Town of Rockport
Land Use Ordinance



A True Copy – Attested by:

Elizabeth Lowe, Town Clerk

50th Revision
Approved by the Voters June 09, 2026

TOWN OF ROCKPORT

LAND USE ORDINANCE

ADOPTED JUNE 11, 1974

AMENDED DATES

March	17, 1975	June	08, 2004
December	17, 1975	June	14, 2005
March	15, 1976	June	13, 2006
July	26, 1976	June	12, 2007
December	05, 1977	June	10, 2008
March	17, 1980	June	09, 2009
June	18, 1981	June	08, 2010
November	02, 1982	June	14, 2011
June	07, 1983	June	12, 2012
November	08, 1983	June	11, 2013
March	19, 1984	June	10, 2014
November	06, 1984	June	09, 2015
March	16, 1987	June	14, 2016
November	03, 1987	June	13, 2017
March	20, 1987	June	12, 2018
June	13, 1989	August	18, 2020
June	11, 1996	June	08, 2021
June	10, 1997	November	02, 2021
June	09, 1998	June	14, 2022
June	08, 1999	November	08, 2022
November	02, 1999	June	13, 2023
June	13, 2000	June	11, 2024
June	12, 2001	November	05, 2024
June	11, 2002	November	04, 2025
June	10, 2003	June	09, 2026

Cover photo by Shay Ames showing the view from the top of Beech Hill.

TOWN OF ROCKPORT LAND USE ORDINANCE

TABLE OF CONTENTS

	Page Number
Chapter 100: Title & Authority	1-1
Chapter 200: Zoning Map	2-1
Chapter 300: Definitions	
§ 301 Meaning of Words	3-1
§ 302 Definitions	3-1
Chapter 400: Establishment of Zoning Districts	
§ 401 Purpose	4-1
§ 402 Establishment of Zoning Districts	4-1
§ 403 Conflict with Other Ordinances	4-1
§ 404 Separability	4-1
§ 405 Changes and Amendments	4-2
§ 406 Conformity	4-2
Chapter 500: Nonconformance	
§ 501 Nonconforming Lots	5-1
§ 502 Nonconforming Structures	5-1
§ 503 Nonconforming Uses	5-2
§ 504 Transfer of Ownership	5-2
§ 505 Changes in Nonconforming Lots, Structures and Uses	5-2
Chapter 600: Administration	
§ 601 Building Permits	6-1
§ 602 Applications	6-1
§ 603 Certificates of Occupancy	6-2
§ 604 Inspection of Rental Dwelling Units	6-2
§ 605 Code Enforcement Officer	6-2
§ 606 Legal Actions and Violations	6-2
§ 607 Liability for Violations	6-3
§ 608 Civil Penalties	6-3
§ 609 Fire Prevention and Protection	6-3
§ 610 Fee Schedule	6-5
Chapter 700: Board of Appeals	
§ 701 Organization	7-1
§ 702 Procedure	7-1
§ 703 Powers and Duties	7-1
§ 704 Application Procedure	7-4
§ 705 Appeal Procedure	7-4
§ 706 Conditions	7-4
§ 707 Reapplication for Appeal	7-4

Chapter 800: General Standards of Performance

§ 801 Environmental 8-1
§ 802 Industrial Standards 8-3
§ 803 Parking, Loading and Driveway Standards 8-4
§ 804 Cluster Development 8-7
§ 805 Lots 8-10
§ 806 Livestock Control 8-12
§ 807 Mobile Homes 8-12
§ 808 Access Management 8-14
§ 809 Wireless Telecommunications Facilities 8-21
§ 810 Service Drops 8-25
§ 811 Home Occupations 8-26
§ 812 Wind Energy Systems 8-27
§ 813 Blasting Standards 8-28
§ 814 Large Solare Energy Systems 8-30
§ 815 Accessory Dwelling Units 8-34
§ 816 Planned Unit Development 8-36
§ 817 Affordable Housing 8-39

