

All corner lots shall be kept free from visual obstruction for a distance of twenty-five (25) feet measured along the intersecting street lines.

4.3.5.5 BUILDING HEIGHT

No portion of a residential building shall exceed thirty-five (35) feet in height except chimneys. Features of detached accessory buildings may exceed thirty-five (35) feet in height, but shall be set back from the nearest lot line a distance not less than the height of such structure, unless a greater setback is required by other provisions of this Ordinance.

4.3.6 PERFORMANCE STANDARDS

Permitted uses and Conditional uses shall conform to the performance standards delineated in Article 5 of this Ordinance for the following:

- Accessory buildings
- Agriculture
- Campgrounds
- Elevation of buildings above flood level
- Filling, grading, or other earth-moving activity
- Home Occupations
- Manufactured Housing and Manufactured Housing Parks
- Modifications to existing structures
- Multi-family dwelling units
- Off-street parking and loading requirements
- Planned unit development and cluster development
- Sanitary provisions
- Signs
- Timber Harvesting
- Vegetative cutting
- Water quality protection

4.4 GENERAL PURPOSE DISTRICT

4.4.1 PURPOSE

4.4.1.1 Allow maximum diversity of uses while protecting the public health and safety, environmental quality and economic well being of the Town.

4.4.1.2 Imposing minimum controls on those uses which by virtue of their external effects (waste discharge, noise, glare, fumes, smoke, dust, odors or auto, truck, or rail traffic) could otherwise create nuisances, or unsafe, unhealthy conditions.

4.4.1.3 To encourage any high density residential developments to locate in those areas which are most compatible with existing development and in a manner appropriate to the economical provision of community services and utilities.

4.4.1.4 To encourage location of any commercial or industrial uses on those lands in the community which are best suited for such development and will be appropriate to best serve the community economically.

4.4.1.5 To avoid economic disadvantages of providing essential services to commercial and industrial facilities which would occur if they developed in a strip fashion along highways and thoroughfares.

4.4.1.6 To protect historical and architectural integrity of existing village or residential or other development.

4.4.1.7 To insure that future development is compatible, both in character and use.

4.4.2 PERMITTED USES

The following uses are permitted in the General Purpose District.

4.4.2.1 RURAL

Open space use
Agriculture and gardening
Sale of produce and plants raised on the premises or seasonal sales of produce and plants not raised on the premises.
Timber Harvesting
Public and private recreation facilities including park, playgrounds, golf courses, driving ranges, swimming pools, but excluding campgrounds.
Accessory uses and structures

4.4.2.2 RESIDENTIAL

One single family dwelling
Attached two-family dwelling
Home Occupations
Accessory uses and structures
Two single family residences subject to dimensional requirements of 4.4.5

4.4.2.3 COMMERCIAL

4.4.2.4 PUBLIC OR SEMI-PUBLIC AND INSTITUTIONAL

Church and other places of worship, parish house, rectory, convent or other religious institutions.
Public, private and parochial schools.
Public buildings, such as libraries, museums, civic centers and recreational or community activity buildings.
Cemeteries.
Accessory uses and structure.

Any other uses similar to the above.

4.4.2.5 OTHER

Filling, grading, or other earth-moving activity operated within the existing state laws not requiring a Conditional Use Permit.

4.4.2.6 UTILITIES

Under the direction of the Code Enforcement Officer.

4.4.3 CONDITIONAL USES

The following uses may be allowed but only upon the granting of a Conditional Use Permit by the Planning Board, in accordance with the provisions of Article 6 of this Ordinance.

4.4.3.1 RURAL

Campgrounds
Accessory uses and structures
Uses which are similar to the above

4.4.3.2 RESIDENTIAL

Multi-family dwelling
Planned unit development or cluster development
Manufactured Housing Park
Accessory uses and structures
Uses which are similar to the above
2 Single Family Residences on One Lot

4.4.3.3 COMMERCIAL AND INDUSTRIAL

Commercial or Industrial Groundwater and/or Spring Water Extraction and/or Storage
Commercial and Industrial facilities not meeting the criteria for permitted uses.
Any Automobile graveyards and junkyards operated in accordance with state laws.
Waste processing or disposal facilities
Accessory uses and structures

4.4.3.4 PUBLIC, SEMI-PUBLIC, AND INSTITUTIONAL

Utilities, including sewage collection and treatment facilities.
Waste processing or disposal facilities other than sewage collection and treatment facilities.
Accessory uses and structures
Uses which are similar to the above

4.4.3.5 OTHER

Billboards
Accessory uses and structures
Uses which are similar to the above
Application of sludge/residuals to land

4.4.4 PROHIBITED USES

Uses which are not specifically allowed as permitted uses and conditional uses are prohibited.

4.4.5 DIMENSIONAL REQUIREMENTS

Lots in the General Purpose District shall meet or exceed the following requirements unless additional area is required by other provisions of this Ordinance:

Minimum lot size per dwelling unit of ninety thousand (90,000) square feet except as noted below.

Minimum Road or Street Frontage per dwelling unit - two hundred fifty (250) feet

Minimum Front setback - seventy-five (75) feet from the center of the road, street or right-of-way, or 50 feet from the center line of the right-of-way for nonconforming lots of record

Minimum Side setback-twenty-five (25) feet (except for non-conforming lot of record-ten (10) feet;

Minimum Rear setback - twenty (20) feet;

Maximum Lot Coverage - 20%

- a. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited in all Districts and Zones.
- b. On a lot of 200,000 square feet or more with at least 350 feet of frontage, two single family residences may be built providing: only one driveway entrance onto the road is constructed; the lot shall never be divided; and the owner(s) of the lot resides on the property. Prior to receiving a building or occupancy permit, the owner of the proposed multiple dwelling lot shall provide the CEO with a copy of the recorded deed from the York County Registry of Deeds, which includes a deed restriction prohibiting subdivision of the lot.

c. Commercial, Industrial

Minimum lot size per principal use	90,000 sq. ft.
Minimum Road or Street Frontage per principal use	250 ft.
Minimum Front Setback 125 feet from the center line of the of the road, street or right-of-way	
Minimum Side Setback	25 ft

4.4.6 PERFORMANCE STANDARDS

Permitted uses and uses permitted by a Conditional Use Permit shall conform to the following standards delineated in Article 5 of this Ordinance:

- Accessory building
- Agriculture
- Campgrounds
- Elevation of buildings above flood level
- Filling, grading, or other earth moving activity
- Home Occupations
- Mineral exploration and/or extrication
- Manufactured Housing Parks
- Modification to existing structure
- Multi-family dwelling units
- 2 Single Family Residences on One Lot
- Off-street parking and loading requirements

Planned unit development and cluster development
Sanitary provisions
Signs and billboards
Timber Harvesting
Vegetative cutting
Water quality protection

ARTICLE 5 - PERFORMANCE STANDARDS

5.1 ACCESSORY BUILDINGS

Garages and other accessory structures shall meet all setback requirements, except accessory structures less than 450 sq. ft. in area. They may be located 10 feet from side and rear lot lines providing they are located at least 100 feet from the normal high waterline of any waterbody or wetland. Any accessory structure more than 450 sq. ft. in floor area shall be placed on a permanent foundation.

5.1.2 FREESTANDING STAIRS

Stairs attached to the principal structure by a roof or common wall are considered part of the principal structure. Only freestanding stairs constitute an accessory structure. Freestanding stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access or access to a single family residence in areas of steep slopes or unstable soils provided that: the structure is maximum of 4 feet in width; maximum of three feet off the ground; the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C); and the applicant demonstrates that no reasonable access alternative exists on the property.

5.2 AGRICULTURE

5.2.1 All spreading or disposal of manure and sewage sludge shall be accomplished in conformance with the "Maine Standards for Manure and Manure Sludge Disposal on Land" published by the University of Maine and Maine Soil and Water Conservation Commission in July 1972.

5.2.2 There shall be no new tilling of soil within one hundred (100) feet, horizontal distance, of the normal high water line of a great pond; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams, and wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.

5.2.3 Agricultural practices shall be conducted to minimize soil erosion, sedimentation, contamination and nutrient enrichment of ground and surface water. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure within the Shoreland District shall require a Soil and Water Conservation Plan to be filed with the CEO. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

5.2.4 Manure shall not be stored or stockpiled within two hundred fifty (250) feet, horizontal distance, of a great pond, or within seventy-five (75) feet, horizontal distance, of other water bodies, tributary streams, or wetlands. Within three (3) years of the effective date

of this Ordinance all manure storage areas within the Shoreland District must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the three (3) year period.