Chapter 900: Zoning Districts

§ 901 Harbor Village District 9-1
§ 902 Village District 9-1
§ 903 Residential Coastal District 9-2
§ 904 Residential District 9-3
§ 905 (Reserved) 9-3
§ 906 Modified Mixed Business/Residential District 9-3
§ 907 Rockport Mixed Business/Residential District 9-3
§ 908 Rural District 9-4
§ 909 Rockport Hospital and Resort District 9-5
§ 910 Traditional Village District 9-6
§ 911 Reserved 9-17
§ 912 Reserved 9-17
§ 913 Downtown District 9-17
§ 914 Chickawaukie Lake Watershed Overlay District 9-19
§ 915 Mirror Lake & Grassy Pond Watershed Overlay District 9-20
§ 916 Industrial District 9-21
§ 917 Land Use Table 9-22
§ 918 Dimensional Tables 9-25
§ 919 Conditional Uses 9-28

Chapter 1000: Performance Standards

§ 1001 Applicability and Purpose 10-1
§ 1002 Area Landscape Regulations 10-1
§ 1003 Architectural Review Standards 10-4
§ 1004 Parking Lot Design and Landscaping 10-6

Chapter 1100: Signs and Advertising

§ 1101 Purpose 11-1
§ 1102 Signs on Private Property Only 11-1
§ 1103 Administration and Maintenance 11-1
§ 1104 Signs Exempt from Permitting Process 11-2
§ 1105 Temporary Signs 11-2
§ 1106 Internally Illuminated Signs 11-3
§ 1107 Off Premises Business Signs 11-3
§ 1108 Subdivision Signs 11-4
§ 1109 Wall Signs 11-4
§ 1110 State of Maine Official Business Direction Signs 11-4
§ 1111 Gasoline and Diesel Price Signs 11-4
§ 1112 Flags, Banners and Pennants 11-4
§ 1113 Dimensional Standards for Signs by District 11-4
§ 1114 Sign Prohibitions 11-6
§ 1115 Miscellaneous 11-6

Chapter 1200: (Reserved)

Chapter 1300: Site Plan Review

§ 1301 Purpose 13-1
§ 1302 Administration 13-1
§ 1303 Applicability 13-2
§ 1304 Site Plan Content 13-3
§ 1305 Performance Standards 13-5
§ 1306 General Provisions 13-7
§ 1307 Appeals 13-7

Chapter 1400: Shoreland Zoning Overlay District

§ 1401 Purposes 14-1
§ 1402 Authority 14-1
§ 1403 Applicability 14-1
§ 1404 Effective Date of Ordinance and Ordinance Amendments 14-1
§ 1405 Availability 14-1
§ 1406 Severability 14-2
§ 1407 Conflicts with Other Ordinances 14-2
§ 1408 Amendments 14-2
§ 1409 Zoning Map 14-2
§ 1410 Interpretation of Shoreland Zoning Boundaries 14-2
§ 1411 Land Use Requirements 14-3
§ 1412 Non-Conformance 14-3
§ 1413 Establishment of Districts 14-7
§ 1414 Table of Land Uses 14-8
§ 1415 Land Use Standards 14-11
§ 1416 Administration 14-30

CHAPTER 100 – TITLE AND AUTHORITY

101. Title

This Ordinance shall be known and may be cited as the "Land Use Ordinance of the Town of Rockport, Maine."

102. Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, provisions of 30-A, M.R.S.A. § 3001, *Ordinance Power*, and the provisions of 30-A, M.R.S.A. § 4352, *Zoning*.

CHAPTER 200 – ZONING DISTRICTS

A map entitled "*Town of Rockport Zoning Map*" is hereby adopted as part of the Ordinance and shall be the official zoning map of the Town of Rockport. This Map shall be identified by the signature of the Select Board Chair and attested by the signature of the Town Clerk. The "*Town of Rockport Zoning Map"* shall be located in the Planning Office and shall be the final authority as to the current zoning status of the land and water areas, building, and other structures in the Town.

CHAPTER 300 – DEFINITIONS

301. Meaning of Words

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

302. Definitions

Abutting Property: Any lot which is physically contiguous with the lot in question even if only at a point and any lot which is located directly across a public street or way from the lot in question.

Accessory Building or Structure: A subordinate building or structure or a portion of the main building, the use of which is incidental to that of the main or principal building. 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 in the Shoreland Zoning Overlay District.

Accessory Buildings within Setbacks: In all districts, accessory buildings or structures, including, but not limited to woodsheds, garden sheds and tool houses, may be placed within the side and rear yard setbacks under the following conditions:

1. Total ground coverage shall not exceed 150 square feet.
2. Building height shall not exceed 12 feet.
3. Building shall not be used to store more than 5 gallons of flammable liquids or gases.
4. No portion of building shall be placed closer than 6 feet from the property line.
5. More than 1 accessory structure under these criteria is prohibited.

Accessory Use: A use clearly incidental and subordinate, to the principal building or permitted use and located on the same lot with such principal building or use. A dwelling unit shall not be considered an accessory use.

Affordable Housing: For definition, see Maine Statute 30-A- MRSA § 4364 (1).

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

Agriculture (or Farming): The cultivation of the soil, production of crops and/or raising of livestock, including but not limited to: the production, keeping or maintenance for sale or lease, of plants and/or animals, 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.

Agricultural Processing: The processing, preparation, and/or manufacturing of agricultural products, including but not limited to changes to the physical state or form of the agricultural product, as an accessory use to an agricultural use. A minimum of 51% of the agricultural products used for the processing, preparation, and/or manufacturing shall be derived from the agricultural use.

Alley: A narrow street or passageway between or behind buildings; *especially*: a thoroughfare through the middle of a block giving access to the rear of lots or buildings. In the *Traditional Village District*, alleys usually run between or behind buildings to allow for delivery and access for fire engines and parking.

Animal Kennel: An establishment, in which more than four (4) dogs or four (4) cats are sold, housed, bred, boarded, or trained for a fee.

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

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

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

Art Gallery: A business providing space for the display and sale of graphic art, sculpture, textiles and photographs to the public.

Artisan living/working use: The manufacture and sale of artifacts, works of art, and products by hand or with table mounted or electric hand tools such as, but not limited to, pottery, ceramics, hand-blown glass objects, within the same dwelling unit(s) in the same building(s).

Assistant Code Enforcement Officer: A state of Maine Certified Code Enforcement Officer appointed by the Rockport Board of Selectmen to act in coordination with the Code Enforcement Officer.

Association of Unit Owners: All of the unit owners acting as a group in accordance with the bylaws and declaration.

Automobile Repair Garage: A business which services and repairs automobiles, vans and light trucks.

Automobile Sales, Both New and Used Cars and Trucks: A business that sells new or used automobiles or trucks.

Barber Shops and Salons: A place of business where the cutting, styling, coloring, cleaning, shaving, waxing, or otherwise altering the characteristics of hair on the head or face is performed for a fee. Also includes the practice of cosmetology, and nail care, but does not include tattooing or the use of electrolysis for hair removal.

Barn: An accessory structure for the housing of farm animals and/or for the storage of the animal feeds for those farm animals and agricultural equipment,

Basal Area: The area of cross-section of a tree stem at 4½ feet above ground level and inclusive of bark.

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

Bed and Breakfast: An owner-occupied dwelling in which 3 to 6 sleeping rooms are, for a fee, occupied by guests staying for a limited duration (less than 2 weeks).

Only breakfasts for guests may be served. Adequate off-street parking shall be provided. There shall be no kitchen facilities in rented units or rooms. There shall be no separate ownership of units or rooms. The renting of 1 or 2 bedrooms in a dwelling, used as living quarters for 1 family, shall not be considered a bed and breakfast, but rather shall be considered an accessory use to the single family dwelling.

Best Management Practices (BMPs): Practices, methods or measures that when installed or performed will prevent, reduce or correct a non-point source(s) (NPS) water pollution problem(s). Agricultural BMPs are used to encourage the accurate use of herbicides and pesticides.

Blaster: An individual, licensed by the State, who is in charge of the loading and firing of a blast and who supervisors other individuals engaged in this activity.