5.2.5 After the effective date of this Ordinance, newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high water line of a great pond; within seventy-five (75) feet, horizontal distance, of other water bodies, tributary streams, and wetlands. Livestock grazing associated with ongoing farm activities, which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with York County Soil and Water Conservation Plan.

5.2.6 Outside of the Shoreland District agricultural practices not in conformance with these standards may be allowed by Conditional Use Permit.

5.3 BEACH CONSTRUCTION

Beach construction on any great pond, river, stream or tributary stream shall require a permit from the Department of Environmental Protection.

5.4 INDIVIDUAL PRIVATE CAMPSITES

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

- a.** One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot are within the Shoreland District, whichever is less, may be permitted.
- b.** Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet from the normal high water line of a great pond, and seventy-five (75) feet from the normal high water line of other water bodies, tributary streams, or the upland edge of a wetland.
- c.** Recreational vehicles shall not be located on any type of permanent foundation except for gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.
- d.** The clearing of vegetation for the citing of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1,000) square feet.
- e.** A written sewage disposal plan describing the proposed method and location of sewage disposal, accompanied by a fee in accordance with Section 6.4 of this Ordinance, shall be required for each campsite and shall be approved by the Code Enforcement Officer. Where disposal is off-site, written authorization from the receiving facility or land owner is required. The disposal plan shall be renewed on an annual basis.
- f.** When a recreational vehicle, tent or similar shelter is occupied on-site for more than six (6) months 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.

5.5 CAMPGROUNDS

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

- a. Recreational vehicle and tenting areas containing approved water-carried sewage facilities shall meet the following criteria:
 - (1) Each recreational vehicle, tent, or shelter site shall contain a minimum of five thousand (5,000) square feet, not including roads and driveways.
 - (2) A minimum of two hundred (200) square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site.
 - (3) Each recreational vehicle, tent, or shelter site shall be provided with a picnic table, trash receptacle, and fireplace.
- b. Wilderness recreational areas without water-carried sewage facilities shall contain a minimum of twenty thousand (20,000) square feet, not including roads and driveways, for each tent or shelter site.
- c. The area intended for placement of the recreational vehicle, tent, or shelter and utility and service buildings, shall be set back a minimum of fifty (50) feet from the exterior lot lines of the camping area and one hundred (100) feet from the normal high water line of any waterbody or the upland edge of a wetland.
- d. All campgrounds shall be screened from adjacent land areas.

5.6 FILLING, GRADING, OR OTHER EARTH-MOVING ACTIVITY

- a. **GENERAL**
There shall be no earth-moving activity which would result in erosion, sedimentation, or impairment of water quality or fish and aquatic life.
- b. **STANDARDS FOR TOWN ROADS**
All roads under consideration as a town road shall meet the following criteria:
 - (1) Easement width 50 feet
 - (2) Surface width 24 feet
 - (3) Tar top 20 feet
 - (4) The way it shall be fully described with bounds and measurements.
 - (5) Base of the road:

<u>Street Materials</u>	<u>Minimum Requirements</u>				
	<u>Arterial</u>	<u>Collector</u>	<u>Minor</u>	<u>Private Right of Way</u>	<u>Industrial/Commercial</u>
Aggregate Sub-base Course (Max. sized stone 4")	18"	18"	18"	12"	18"
Crushed Aggregate Base Cours	4"	3"	3"	3"	4"

c. STANDARDS FOR CAMP ROAD

Where requests have been made for winter work, roads shall comply with the above standards for town roads:

- (1) If the road base meets the required specifications the Town could be petitioned to help on tarring on a 50/50 basis.
- (2) After the road has met all specifications, an Article may be inserted in the Annual Town Meeting Warrant to have the road accepted by the Town, as a town road.

d. UNACCEPTED ROAD

Unaccepted roads that are now being plowed and are not up to town road standards shall continue to be plowed but a concerted effort of those affected should be started to bring these roads to acceptable standards by:

- (1) Getting fifty (50) foot easements.
- (2) Removing such trees, stumps, and other obstructions that affect the plowing equipment.
- (3) Building the base of the road so that it is fit for tarring.
- (4) When, except for tarring, the road has been brought up to the above standards as listed, a petition could be presented to the Annual Town Meeting requesting help on a 50/50 basis.

e. ROADS - GENERAL

- (1) The amount of work to be done on camp roads is to be at the discretion of the road commissioners and/or municipal officers.
- (2) All dead-end roads shall have a turn-around of fifty (50) feet in radius, adequate for snow plowing equipment.
- (3) There shall be no parking at turn-arounds.
- (4) Any new requests for snow plowing will not be considered unless the roads meet town road standards.
- (5) There shall be no digging up of townways in any manner except by permission and under the guidance of the road commissioner.
- (6) There shall be no filling up of gutters along a townway.
- (7) Developers who have intentions of asking the Town to accept any roads they build shall build such roads in accordance with the regulations as set forth in this Ordinance.
- (8) The Code Enforcement Officer shall alert the road commissioners when a building is being built or about to be built near a townway. The road commissioners shall decide the need for a culvert and if one is needed the cost of the culvert and the cost of installation shall be paid by the builder or the owner of the land.
- (9) Any vehicle parked on a townway which interferes with winter highway maintenance shall be subject to tow away at owner's expense.

f. ROADS AND DRIVEWAYS IN THE SHORELAND DISTRICT

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

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

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

This paragraph shall 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 due to an operational necessity.

- (2) Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.
- (3) New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the District, or as approved by the Planning Board upon finding that no reasonable alternative route or location is available outside the District, in which case the road and/or driveway shall be set back as far as practical from the normal high water line of a water body, tributary stream, or upland edge of a wetland.
- (4) Road 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 5.6.g. below.
- (5) Road grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet.
- (6) To prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two (2) times the average slope in width between the outflow point of the ditch or culvert and the normal high water line of a water body, tributary stream, or upland edge of a wetland. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the run-off and to minimize channelized flow of the drainage through the buffer strip.
- (7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:

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

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

- (b) Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.
- (c) On road sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road.
- (d) Ditch relief culverts shall be sufficiently sized and properly installed to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

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

g. EROSION AND SEDIMENTATION CONTROL

- (1) All activities in the Shoreland District which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a written soil erosion and sedimentation control plan, shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - (a) Mulching and revegetation of disturbed soil.
 - (b) Temporary run-off control features such as hay bales, silt fencing or diversion ditches.
 - (c) Permanent stabilization structures such as retaining walls or riprap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in

operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (c) Additional measures shall be taken where necessary to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed to carry water from a twenty-five (25) year storm or greater and shall be stabilized with vegetation or lined riprap.

5.6.1 EXTRACTIVE INDUSTRY (Adopted March 14, 1987)

a. PERMIT REQUIRED

Topsoil, rock, sand, gravel and similar earth materials may be removed from locations where permitted only after a "Special Extractive Use Permit" for such operations has been issued by the Planning Board in accordance with the following provisions of this Ordinance.

b. EARTH MOVING NOT REQUIRING A SPECIAL EXTRACTIVE USE PERMIT

The following earth moving activity shall be allowed without a Special Extractive Use Permit from the Planning Board:

- (1) Except in the Shoreland District and the Resource Protection District, the removal or transfer of less than ten thousand (10,000) cubic yards of material from or onto any lot in any twelve (12) month period.
- (2) The removal or transfer of material incidental to construction, alteration or repair of a building or in the grading and landscaping incidental thereto.
- (3) The removal or transfer of material incidental to construction, alteration or repair of a public or private way or essential service.
- (4) Agricultural tillage.

All other earth moving, processing and storage shall require a Special Use Permit from the Planning Board.

c. SUBMISSION REQUIREMENTS

- (1) Applications to the Planning Board for a Special Extractive Use Permit for the excavation, screening or storage of soil (including topsoil), peat, loam, sand, gravel, rock, or other mineral deposits, shall be accompanied by a plan prepared according to Planning Board specification, performance standards herein, in compliance with applicable State laws, and accompanied by all required State permits or licenses.
- (2) The applicant shall submit to the Planning Board plans of the proposed extraction site showing the property lines and names of abutting owners and ways indicating by not greater than five (5) foot contour intervals, related to U.S. Geodetic Survey data; the location and slope of the grades existing and as proposed upon completion of the extraction operation; detailing proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits together with a written statement of the restoration of the site upon completion of the operation.

d. PERFORMANCE STANDARDS

- (1) No part of any extraction operation shall be permitted within one hundred (100) feet of any property or street line, except the drainage ways to reduce run-off into or from the extraction area may be allowed up to fifty (50) feet of such line. Natural vegetation shall be left and maintained on the undisturbed land.
- (2) If any standing water accumulates, the site must be fenced in a manner adequate to keep children out. Measures shall be taken to prevent or halt the breeding of harmful insects.
- (3) Before commencing removal of any earth materials, the owner or operator of the extraction site shall present evidence to the Planning Board of adequate insurance against liability arising from the proposed extraction operations, and such insurance shall be maintained throughout the period of operation.
- (4) Any topsoil and subsoil suitable for purposes of vegetation shall, to the extent required for restoration, be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased. Such stockpiles shall be protected from erosion.
- (5) Sediment shall be trapped by diversions, silting basins, terraces and other measures designed by a professional

engineer.

- (6) The sides and bottoms of cuts, fills, channels, and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications.
- (7) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Marine Resources and Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board.
- (8) The hours of operation at any extraction site shall be limited as the Planning Board deems advisable to ensure operational compatibility with residents of the Town.
- (9) All access-egress roads leading to and from the extraction site to public ways shall be treated with suitable materials to reduce dust and mud for a distance of at least one hundred (100) feet from such public ways.
- (10) No equipment debris, junk or other material shall be permitted on an extraction site except those directly related to active extraction operations, and any temporary shelters or building erected for operations and equipment used in connection therewith shall be removed within thirty (30) days following completion of active extraction operations.
- (11) Within six (6) months of the completion of extraction operations at any extraction site, or any one or more locations within any extraction site, ground levels and grades shall be established in accordance with the approved plans filed with the Planning Boards so that:
 - (a) All debris, stumps, boulders, and similar materials shall be removed and disposed of in an approved location or site, or in the case of inorganic materials, buried and covered with a minimum of two (2) feet of soil.
 - (b) Storm drainage and water courses shall leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not significantly increased.

e. PERMIT APPROVAL

- (1) All plans and supporting material shall be submitted to the Planning Board for their consideration with respect

to the effect of the proposed operation upon existing and foreseeable traffic patterns within the Town, upon existing or approved land uses which may be affected by the operation and implementation of comprehensive plan policies. The Planning Board may obtain the technical assistance of the Soil Conservation Service, Regional Planning Commission, Department of Environmental Protection, or a consulting engineer in the review of the plans, at the expense of the applicant.

(2) The Planning Board shall hold a public hearing on the application. The Planning Board shall make findings of fact and render a written decision specifying whether, and under what conditions, the proposed operation shall be permitted. The Planning Board shall require filing with the Town Treasurer a commercial surety bond, a certified check, or a savings account passbook payable to the Town of Acton in such amount, and upon such conditions as the Planning Board may determine to be adequate to indemnify the Town against any claims arising from the proposed operation and to assure satisfactory performance of all conditions imposed or otherwise applicable.

5.6.2 GROUNDWATER AND/OR SPRING WATER EXTRACTION AND/OR STORAGE

a. PERMIT REQUIRED

Ground water or spring water may be extracted and/or bulk stored as part of a commercial, industrial, or extractive operation where allowed under this Ordinance subject to the approval of the Planning Board. The Board shall grant approval if it finds the proposal, with any reasonable conditions, will conform with the requirements of this section. The application for permit shall be accompanied by a fee as required in 6.4(1)(h).

b. PRIVATE RESIDENTIAL EXTRACTING EXCLUDED

c. SUBMISSION REQUIREMENTS

- (1) Statement of the quantity of ground water to be extracted, expressed as the annual total, the maximum monthly rate by month, and the maximum daily rate.
- (2) A letter from the Maine Department of Human Services approving the facility as proposed where the Department has jurisdiction over the proposal.
- (3) Where appropriate, letters of approval, from the Department of Environmental Protection when Site Location Law is applicable or a discharge permit is required.
- (4) Applicants shall present a written report of a

hydrogeologic investigation conducted by a certified professional geologist or registered professional engineer, except for spring water extraction facilities which meet the following conditions: the spring enhancement will not increase the combined spring's catchment capacity by removing more than four (4) cubic yards of earth and not increase the spring's depth by more than four (4) feet, where the discharge drain is no lower than the existing spring water level, where gravity alone (without the aid of a siphon) is used to withdraw the spring water to other facilities on site, and, where improvements do not pose a threat of adverse impact to groundwater quality, quantity or levels either on or off site. This report shall include the following information:

- (a) A map of the aquifer tributary to the spring(s) or well(s) from which water is to be extracted in sufficient detail to support a calculation of sustained yield during a drought with a probability of one in ten (10) years, as well as an estimate of any potential interaction between this aquifer and adjacent aquifers.
- (b) The results of the investigation shall establish the aquifer characteristics (depth, permeability, transmissivity), the rates of draw down and rebound, the sustainable yearly, monthly (by month) and daily extraction rates, the cone of depression which may develop about the proposed facility, and other impacts on groundwater levels in the tributary aquifer and at private or public wells within one thousand (1,000) feet of the proposed extraction facilities. Impacts, if any, to surface water levels (including wetlands), shall also be established.
- (c) Nothing in this procedure, and no decision by the Planning Board shall be deemed to create groundwater rights other than those rights which the applicant may have under Maine Law.

d. PERFORMANCE STANDARDS

- (1) The quantity of water to be taken from groundwater sources will not substantially lower the groundwater table beyond the property lines, cause salt water intrusion, cause undesirable changes in ground water flow patterns or in the quantity of groundwater

available at properties within 1000 feet of the facility, or cause unacceptable ground subsidence, based on the conditions of a drought with a probability of occurrence of one in ten (10) years.

- (2) The proposed facility will not cause water pollution or other diminution of the quality of the aquifer from which the water is to be extracted.
- (3) Safe and healthful conditions will be maintained at all times within and about the proposed use.
- (4) The proposed use will not cause sedimentation or erosion.
- (5) The proposed facility is not within the defined aquifer recharge area of a public water supply, unless notice is given to the operator thereof and the Board has considered any information supplied by the operator and finds that no adverse effect on a public water supply will result.
- (6) The operator shall make monthly operating records of the quantify of water extracted, stored and removed from the site available to the Code Enforcement Officer or a designee.

5.7 HOME OCCUPATIONS

5.7.1 Home occupations shall be carried on wholly within the principal building or within a building or other structure accessory to it.

5.7.2 Not more than two (2) persons outside the family shall be employed in the home occupation.

5.7.3 There shall be no exterior sign (except as permitted by the provision of this Ordinance), no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.

5.7.4 No nuisance, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare, or radiation shall be generated.

5.8 MINERAL EXPLORATION

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 Planning Board shall be required for mineral exploration which exceeds the above limitations. 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.

5.9 MANUFACTURED HOUSING AND MANUFACTURED HOUSING PARKS

5.9.1 MANUFACTURED HOUSING UNIT

5.9.1.1 No person shall move, place, erect, or bring into the Town of Acton, a manufactured

housing unit without first obtaining a permit from the Code Enforcement Officer. The application for the permit shall state the name of the owner and the make, date of manufacture and serial number of the unit. In addition, the application shall be accompanied by a sketch showing the length and width of the unit and the proposed placement on the lot, including setbacks from all property lines, bodies of water or wetlands. Permit applications for manufactured housing units manufactured prior to June 15, 1976 shall be accompanied by indication the unit meets Acton Building Code requirements. The permit shall be accompanied by a Sub-Surface Waste Disposal Permit obtained from the Plumbing Inspector.

5.9.1.2 After the manufactured housing unit has been placed in position and anchored, the space between the sills and the ground shall be filled in on all sides with durable construction materials or masonry walls in accordance with the Town Building Code.

5.9.2 MANUFACTURED HOUSING UNITS NOT IN A MANUFACTURED HOME PARK

Manufactured Housing Units not in a Manufactured Home Park shall meet all requirements of this Ordinance for single family dwellings including lot size, frontage, and setback, and shall have foundations.

5.9.3 DESIGN AND PERFORMANCE STANDARDS FOR MANUFACTURED HOME PARKS

5.9.3.1 Except as stipulated below, manufactured home parks shall meet all the requirements for a residential subdivision, and shall conform to all applicable State laws and local Ordinances or Regulations. Where the provisions of this section conflict with specific provisions of the Acton Subdivision Regulations, the provisions of this section shall prevail.

5.9.3.2 Lot area and lot width dimensions. Notwithstanding the dimensional requirements located in this Ordinance, lots in a Manufactured Home Park shall meet the following lot area and lot width requirements:

- a. Lots served by individual waste disposal systems:
 - Min. lot area: 20,000 sq. ft.
 - Min. lot width: 100 ft.
- b. Lots served by a central subsurface waste disposal system approved by the Maine Department of Human Services:
 - Min. lot area: 20,000 sq. ft.
 - Min. lot width: 75 ft.
- c. The overall density of any park shall not exceed one dwelling per twenty thousand (20,000) square feet of total park area.
- d. Lots located within the Shoreland District shall meet the lot area, lot width, and shore frontage requirements for that District.
- e. Total area of structures on any lot shall not exceed 15% of total lot size.