Blasting: An activity using explosives for the purpose of producing an explosion to fragment rock for mining, quarrying, excavation, site development, and other construction projects.

Blasting Operation: All work involving the preparation, drilling, loading, detonation, excavation, and cleanup of the blasted area.

Boarding Care Facilities: A residential facility for four or more elderly or disabled persons within which are provided living and sleeping facilities, meal preparation, laundry services, room cleaning and physical therapy. Such facilities may also provide other services, such as, but not limited to, transportation for routine social and medical appointments, minor nursing or medical care and/or counseling.

Boat Storage/Ship Yard/Sales: A facility, whether open or enclosed, providing one or more of the following services to the public: boat/ship repair, boat/ship construction, boat/ship storage, boat/ship sales.

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

Boat Storage: The commercial storage of boats, boat motors and/or boat trailers at a marina, boat/ship yard or marine repair facility or storage building. This does not include retail sales.

Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals or objects regardless of the materials of which it is constructed.

Building Maintenance: The repair or refinishing of an existing building with no change to structural features. Examples of building maintenance include repainting, reroofing or residing.

Camping and Tenting Area or Campground: A facility licensed by the State of Maine, and including any area or tract of land to accommodate two (2) or more parties in overnight or temporary living quarters, including, but not limited to tents, , campers, camping trailers, motor homes and travel trailers, that also maintains offices, sanitary, washing and other facilities accessory thereto.

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

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

Care Facility: A facility licensed by the State of Maine to provide a residence for persons who have physical infirmities such that they are in need of custodial care but not to such a degree as to require nursing home facilities.

Cellar: See definition for ***"Basement"***.

Cemeteries: Land or lots used, or intended to be used, for the burial of the dead and dedicated to cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

Certificate of Occupancy: a certificate provided after the inspection of a structure by the CEO, LPI, and the Fire Chief or their designee for habilitation of living space or dwelling.

Change of Use: Any alteration of the activity habitually taking place on a property or in a structure that results in a change in the classification or description of that activity under this Ordinance. Examples include, but are not limited to: Changing from Residential to Commercial Use; Changing from a Restaurant to a Professional Office.

Charitable, Educational or Scientific Institutions: Any society, organization, museum, association, or other such institution dedicated to charitable, educational or scientific purposes, as defined by United States Internal Revenue Service Code Section 501(C)(3).

Clear Cut: The harvesting of a stand of trees within a forested area of 5 or more acres such that more than 60% of the crown closure has been removed.

Clustered Residential Development: A subdivision or development in which the lot sizes are reduced below those normally required in return for the provision of permanent open space owned in common by lot and/or unit owners, the Town or a land conservation organization. Clustering shall not be used to increase the maximum residential dwelling density of this ordinance.

Clustered Non-Residential Development: To encourage development more in keeping with the existing patterns of development in historic New England (see also " ***Traditional Neighborhood Development"***), industrial or business parks, to reduce strip development, the number of curb cuts, traffic problems, and proliferation of parking areas caused when each lot has its own separate entrance onto a major road.

Code Enforcement Officer: The official responsible for enforcement of this Land Use Ordinance, the Rockport Shoreland Zoning Ordinance, the Rockport Sign Ordinance, and structural requirements as adopted by the Town. The Code Enforcement Officer shall also be responsible for other duties set forth by State Statute and any other ordinance. The Code Enforcement Officer shall also have the duties of a building inspector. The Code Enforcement Officer shall be certified by the State of Maine, in accordance with 30-A M.R.S.A. Section 4451 and as amended.

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

Commercial Fish Pier: a structure, typically built out into the water, to facilitate the unloading, processing, and distribution of fish and other seafood by commercial fishing operations.

Commercial Greenhouse: A greenhouse engaged in the raising for sale: flowers, vegetables, trees and shrubs. This activity includes plant stock grown outdoors and incidental sale of related goods and materials used for plant care, feeding and similar items.

Commercial Parking Facility: A lot, or any portion of a lot, used for the parking of motor vehicles, trailers, or accessories, for a fee.