5.9.3.3 UNIT SETBACK REQUIREMENTS

- a. Structures shall not be located less than fifteen (15) feet

- from any boundary lines of an individual lot.
- b.** Structures on lots which abut a public way, either in the park or adjacent to the park, shall meet the applicable setbacks.
- c.** Structures on lots which are located within the Shoreland District shall meet the applicable setbacks.

5.9.3.4 BUFFERING

If a park is proposed with residential density at least twice the density of adjacent development in existence, or at least twice the density permitted in the zoning district in which the park is located if the neighboring land is undeveloped, the park shall be designed with a continuous landscaped area not less than fifty (50) feet in width which shall contain no structures or streets. The first twenty-five (25) feet of the buffer strip, as measured from the exterior boundaries of the park shall contain evergreen shrubs, tree fences, walls or any combination which forms an effective visual barrier to be located on all exterior lot lines of the park, except that driveways shall be kept open to provide visibility for vehicles entering and leaving the park.

5.9.3.5 ROAD DESIGN, CIRCULATION, AND TRAFFIC IMPACTS

Streets within a park shall be designed by a Professional Engineer, registered in the State of Maine.

- a.** Streets which the applicant proposes to be dedicated as public ways shall be designed and constructed in accordance with the standards for streets in the Acton Subdivision Regulations.
- b.** Streets which the applicant proposes to remain private ways shall meet the minimum design standards as set by the Manufactured Housing Board.
- c.** Any manufactured home park expected to generate average daily traffic of two hundred (200) trips per day or more, shall have at least two street connections with existing public streets. Any street within a park with an average daily traffic of two hundred (200) trips per day or more, shall have at least two street connections with existing public streets, other streets within the park, or other streets shown on an approved subdivision plan.
- d.** No individual lot within a park shall have direct vehicular access onto an existing public street.
- e.** The intersection of any street within a park and an existing public street shall be designed and constructed in conformance with the Acton Subdivision Regulations.
- f.** The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation shall be based on the TRIP GENERATION MANUAL, 1991 Edition, published by the Institute of Transportation Engineers. If the park is projected to generate more than four hundred (400) vehicle trip ends per day, the application shall include a traffic impact analysis, by a professional

- g. engineer with experience in transportation engineering.
On-street parking shall be prohibited in the park. Two off-street parking spaces shall be provided on each lot.

5.9.3.6 No development or subdivision which is approved under this section as a manufactured home park may be converted to another use without the approval of the Planning Board, and meeting the appropriate lot size, lot width, setback and other requirements. The plan to be recorded at the Registry of Deeds and filed with the Town of Acton shall include the following restrictions as well as any other notes or conditions of approval.

- a. The land within the park shall remain in a unified ownership and the fee to lots or portions of lots shall not be transferred.
- b. No dwelling unit transported in more than two sections shall be located within a park.

5.10 MULTI-FAMILY DWELLING UNITS

5.10.1 ATTACHED TWO-FAMILY DWELLING UNITS

Lots for attached two-family units shall meet all dimensional requirements for single dwelling units, except that the lot area and shoreline frontage shall be equal to that required for an equivalent number of single units, and the road frontage shall exceed by 50% the requirements for single family dwelling units.

5.10.2 MULTI-FAMILY DWELLING UNITS

Any structure containing three or more dwelling units shall meet all of the following criteria:

- a. Lot area and shoreline frontage shall be equal to that required for the equivalent number of single family dwelling units.
- b. The minimum road frontage shall be two hundred fifty (250) feet for each multi-family structure.
- c. Lots for multi-family dwelling units shall meet all other dimensional requirements for single family dwellings.
- d. No building shall contain more than ten (10) dwelling units.
- e. All multi-family dwellings shall be connected to a public water system, at no expense to the municipality.
- f. All multi-family dwellings shall be connected to a public sewer system, if available, or to a central collection and treatment system in accordance with the sanitary provisions of this Ordinance.
- g. No parking area shall be located within the required yard areas.

5.11 OFF-STREET PARKING AND LOADING REQUIREMENTS

5.11.1 BASIC REQUIREMENT

In any district where permitted, no use of premises shall be authorized or extended, and

no building or structure shall be constructed or enlarged, unless there is provided for such extension, construction or enlargement, off-street automobile parking space within three hundred (300) feet of the principal building, structure, or use of the premises, in accordance with the following schedule of parking requirements:

- a. An area of two hundred (200) square feet appropriate for the parking of an automobile, exclusive of maneuvering space, shall be considered as one off-street parking space.
- b. No required space shall, for the purposes of this Ordinance, serve more than one use.
- c. No off-street parking facility shall have more than two (2) entrances and exits on the same street, and no entrance or exit shall exceed twenty-six (26) feet in width.
- d. Parking areas with more than two (2) parking spaces shall be arranged so that vehicles can be turned around within such areas and are prevented from backing into the street.

5.11.2 SCHEDULE OF MINIMUM OFF-STREET PARKING REQUIREMENTS

- a. Two (2) spaces per dwelling unit are required.
- b. One (1) space for each sleeping room in a tourist home, boarding or lodging house, motel or hotel is required.
- c. One (1) space for each tent or recreational vehicle site in a campground is required.
- d. One (1) space for each two (2) beds in a hospital or sanitarium is required.
- e. One (1) space for each four (4) beds for other institutions devoted to board care, or treatment of persons is required.
- f. One (1) space for each one hundred fifty (150) square feet or fraction thereof of floor area of any retail, wholesale, or service establishment or office or professional building is required.
- g. One (1) space for each three (3) seats, permanent or otherwise, for patron use for restaurants, and other places serving food or beverage and for theaters, auditoriums, and other places of amusement or assembly is required.
- h. One (1) space for each person employed or anticipated to be employed on the largest shift for all types of commercial, industrial, or other permitted uses is required.
- i. Adequate spaces shall be provided to accommodate customers, patrons, and employees at automobile service stations, drive-in establishments, open air retail business and other permitted uses not specifically enumerated above.

5.11.3 OFF-STREET LOADING

In any District where permitted or allowed, commercial or industrial uses shall provide, as necessary, off-street loading facilities located entirely on the same lot as the building or use to be served so that trucks, trailers and containers shall not be located for loading, unloading or storage upon any public way.

5.11.4 NON-RESIDENTIAL

Required parking and loading spaces for non-residential uses, where not enclosed

within a building, shall be effectively screened from view by a continuous landscaped area not less than eight (8) feet in width containing evergreen shrubs, trees, fences, walls, beams, or any combination thereof forming a visual barrier not less than six (6) feet in height along exterior lot lines adjoining all residential properties, except that driveways shall be kept open to provide visibility for vehicles entering and leaving.

5.11.5 PARKING AREAS IN THE SHORELAND DISTRICT

- a.** Parking areas shall meet the Shoreland setback requirements for structures. The setback requirement for parking areas serving public boat launching facilities may be reduced to no less than fifty (50) feet from normal high water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.
- b.** Parking areas shall be designed to prevent storm water runoff from flowing directly into a waterbody, and where feasible, to retain all runoff on-site.

5.12 PIERS, DOCKS, AND OTHER SHORELAND CONSTRUCTION

5.12.1 GENERAL REQUIREMENTS

- a.** No causeway, bridge, marina, wharf, dock or permanent structure shall be constructed in, on, over or abutting any great pond nor any fill deposited or dredging done therein without a permit from the Department of Environmental Protection.
- b.** No causeway, marina, wharf, dock or other permanent or floating structure shall extend more than ten percent (10%) of the width of any stream, measured at its normal high water elevation.
- c.** Any structure, permanent or floating, shall require a special exception permit from the Planning Board if it:
 - (1)** Extends more than ten (10) feet from the bank of any lake, pond, river or stream;
 - (2)** Has any permanent parts located between the banks of any stream or below the normal high water elevation of any lake or pond;
 - (3)** Is constructed as part of any commercial use; or
 - (4)** Requires dredging or filling.
- d.** Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- e.** The location shall not interfere with existing developed or natural beach areas.
- f.** The facility shall be located so as to minimize adverse effects on fisheries.
- g.** The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use and character of the area.
- h.** No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
- i.** 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.

5.13 SANITARY PROVISIONS

5.13.1 PURPOSE

To promote health, safety and general welfare, and to protect ground and surface waters and public and private water supplies from contamination or nutrient enrichment, the following provisions shall be applicable to the installation of sanitary waste disposal facilities in all Districts.

5.13.2 Follow State guidelines.

5.13.3 In keeping with the spirit of the Comprehensive Plan enacted by the Town of Acton in May, 1991, the purpose of this Ordinance is to continue to enhance and safeguard the water quality of our lakes and streams within the Shoreland District.

5.13.4 OCCUPATION OF STRUCTURE

A structure requiring any type Waste Disposal System shall not be occupied prior to the system being connected to the structure and approved as functional by the Local Plumbing Inspector, and prior to the Code Enforcement Officer issuing a Certificate of Occupancy.

5.13.7 SEASONAL CONVERSIONS

- a.** A "seasonal conversion" as defined by state law in Title 30-A, Section 4201, Maine Revised Statutes Annotated.
- b.** Title 30-A, Section 4215 Maine Revised Statutes Annotated, requires that before a seasonal dwelling located in a shoreland area is converted to a year-round or principal dwelling, a conversion permit must be obtained from the Local Plumbing Inspector. An occupancy permit shall not be approved if a holding tank is used as a means of waste water disposal or storage. The Local Plumbing Inspector shall issue a permit providing all the provisions of Section 4215 of state law are met.
- c.** The owner of a seasonal dwelling within two hundred fifty (250) feet of a water body, wishing to convert said dwelling for year around occupancy, shall obtain a conversion permit from the Local Plumbing Inspector, in accordance with the guidelines of the State Plumbing Code. Conversion of such property without Plumbing Inspector's inspection shall be a violation of the Ordinance and subject to a fine assessed by the Town Officers.

5.13.8 SANITARY REQUIREMENTS ON CONSTRUCTION SITES IN SHORELAND ZONES OR ANY COMMERCIAL CONSTRUCTION IN ALL ZONES

Sanitary facilities shall be provided by the owner or agent during periods when construction is being conducted on a site without a licensed, functioning waste disposal facility. Failure to do so shall constitute a violation of this ordinance.

5.14 SIGNS AND BILLBOARDS

5.14.1 GENERAL

Billboards are prohibited in the Shoreland District and the Resource Protection District. The following provisions shall apply to signs and billboards in all Districts where permitted.

5.14.2 SIZE, LOCATION AND ILLUMINATION

- a.** No sign or billboard shall be erected adjacent to any public way in a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination or wording the sign or billboard may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device or otherwise constitute a hazard to pedestrian or vehicular traffic.
- b.** Flashing, moving, or animated signs and billboards are prohibited.
- c.** No sign or billboard shall be located within three (3) feet of a street line or other lot line.

5.14.3 TYPES OF SIGNS

- a.** Public traffic and directional signs and signs designating public or semi-public activities shall be permitted.
- b.** Name signs shall be permitted, provided such signs shall not exceed two (2) square feet in area, and shall not exceed two (2) signs per premises, other than state signs.
- c.** Signs on state highways shall conform to state highway rules.
- d.** Signs relating to trespassing and hunting shall be permitted.

5.15 TIMBER HARVESTING

The following standards shall govern Timber Harvesting within the Shoreland District and Resource Protection District.

5.15.1 HARVESTING OPERATIONS

- a.** Within the strip of land extending seventy-five (75) feet inland from the normal high water line of a great pond there shall be no timber harvesting, except to remove safety hazards. Harvesting operations shall be conducted in such a manner that a well distributed stand of trees is retained.
- b.** Except in areas as described in paragraph (1)(a) above, Timber Harvesting activities shall not create single openings greater than seventy-five hundred (7,500) square feet in the forest canopy and shall conform with the following.
- c.** Harvesting shall remove not more than 40% of the volume of trees four (4) inches in diameter and larger, measured at 4 1/2 feet above ground level in any ten (10) year period.
 - (1)** Within one hundred (100) feet horizontal distance of the normal high water line of a great pond and within seventy-five (75) feet horizontal distance of the normal high water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well distributed stand of trees and other vegetation, including existing ground cover,

shall be maintained.

- (2) At distances greater than one hundred (100) feet horizontal distance of a great pond and greater than seventy-five (75) feet horizontal distance of the normal high water line of other water bodies or the upland edge of a wetland, where harvesting operations create clearcut openings greater than five thousand (5,000) square feet, shall be at least one hundred (100) feet apart. Such clearcut openings shall be included in the calculation of total volume removal. For the purposes of these standards, volume may be considered to be equivalent to basal area.
- d. Harvesting operations shall be conducted in such a manner and at such time that minimal soil disturbance results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters.

5.15.2 TIMBER HARVESTING - COMMERCIAL

- a. Timber Harvesting shall be under the control of a licensed forester and a management plan shall be submitted to the CEO.
- b. The management plan will show:
 - (1) How run-off will be controlled.
 - (2) How stream banks will be protected.
 - (3) Properly constructed stream crossing (if any).
 - (4) Percent of timber to be harvested.
 - (5) Designated ecologically sensitive areas, and how these areas will be protected.
- c. No storage of fuels or oils will be permitted in the Resource Protection District.

5.15.3 TIMBER HARVESTING - PERSONAL

Shall conform to general standards delineated in 5.15.1 Harvesting Operations.

5.15.4 SLASH

No accumulation of slash shall be left within fifty (50) feet of the normal high water line of a water body. At distances greater than fifty (50) feet but less than two hundred fifty (250) feet from the normal high water line of such waters, all slash shall be disposed of in such a manner that it lies on the ground and no part thereof extends more than four feet above the ground. Any debris that falls below the normal high water line of a water body shall be removed.

5.15.5 ROADS

- a. No roads requiring earth moving, cut or fill shall be constructed.
- b. Timber Harvesting equipment shall not use stream channels as travel routes except when:
 - (1) Surface waters are frozen; and
 - (2) The activity will not result in any ground disturbance
- c. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

- d. Skid trail approaches to water crossings shall be located and designed so as to prevent water run-off from directly entering the water body or tributary stream. Upon completion of Timber Harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- e. Except for water crossings, skid trails and other sites where the operation of machinery used in Timber Harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet from the normal high water line of a water body or upland edge of a wetland.

5.16 CLEARING OF VEGETATION FOR DEVELOPMENT

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

In any Resource Protection District the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that District.

5.16.2 Except in areas as described in Section 5.16.1 above, and except to allow for the development of permitted uses, within a strip of land extending one hundred (100) feet horizontal distance inland from the normal high water line of a great pond and seventy-five (75) feet horizontal distance from any other water body, tributary stream or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- a. There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten (10) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a stream flowing to a great pond, the width of the foot path shall be limited to six (6) feet.
- b. Selective cutting of trees within the buffer strip is permitted provided that a registered forester submits to the CEO a plan for selective cutting in accordance with this section of the Ordinance, and that a well-distributed stand of trees and other vegetation is maintained. For the purposes of this section a "well-distributed stand of trees and other vegetation" adjacent to a great pond or a stream flowing to a great pond, shall be defined as maintaining a rating score of twelve (12) or more in any twenty-five (25) foot by twenty-five (25) foot square (six

hundred twenty-five (625) square feet) area as determined by the following rating system:

Tree at 4 1/2 feet above ground level (inches)	Points
2-4 in.	1
4-12 in.	2
12 in.	4

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of eight (8) per twenty-five (25) foot square area.

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

- c. To protect water quality and wildlife habitat, adjacent to great ponds and streams which flow to great ponds, existing vegetation under three (3) feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in Paragraphs 2 and 2a above.
- d. Pruning of tree branches, on the bottom one-third (1/3) of the tree is permitted.
- e. 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 trees species unless existing new tree growth is present. The provisions contained in Paragraph 2 above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

5.16.3 At distances greater than one hundred (100) feet, horizontal distance, from a great pond, and seventy-five (75) feet horizontal distance from the normal high water line of any other water body, tributary stream or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter measured five and one-half (5 1/2) feet above the ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.

In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, twenty-five percent (25%) of the lot area and ten thousand (10,000) square feet, whichever is greater, including land previously developed.

5.16.4 Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by the Ordinance.

5.16.5 Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

5.17 WATER QUALITY PROTECTION

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature, run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant or aquatic life.

5.17.1 No person, land use, or activity may locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that will run off, seep, percolate, or wash into surface or ground waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness, or be harmful to human, animal, plant, or aquatic life.

5.17.2 A study of the impacts on an aquifer shall be required if a development which comes under the Planning Board review is proposed in any aquifer area shown on any of the following Maps: (1) current Maine Geological Survey Significant Aquifer Map, (2) Bedrock Groundwater Resources Basic Data Maps, (3) Maps showing lineaments, high yield bedrock wells and potential bedrock recharge areas, (4) Map 7 Groundwater Resources in the 1991 Comprehensive Plan.