Commercial Storage Building: A structure built for the rental of enclosed spaces for the storage of boats, automobiles, motor homes, motor cycles, snowmobiles, and similar vehicles. The minimum size of rental spaces, accessed from the exterior, shall be 250 sq. ft.

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

Community Building: A private building used by a fraternal, philanthropic or other civic organization and which may be made available from time to time for community functions.

Community Living Use: A housing facility for 8 or fewer persons with disabilities that is approved, authorized, certified or licensed by the State. A community living arrangement may include a group home, foster home or intermediate care facility. Disability has the same meaning as the term handicap in the federal Fair Housing Act, 42 United States Code, and Section 3602.

Community Use: One or more of the following: schools, public and private, day care centers, libraries, churches and other houses of worship, community buildings, municipal uses and quasi-public uses which involve frequent on-site interaction with the public.

Conditional Use: A conditional use is a use that is permitted in a zoning district conditioned upon review by the Planning Board and approval that the use conforms to the criteria established in Section 919 of the Rockport Land Use Ordinance.

Condominium Form of Ownership: Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions under a declaration, or an amendment to a declaration, duly recorded pursuant to this Act. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Any real estate development consisting exclusively of clustered, detached, single family residences is not a condominium, unless so designated in the declaration.

Congregate Housing: A type of multi-family dwelling, including multiple individual rooms or dwelling units to be occupied as a residential shared living environment. Such construction will normally include small individual apartments, combined with shared community space, shared dining facilities, housekeeping services, personal care and assistance, transportation assistance and specialized shared services.

Connector: An enclosed or unenclosed structure built to create a visual separation between the structures it connects. The following design elements shall be used to create the desired visual separation:

1. Change in roof form (e.g. height, slope, ridge direction)

2. The face of the connector shall be offset from the buildings it connects by at least 4 feet.

3. The maximum footprint of a connector shall not exceed the following percentage of the largest of the two buildings it connects: 4,000 sf limit = 20%, 6,000 sf limit =15%, 10,000 sf limit = 10%

   Connectors shall not count toward maximum building footprint.

Convenience Store: A store intended to serve the convenience of travelers primarily through the sale of merchandise, including such items as, but not limited to, prepared foods, basic foodstuffs, newspapers, emergency home repair articles and other household items. Exterior take-out windows, drive throughs and the sale of gasoline are not permitted in convenience stores.

Corner Lot: Lot located at the intersection of two streets. Corner Lots shall conform with the front yard setback requirements facing the primary street and the side yard setback requirements facing the secondary street.

Crawl Space: Any portion of a structure with a floor-to-ceiling height of less than 6 feet.

Day Care Center : A facility licensed by the State of Maine for the care or instruction of children exclusive of children who may be living in the home which is serving as the day care or nursery school facility.

Developed Land: Any land on which site improvements are made, including buildings, landscaping, parking areas and streets.

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

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

Disability Variance: The Board may grant a variance to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. For the purposes of this subsection, a disability has the same meaning as a physical or mental disability under 5 M.R.S.A., § 4553, and is defined as any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or, in the case of mental disability, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services, and the term "structures necessary for access to or egress from the dwelling" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

Dormitories: A residential building used as group living quarters for a student body, religious order, or other group as an accessory use to a college, university, boarding school, orphanage, convent, monastery, farm labor camp, or other similar use. Dormitories do not include kitchen facilities, except a group kitchen facility to serve all residents. Up to 20 percent of the useable square footage of a dormitory may be used as meeting space, such as meeting rooms, conference rooms, classrooms, chapels and other similar uses.

Drive Through: An element of a business enabling customers to obtain its service or product while occupying their vehicles.

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

Dwelling, Single-Family: A building designed and/or used exclusively for residential purposes for 1 family only and containing not more than 1 dwelling unit.

Dwelling, Multi-Family: One or more buildings used for residential occupancy by 2 or more families, each living independently of each other.

Dwelling, Multi-Family 20: One or more buildings used for residential occupancy by more than 20 families per building, each living independently of each other.

Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as living quarters for only 1 family, including provisions for living, sleeping, cooking, bathing and eating. The term shall include mobile homes but not travel trailers or motor homes. Guest quarters that meet this definition shall be considered a separate dwelling unit and must meet all applicable requirements.

Dwelling Unit, Accessory (ADU): a self-contained dwelling unit that is located within, attached to or detached from a single-family dwelling unit located on the same parcel of land. Access to the interior of ADU must be provided without the need to pass through another dwelling unit.

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

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

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

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

Explosive: Any chemical compound mixture or device, the primary purpose of which is to cause an explosion.

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

Family: One or more persons occupying a dwelling unit and living as a single housekeeping unit as distinguished from a group occupying a boarding home, lodging house or hotel.

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

Flea Market: An outdoor market selling antiques, used household goods, curios and the like, at a frequency of more than 4 days in any 6 month period. Flea markets, as distinguished from yard (or garage) sales, shall be prohibited under this Ordinance.

Float: A structure, permanent or temporary, supported by its buoyancy, whether attached to the shore, a wharf, a pier or moored to the bottom, having no installed means of propulsion and constructed with a deck. Temporary, as used herein, means a structure that remains in the water for less than 7 months in any consecutive 12 months. No structure shall extend more than 4 feet above the deck of the float and no dwelling shall be located thereon. With the exception of public utilities, all floats in all lakes and ponds must be removed by November 1 of each year.

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

Food Cart or Truck: A movable vehicle from which food and/or beverages are sold to the public who walk or drive up to the food cart.

Footprint: The building area as measured around the foundation, including any attached structure within four (4) feet of the ground.

Footprint (Applicable to the Shoreland Overlay District): The entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

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

Foundation: The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frost walls.

Frontage: The dimension between the two sidelines of any lot, measured along the property line that border upon:

1. A way accepted by or established as belonging to the Town of Rockport, Knox County, or the State of Maine, provided access is not specifically prohibited; or

2. A way as shown on an approved final subdivision plan; or

3. A private way existing prior to the enactment of the Subdivision Ordinance of the Town of Rockport, which is shown on a plat recorded in the registry of deeds prior to such enactment. If such private way is part of a proposed subdivision plan, however, its use shall be subject to the approval of the Planning Board; or

4. A private way only as allowed in this Ordinance.

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

Gasoline, Filling Station: Any place of business at which gasoline, other motor fuels or motor oil are sold to the public for use in a motor vehicle, regardless of any other business on the premises and which may involve servicing or repairing vehicles.

Golf Course: A tract of land for playing golf, improved with trees, greens, fairways, and hazards, and which may include clubhouses and shelters. The term excludes miniature golf courses.

Golf Range: A facility designed for the practice of golf, typically featuring a series of designated areas where individuals can hit golf balls for practice. This may include driving ranges, putting greens, and associated amenities such as a clubhouse, restrooms, and equipment rental services. Golf ranges are intended for recreational use and may be open to the public or restricted to members.

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

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

Green: Land in a Traditional Village which is dedicated to public use and which shall be landscaped, but from which trees of 8" or greater caliper shall not be removed unless diseased, unsound or overly crowded. A green shall have Streets along at least 50% of its perimeter. Structures compatible with public use such as flagpoles, gazebos, fountains, playground equipment, outdoor furniture, sculpture, etc. may be located on a Green. No other buildings may be located on a Green. Athletic and recreational uses such as baseball, football and soccer fields, basketball, handball and tennis courts and golf courses shall not be located on a Green. Parking shall not be permitted on a Green.

Greenhouse: A structure dedicated to the cultivation of plants (flowers, vegetables, trees and shrubs).

Grocery Stores: Any place of business at which the sale of, foodstuffs; household items; fresh and/or canned fruit, vegetables or meats; breads, cakes and/or pastries, liquor; and other similar items to the general public take place. Take-out windows and the sale of gasoline are not allowed in grocery stores.

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

Health Practitioners: Health professionals providing primary services to humans, including physicians, dentist, nurse practitioners, physician assistants and other similar professionals. Not included in this definition are those working in support roles for primary care health professionals such as nurses, nurse's aides, medical assistants, patient care representatives and other clerical support staff.