5.17.3 All outdoor fixed storage facilities for fuel, chemical or industrial wastes, and potentially harmful raw materials, must be located on impervious pavement and must be completely enclosed by an impervious dike which is high enough to contain the total volume of liquid kept within the storage area, plus, if not covered by a roof, the rain falling into this storage area equivalent to an amount of rainfall in a 50 year storm, so that such liquid will not spill onto or seep into the ground surrounding the paved storage area. Storage tanks for home heating oil and diesel fuel, not exceeding 350 gallons in size, are exempted from this requirement, if they are not located over a high seasonal water table (within 15 inches of the surface) or over rapidly permeable sandy soils.

5.17.4 The proposed development and use must not adversely impact either the quality or quantity of ground water available to abutting properties or to public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal system with a capacity of 2,000 gallons per day or greater must demonstrate that the ground water at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

5.18 RECREATIONAL VEHICLES (RV's)

The following standards shall not apply to RV's that are being stored and not used as sleeping or living quarters.

5.18.1 PLACEMENT

- a.** A person shall not locate or cause to locate, or permit to be located more than one RV on any lot which is not licensed by the Maine

- b. Department of Human Services as a mobile home park or campground. A person shall not locate, cause to locate, or permit to be located, any RV in the Resource Protection District as defined in the Acton Zoning Ordinance.
- c. The placement of an RV shall meet all setback requirements from water bodies, streets, and property lines as required for structures in the Acton Zoning Ordinance.

5.18.2 REGISTRATION

Anyone locating an RV on any lot which is to remain on the lot for more than seven days must notify the Local Plumbing Inspector of the location of the RV. Under no circumstances will an RV be occupied for more than six (6) months in any year.

5.18.3 REQUIREMENTS

All sewage and "grey water" disposal shall be in accordance with the "Maine Subsurface Wastewater Disposal Rules" and other State and Federal laws concerning clean water.

5.19 APPLICATION OF SLUDGE/RESIDUALS TO LAND

5.19.1 GENERAL REQUIREMENTS

- a. Application of sludge/residuals shall meet all applicable Performance Standards set forth in this ordinance.
- b. Each applicant, generator, operator, and owner (if different) shall comply with the most current state laws and regulations applicable to this activity.
- c. No application shall be approved prior to the Acton Planning Board hiring, at the applicant's expense, a hydrogeologist and/or soil scientist, licensed by the State of Maine, to review and comment upon the application submitted to the Department of Environmental Protection for state approval of the proposed activity.

5.19.2 CONDITIONS OF PERMIT APPROVAL

The Planning Board may issue a permit providing the following conditions shall be met.

- a. The proposed activity shall not lower the quality of any surface or ground water, nor pose any environmental risk.
- b. The proposed activity shall not endanger the health of the community through exposure to such potentially dangerous contaminants as heavy metals, hydrocarbons and pathogens.
- c. The generator of the sludge/residuals or the applicant shall submit in a timely fashion to the Town of Acton a copy of all sampling results collected pursuant to Department of Environmental Protection Regulations, Chapters 405 and 419, including annual composite topsoil samples. Failure to do so shall constitute a failure to comply with the conditions of approval.
- d. The generator of the residuals/sludge or the applicant, if different, shall notify the Town of Acton of the date and time residuals/sludge will be applied to the site at least 30 days prior to every application.

5.20 RESIDENTIAL GROWTH ORDINANCE

5.20.1 PURPOSE

The purpose of this ordinance shall be to:

- a.** Limit residential population growth of the town at a rate which would be compatible with the orderly and gradual expansion of community services, including, but not limited to, education, fire and police protection, road maintenance, water supply, waste disposal, code enforcement and development review.
- b.** Limit residential population growth of the Town at a rate, which would allow Town Boards and staff time to prepare and adopt updates to regulations, plans, and ordinances, while continuing to review ongoing development proposals.
- c.** Avoid a situation in which the rapid completion of major subdivisions, could outstrip the Town's capability to expand its services soon enough to avoid serious overburdening.
- d.** Ensure fairness in the allocation of building permits.

5.20.2 LEGAL AUTHORITY

This chapter is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and 30-A M.R.S.A. Section 2101 et seq. and 30-A M.R.S.A. Section 3001.

5.20.3 GROWTH PERMIT REQUIRED FOR NEW DWELLING UNITS

Before an applicant can apply for a building permit to construct a new dwelling unit within the Town of Acton, the applicant must obtain a Growth Permit pursuant to the provisions of this ordinance, unless exempted below.

5.20.4 EXEMPTIONS

The following situations are exempt from the provisions of this ordinance, and shall not require the applicant to obtain a growth permit:

- a.** The repair, replacement, reconstruction or alteration of any existing building or structure, provided that no new dwelling units are created and no seasonal dwelling units are converted into winterized year round dwelling units.
- b.** The replacement of a dwelling unit within the Town, provided that the original dwelling unit is destroyed or moved out of the Town of Acton, and the replacement dwelling unit is substantially started on the same lot within three years of destruction or removal of the original dwelling unit.
- c.** Erection of a dwelling unit which is being moved from one lot to another lot within the Town, or is being converted from residential use to another use.
- d.** Construction of dwelling units in housing, which is constructed, operated, subsidized or funded (in whole or in part) by a local housing authority or any agency of state or federal government.

- e. Subdivisions of ten lots or greater that are deed restricted for use by elderly residents (Ages 55 or older).
- f. Commercial Development Units consisting of congregate care, assisted living, or nursing home facilities.

5.20.5 ADMINISTRATION

The Town shall approve a maximum of 35 completed growth permit application during each calendar year. This amount represents the average number of new dwelling units permitted in the preceding four years, 1998-2001. The Code Enforcement Officer (CEO) shall administer the issuance of growth permits, pursuant to the provisions of this Ordinance, and shall only issue residential building permits to those applicants who hold a valid growth permit.

5.20.6 APPLICATION FOR A GROWTH PERMIT, STANDING TO APPLY

A growth permit application form, provided by the Town, must be completed, including all endorsements and certifications, by the property owner of record, or by the holder of a valid purchase and sale agreement for the subject property.

5.20.7 ITEMS REQUIRED FOR A COMPLETE APPLICATION

The following items must be attached to the growth permit application form, in order for the Code Enforcement Officer to be able to find the application complete:

- a. A recorded Deed or Purchase & Sale Agreement for a legal existing lot.
- b. Complete Building Plans for the entire residential dwelling unit, showing floor plans of all levels and elevation drawings, with sufficient detail to indicate that the proposed structure will be able to comply with all applicable building codes and ordinances in effect within the Town of Acton.
- c. Septic System Design on an HHE-200 form, signed by a Licensed Site Evaluator, licensed by the State of Maine.
- d. A plot plan, indicating all proposed setbacks from property lines, water bodies, streams or wetlands, as defined in the Land Use Ordinance of the Town of Acton.
- e. A fee will be paid to the Town of Acton, as pursuant to the fee schedule.

5.20.8 ISSUANCE PROCEDURE FOR A GROWTH PERMIT

- a. Growth permit applications and supporting plans and documents shall be submitted to the Code Enforcement Officer or his or her designated agent, who shall endorse each package with the date and time of initial receipt by the Town. The Code Enforcement Officer shall review such application packages for completeness pursuant to **5.20.7**.
- b. In the event two or more growth permit applications or supporting submissions are received simultaneously, the Code Enforcement Officer shall determine their order by random selection.

- c. Any person submitting false information on an application shall be subject to the penalties provided by law and shall not be eligible to apply for a growth permit application for a period of one year.

5.20.9 STANDARDS FOR THE ISSUANCE OF A GROWTH PERMIT

- a. Beginning on the first business day in January of the Code Enforcement Office and continuing until (but not including) the third Monday in December of each year, up to 35 growth permit applications may be approved. The Code Enforcement Officer shall approve growth permit applications in the order that they were found to be complete.
- b. The Code Enforcement Officer shall issue the building permit within 90 days after the issuance of a growth permit.
- c. Regardless of when the growth permit application was approved, all approved growth permits shall expire by December 31st of each year, and holders of approved growth permits that have failed to obtain a building permit by that time shall no longer be able to do so.
- d. No more than 4 growth permits shall be issued to any one person or legal entity in any single calendar month. No additional growth permits shall be issued to any one person or legal entity in subsequent months until the foundation or foundations of the units subject to the four prior growth permits have been completed and inspected by the Code Enforcement Officer.

5.20.10 NON-TRANSFERABILITY

Growth permit applications shall be site-specific, and shall be valid for construction only on the lot specified on the application. However, such applications shall be transferable to the new owners of the lot, should the property transfer before a building permit is issued.

5.20.11 AMENDMENTS

This Ordinance shall be amended, if necessary, in accordance with procedures specified in Town Ordinances, and in State law, at any General or Special Town Meeting.

5.20.12 APPEALS

An administrative appeal may be taken from any decision of the Code Enforcement Officer, in the administration of this ordinance, to the Board of Appeals and then to the Superior Court as provided by the state statute.

5.20.13 VIOLATIONS

- a. It shall be a violation of this Ordinance for any person to build or place a dwelling unit within the Town of Acton, without first having obtained a growth permit and a building permit, unless such construction or placement is exempted by this Ordinance.
- b. If a dwelling has been constructed or placed without a growth permit and a building permit in

accordance with this Ordinance, it shall also be a violation for any person to convey such a dwelling.

5.20.14 CONFLICT WITH OTHER PROVISIONS

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

5.20.15 SEVERABILITY

Should any section or provision of this Ordinance be declared by the courts to be invalid, illegal or unenforceable, such decision shall not affect any other section or provision of this Ordinance, either singularly or collectively.

5.20.16 REVIEW AND UPDATE OF GROWTH MANAGEMENT ORDINANCE

Pursuant to Title 30-A MRSA 4360, this Ordinance shall be reviewed and updated at least every 3 years to determine whether the rate of growth ordinance is still necessary and how the rate of growth ordinance may be adjusted to meet current conditions.

ARTICLE 6 - ADMINISTRATION

6.1 ENFORCEMENT

This Ordinance shall be enforced by a Code Enforcement Officer appointed by the Municipal Officers.

6.2 BUILDING OR USE PERMIT

6.2.1 A permit shall not be issued until an on-site inspection has been made.

6.2.2 All applications for building or use permits shall be submitted in writing to the Code Enforcement Officer on forms provided for that purpose, and such permit shall be applied for and cleared by the Code Enforcement Officer before any construction shall be started.

6.2.3 Within seven (7) days of the filing of an application for a building or use permit, the Code Enforcement Officer shall approve, deny or refer to the Planning Board for conditional use, all such applications. His decision shall be in writing on a form designed for the purpose, and communicated directly to the applicant. One copy of the Code Enforcement Officer's decision shall be filed in the Municipal Office. In cases where the Code Enforcement Officer deems that a Conditional Use Permit is required, he shall also provide a copy of his decision to the Planning Board.

In instances of new construction, increase in floor area of an existing structure or a structure being moved, an on-site inspection prior to issuance of permit shall be required.

6.2.4 No building permit for a building or structure on any lot shall be issued except to the

owner of record thereof, or his authorized agent, until the proposed construction or alteration of a building or structure shall comply in all respects with the provisions of this Ordinance or with a decision rendered by the Board of Appeals or the Planning Board. Any application for such a permit shall be accompanied by a plan, accurately drawn to scale, showing the actual shape and dimensions of the lot to be built upon, an on-site soil survey in accordance with the USDA Soil Commission, the exact location and size of all buildings or structures already on the lot, the location of new buildings to be constructed together with the lines within which all buildings and structures are to be constructed, the existing and intended use of each building or structure and such other information as may be necessary to provide for the execution and enforcement of this Ordinance.

6.2.5 Applications for permits with their accompanying plans and building permits shall be maintained as a permanent record by the Municipal Officers or the Code Enforcement Officer.

6.2.6 A building permit secured under the provisions of this Ordinance shall expire if the work or change is not commenced within one year of the date on which the permit is granted, and if the work or change is not substantially completed within two years of the date on which the permit is granted. A two year extension of the permit may be granted after review and approval by the CEO. Application for extension permit must be filed within thirty (30) days of original expiration date.

6.2.7 All new dwelling units, which are intended for human occupation, including seasonal dwellings and mobile homes, shall conform to the following minimum floorspace requirements:

a. Four hundred fifty (450) square feet for occupancy by either one or two persons, with an additional one hundred (100) square feet of floorspace for each additional person living there for more than three (3) months in any calendar year.

6.2.8 a. All new single and two family dwellings shall be built in compliance with the 2000 International Residential Building Code.
b. All new multi-family dwellings and all commercial structures shall be built in compliance with the 2000 International Building Code.

6.3 PLUMBING PERMIT REQUIRED

No building permit shall be issued for any structure or use involving the construction, installation or alteration of plumbing facilities unless a valid Plumbing Permit has been secured by the applicant or his authorized agent, in conformance with the sanitary provisions of this Ordinance.

6.4 LEGAL ACTION AND VIOLATIONS

When any violation of any provision of this Ordinance shall be found to exist, the Selectmen are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Municipality.

6.5 FINES

Any person, firm, or corporation being the owner of or having control or use of any building or premises who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and on

conviction shall be fined not less than one hundred dollars (\$100.00) nor more than two thousand five hundred dollars (\$2500.00).

Each day such a violation is permitted to exist after notification shall constitute a separate offense.

6.6 APPEALS AND CONDITIONAL USE PERMITS

6.6.1 PROCEDURE

- a.** All appeals or applications for Conditional Use Permits shall be based upon a written decision of the Code Enforcement Officer.
- b.** Administrative appeals or variance appeals shall be heard and decided upon by the Board of Appeals in accordance with the provisions of this Ordinance.
- c.** Applications for Conditional Use Permits shall be heard and decided upon by the Planning Board in accordance with the provisions of this Ordinance.
- d.** Appeals shall lie from decision of the Code Enforcement Officer to the Board of Appeals and from the Board of Appeals to the Superior Court according to State Law.
- e.** Conditional use shall lie from the decision of the Code Enforcement Officer to the Planning Board and from the Planning Board to the Superior Court according to State Law.

6.6.2 BOARD OF APPEALS

- a. Establishment**

A Board of Appeals is hereby established in accordance with State Law and the provisions of this Ordinance.
- b. Appointment and Composition**
 - (1)** The Board of Appeals shall be appointed by the Municipal Officers and shall consist of five (5) members, and two (2) alternates, all of whom shall be legal residents of the municipality, serving staggered terms of at least three (3) and no more than five (5) years. The Board shall elect annually a chairman and secretary from its membership. The secretary shall keep the minutes of the proceedings of the Board of Appeals which shall show the vote of each member upon each question. All minutes of the Board shall be public record. A quorum shall consist of four (4) members.
 - (2)** A Municipal Officer may not serve as a member.
 - (3)** Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.
 - (4)** A member of the Board may be dismissed for cause by the Municipal Officers upon written charges and after public hearing.
- c. Powers and Duties**
 - (1) Administrative Appeals**

To hear and decide where it is alleged there is an error in any order, requirement, decision, or determination made by the Code Enforcement Officer in the enforcement of this Ordinance. The action of the Code Enforcement Officer may be modified or reversed by the Board of Appeals, by concurring vote of at least four (4) members of the Board.

(2) Variance Appeals

To hear and decide, upon appeal, in specific cases where a relaxation of the terms of this Ordinance 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. A financial hardship shall not constitute grounds for granting a variance. The crucial points of variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case. As used in this Ordinance, variances may be authorized under the following conditions: within all districts/zones variances may be granted for height, area, size of structures, size of yards, open spaces and all setbacks **EXCEPT "WATERFRONT"** setbacks. Establishment or expansion otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the Zoning District or uses in adjoining Zoning Districts. The Board of Appeals shall grant a variance only by concurring vote of at least four (4) members and in so doing may prescribe conditions and safeguards as are appropriate under this Ordinance.

(3) The Board of Appeals shall notify the State of Maine Department of Environmental Protection, within fourteen (14) days, when a variance has been granted in the Shoreland District.

d. Appeal Procedure

(1) In all cases, a person aggrieved by a decision of the Code Enforcement Officer shall commence his appeal within thirty (30) days after a decision is made by the Code Enforcement Officer. The appeal shall be filed with the Board of Appeals on forms approved by the Board with fees paid in accordance with Section 6.4.1(f), and the aggrieved person shall specifically set forth on the form the grounds for the appeal.

(2) Before taking action on any appeal, the Board of Appeals shall hold a public hearing. In appeals involving the use of buildings or premises, the Board of Appeals shall notify by certified mail the applicant and owners of all property bordering and/or opposite the

property involved at least ten (10) days in advance of the hearing, of the nature of appeal and of the time and place of the public hearing.