Height of Building: The vertical distance measured from the average original grade to the highest point of the roof surface, unless otherwise specified in this ordinance; this measurement excludes cupolas, turrets, spires, etc., and projections, such as antennae, chimneys, windmills, and ventilators.

Historic or Archaeological Resources: are areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as historic or archaeological resources and any areas identified by the Town of Rockport's Comprehensive Plan.

Home Occupation: An occupation or profession which is customarily carried on in a dwelling unit or other structure accessory to a dwelling unit and is in conformance with the performance standards of Section 811 of the Rockport Land Use Ordinance.

Horizontal Distance on the Ground: Ground distance shall be measured horizontally. Examples include, but are not limited to: distance from high water, width of a setback, and distance from edge of pavement.

Horticultural Use: The growing of fruits, vegetables, flowers or ornamental plants, other than that accessory to residential uses, whether for sale, display or scientific purposes.

Hospital: A facility, licensed by the State of Maine, providing acute medical, surgical and/or psychological care on an in-patient basis and which may also provide emergency and other care on an out-patient basis.

Hospitals on Sites of at Least Ten (10) Acres: An institution providing, but not limited to, overnight health services, primarily for in-patients and medical or surgical care for the sick or injured, including as an integral part of the institution such related facilities as laboratories, out-patient departments, substance abuse facilities, training facilities, central services facilities and staff offices.

Hotel: *See* ***"Motel and Hotel".***

Hybrid System: An energy system that uses more than one technology to produce energy (for example, a wind-solar system).

Indoor Recreation Facility: A recreation facility designed and equipped for the conduct of sports, leisure time activities, performances and other customary recreation activities which take place indoors. Restaurants which are incidental to the primary recreational use of the structure are allowed.

Industrial: Manufacturing altering, processing, assembling, warehousing, or servicing goods in a manner which will not create noise, vibration, glare, dust, heat, smoke, odor, or other substance or condition which would interfere with or be incompatible with other uses permitted in the district.

Inn or Lodging House: A commercial structure built or dwelling converted for commercial purposes to accommodate for a fee travelers and other transient guests who are staying for a limited duration, with sleeping and dining facilities and services, having 10 or fewer sleeping rooms and in which some or all have a bath, sitting and dining rooms may be used or intended for use in common by such guests. There shall be no kitchen facilities in rented units or rooms. There shall be no separate ownership of rooms or units.

Inns on Sites of at Least Five (5) Acres: A building which contains a dwelling unit occupied by an owner or resident manager, in which up to ten (10) lodging rooms or lodging rooms and meals are offered to the general public for compensation and in which entrance to bedrooms is made through a lobby or other common room.

Inn includes such terms as guest house, lodging house and tourist house.

Landscaping (see also ***"Landscaping, Heavy"***)**:** Landscaping businesses provide landscape services which require light equipment and machinery use or less (riding mowers, push mowers, chainsaws, tillers, weed trimmers, etc.). The machinery required to perform the services they provide does not need to be registered with the Bureau of Motor Vehicles. Their services include, but are not limited to: lawn mowing, lawn installation, removal and/or planting of trees, shrubs and flowers, trimming of trees and shrubs, and general plant maintenance.

Landscaping, Heavy (see also ***"Landscaping"***)**:** Heavy landscaping or construction businesses provide land development services with large equipment requiring registration by the Bureau of Motor Vehicles such as excavators, front-end loaders, and tractors. Such businesses also use dump trucks and trailers to transport stone, soil and other material. Their services may include: driveway installation and repair, building structures, excavation of foundations for building structures, installation of culverts and other drainage improvements, installation and repair of septic systems, installation and repair of sewer lines, installation of boulder walls and granite steps, patio installations and associated services. Such businesses may process and stockpile their own materials on site, including screening and chipping, and generally require large structures to house and maintain heavy equipment and trucks.

Large Solare Energy Systems (LSES): a facility whose primary purpose is to harvest energy by transforming solar energy into another electrical energy. For purposes of this Ordinance: (a) a solar energy system that is structurally mounted to the ground; (b) has a physical size based on total airspace projected over the ground is greater than 20,000 square feet; and (c) that is not directly connected to a Residential Structure.