- (3) In the case of appeals involving space and bulk regulations or interpretation, the Board of Appeals shall notify by certified mail only the applicant and the owners of property abutting the property for which an appeal is taken, at least ten (10) days in advance of the hearing, of the nature of appeal and of the time and place of the public hearing thereon. For the purpose of this section, abutting properties shall include properties directly across a street or water body from the property for which the appeal is made.
- (4) The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.
- (5) Following the filing of an appeal, the Board of Appeals shall hold a public hearing on the appeal within thirty (30) days. The Board of Appeals shall notify the Code Enforcement Officer and the Planning Board, at least twenty (20) days in advance of the time and place of the hearing, and shall publish notice of the hearing at least ten (10) days in advance in a newspaper of general circulation in the area; the applicant for an appeal shall pay the application fee to the Town Treasurer.
- (6) At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.
- (7) The Code Enforcement Officer or his designated assistant shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material he deems appropriate for an understanding of the appeal.
- (8) The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.
- (9) Within twenty (20) days of the public hearing, the Board of Appeals shall reach a decision on an appeal and shall inform, in writing, the appellant, the Code Enforcement Officer and Municipal Officers of its decision.

e. Decision

- (1) Upon notification of granting of an appeal by the Board of Appeals, the Code Enforcement Officer shall immediately issue a building permit in accordance with the conditions of the approval.
The location of that foundation must be approved

in writing by the Code Enforcement Officer before construction of the rest of the structure is commenced. To approve the location of the foundation, the owner must submit to the Code Enforcement Officer a foundation certification by a licensed surveyor or engineer indicating that the setbacks have been complied with.

- (2) A variance under the provisions of this Ordinance secured by vote of the Board of Appeals shall be recorded at the York County Registry of Deeds within 90 days of the date of the final written approval of the variance or variances, and shall expire if the work or change is not substantially completed within two (2) years of the date on which the appeal is granted.
- (3) Any violation of the terms and conditions of the variance is a violation of this ordinance.

6.6.3 CONDITIONAL USE PERMITS

6.6.3.1 Authorization

The Planning Board is hereby authorized to hear and decide upon applications for Conditional Use Permits, in accordance with State Law and the provisions of this Ordinance. The Board shall approve, with modifications or conditions, or disapprove an application for a Conditional Use Permit. No Conditional Use Permit shall be authorized unless specific provision for such Conditional Use is made in this Ordinance.

6.6.3.2 Existing Conditional Use or Structure

A Conditional Use which existed prior to the effective date of this Ordinance may not be changed to another Conditional Use nor substantially expanded or altered except in conformity with all regulations of this Ordinance pertaining to Conditional Uses. Substantial expansion shall be defined as:

- a. An increase in area of 25% or more.
- b. New materials or processes not previously associated with the existing use.

No changes shall be made in any approved Conditional Use without approval of the change by the Planning Board.

6.6.3.3 Application Procedure

A person informed by the Code Enforcement Officer that he requires a Conditional Use Permit shall file an application for the permit with the Planning Board on forms provided for the purpose. The applicant shall be

responsible for a filing fee, which covers administrative and legal advertisement costs. All plans for Conditional Uses presented for approval under this section shall be drawn at a scale not smaller than one (1) inch equals fifty (50) feet and show the following information unless the Planning Board waives these requirements:

- a. The name and address of the applicant (or his authorized agent) plus the name of the proposed development, and a copy of the deed or record of ownership, the assessor's map and lot number.
- b. Total floor area, ground coverage, and location of each proposed building, structure, or addition.
- c. Perimeter survey of the parcel made and certified by a registered land surveyor licensed in Maine, relating to reference points. showing true north point, graphic scale, corners of parcel and date of survey and total acreage.
- d. The appropriate fees.
- e. If the Planning Board can not judge that the proposed land use or activity will conform to all applicable provisions of this Ordinance, and other applicable codes or Ordinances of the Town, the Planning Board may, after notification to, and at the expense of the applicant, employ one or more independent consultants to ensure compliance with all requirements of this Ordinance. The estimated costs of such reasonable studies must be deposited with the Town Treasurer prior to their undertaking. Any money not spent must be reimbursed to the applicant.

6.6.3.4 Review Procedure and Public Hearing

After the Planning Board determines that the application has been filed together with the submissions the Board needs to consider if the standards listed in Section 6.7.3.7 can be complied with, the Planning Board shall hold a public hearing on the application within thirty (30) days. The Board shall notify the Code Enforcement Officer and Municipal Officers, and shall publish notice of the time, place and subject matter of hearing at least ten (10) days in advance in a newspaper of general circulation in the area.

The Board shall notify by regular US mail, first class,

postage prepaid, the applicant and the owners of all property within five hundred (500) feet of the property involved at least ten (10) days in advance of the hearing, of the nature of the application and of the time and place of the public hearing.

The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action taken by the Planning Board.

The Code Enforcement Officer or his designated assistant shall attend all hearings and may present to the Planning Board all plans, photographs or other material he deems appropriate for an understanding of the application.

The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.

6.6.3.5 Projects needing Board of Appeals Review

When an applicant needs a variance from a requirement of this Ordinance or an Ordinance interpretation before the Planning Board is able to approve the application as submitted, an appeal may be submitted to the Board of Appeals prior to final action by the Planning Board. If an appeal is filed with the Board of Appeals prior to the Planning Board making a final decision, the Planning Board shall table final action on the application pending the Board of Appeal's decision and shall notify the Board of Appeals of that action.

6.6.3.6 Decision

- a.** Within seventy-five (75) days of the public hearing, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Planning Board shall make findings of fact on the application, then approve, approve with conditions or deny the application, and shall inform, in writing, the applicant, the Code Enforcement Officer, and Municipal Officers of its decision and shall prepare a detailed finding of facts and conclusions. Upon notification of the decision of the Planning Board,

the Code Enforcement Officer, as instructed, shall immediately issue with conditions prescribed by the Board, or deny, a Building Permit.

- b.** A Conditional Use Permit secured under the provisions of this Ordinance by vote of the Planning Board shall expire if the work or change involved is not commenced within two (2) years of the date on which the Conditional Use is authorized.
- c.** An appeal may be taken to Superior Court within thirty (30) days after the decision is rendered.

6.6.3.7 Standards Applicable to Conditional Uses

It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met:

- a.** The use will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat.
- b.** The use will conserve shore cover and visual, as well as actual, access to water bodies.
- c.** The use is consistent with the Comprehensive Plan.
- d.** Traffic access to the site meets the standards contained in this Ordinance; and traffic congestion has been addressed in accordance with performance standards in this Ordinance.
- e.** The site design is in conformance with all municipal flood hazard protection regulations.
- f.** Adequate provision for the disposal of all wastewater and solid waste has been made.
- g.** Adequate provision for the transportation, storage and disposal of any hazardous materials has been made.
- h.** A storm water drainage system capable of handling a twenty-five (25) year storm without adverse impact on adjacent properties has been designed.
- i.** Adequate provisions to control soil

erosion and sedimentation have been made.

- j. There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes.
- k. The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odor and the like.
- l. All performance standards in this Ordinance, applicable to the proposed use will be met.
- m. Archeological and historic resources as designated in the comprehensive plan will be protected.

6.6.3.8 Conditions Attached to Conditional Uses

Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required in this Ordinance that it finds necessary to further the purposes of this Ordinance. Violation of any of these conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to, specifications for: type of vegetation; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational controls; professional inspection and maintenance; sureties; deed restrictions, restrictive covenants; location of piers, docks, parking and signs; type of construction; or any other conditions necessary to fulfill the purposes of this Ordinance. In evaluating each application the Board may request the assistance of the County Soil and Water Conservation District, a State or Federal Agency, or consultant which can provide technical assistance.

6.6.3.9 Performance Guarantees

- a. At the time of approval of the application for Conditional Use, the Planning Board may require the applicant to tender either a certified check payable to the Town, an irrevocable letter of credit from a lending institution, or a performance bond payable to the Town issued by a surety company in an amount adequate to cover the total costs of all the required improvements, taking into account the time span of the bond and

the effects of inflation upon costs.

The conditions and amount of the certified check or performance bond shall be determined by the Board with advice from the Town Administrator.

- b.** Prior to the release of any part of or the entire performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the engineer hired by the town to inspect the development and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested. Any interest accumulated on an escrow account shall be returned with any money owed by the Town to the developer after it has been determined that the proposed improvements meet all design and construction requirements.
- c.** If the appointed engineer finds, upon inspection of the improvements performed before release of the guarantee, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the applicant, he shall then notify the applicant, and, if necessary, the bonding company or lending institution, and take all necessary steps to preserve the Town's rights under the guarantee.
- d.** Performance guarantees, when required, shall be tendered for all improvements required under this Ordinance, including but not limited to, sidewalks, drainage facilities, parking areas, lighting, signs, landscaping, and buffer areas.