Large Solare Energy System Lot coverage: the total airspace projected over the ground from solar panels and supporting equipment.

Laundry and Dry Cleaning Establishment:

Laundry: A business that provides home-type washing, drying and/or ironing machines for clothing or apparel to be used self-service style by the general public on the premises for a fee.

Dry Cleaning Establishment: A business that provides washing, drying, cleaning, ironing or other similar services of clothing or apparel to the general public for a fee.

License: A license issued pursuant to any chapter in this Land Use Ordinance.

Licensee: Any person who maintains an unexpired license pursuant to this Land Use Ordinance.

Line of Sight: The direct view of the object from the designated scenic resource.

Liquor Stores: A retail business establishment engaged in the selling of spirituous liquors, wines and beers to the general public for off-premises consumption.

Long Term Rental: Dwelling Unit offered for rent for a minimum duration of one year.

Lot Coverage: That portion of a lot covered with structures, sidewalks, streets, driveways, parking or storage areas and patios. Areas not included as lot coverage are naturally vegetated or landscaped open space, including such areas for visual screening, surface water drainage, parking area division or subsurface sewage disposal.

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

Lot: All contiguous land in parcels in single or joint ownership described on a deed, plot plan or similar legal documents recorded at the Knox County Registry of Deeds, including such open space as is required by this Ordinance and having frontage upon an approved street or private right-of-way. Lots located on opposite sides of a public or private road shall be considered each a separate lot.

Lumber Mill: A commercial facility designed and intended for the conversion of long logs and/or bolt wood to finished or semi-finished lumber or stock which may include equipment and structures for sawing, planning, shaping, treating, drying and storage of wood.

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

Marine Research Facility: A facility for the study of physical, geological, biological and chemical oceanography, including laboratories, but not including commercial aquaculture or the commercial production of materials obtained from marine environments.

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

Medical Clinic: a healthcare facility, smaller than a hospital, that primarily offers outpatient services.

Miniature Golf Course (Mini-Golf, Putt Putt Golf): An area of land or a building, structure or premises or part thereof operated for profit or gain as a commercial place of amusement in which facilities are provided to simulate the game of golf or any aspect of the game on a small scale, but does not include a Golf Range.

Minimum Area Per Dwelling Unit: The land area in square feet required to support the development of each dwelling unit.

Minimum Lot Width: The closest distance between the side lot lines of a lot.

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

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

Mini-storage: Subdivided storage buildings with storage units leased to individual lessees, which units have individual access to the exterior.

Mobile Home: A detached residential dwelling unit designed for transportation, after fabrication, on streets or highways on its wheels, or on a flat bed or other trailer and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy, except for minor and incidental unpacking and assembly, such as locating on jacks or other foundation or connection to utilities. For the purpose of the Ordinance, a mobile home shall be treated as a single-family dwelling and be subject to all land use regulations applicable thereto.

Mobile Home Park: A plot of land laid out to accommodate on the same parcel 3 or more mobile home sites, subject to the space and bulk standards of this Ordinance and to the design standards and review process of the Subdivision Ordinance and subject to all other applicable State and local codes and ordinances.

Motel and Hotel: A commercial building or group of buildings built to accommodate for a fee, travelers and other transient guests, who are staying for a limited duration, with sleeping rooms (with or without cooking facilities), each rental unit having its own private bathroom and its own separate entrance leading either to the outdoors or to a common corridor or hallway. Hotels on at least 25 contiguous acres of land shall also be known as resorts. Resorts also may contain any combination of the following: office space, residential condominiums, time share units, golf course, health club, spa, convention center and all types of athletic facilities accessory to the hotel.

Municipal Use: A use of land, structure or building, owned or controlled by the Town of Rockport or any district, agency or commission thereof, which services a public purpose.

Municipal Building: Any structure used by, or use of any space solely for the conduct of governmental affairs of the municipality, its agents, officers, officials, employees and its subsidiary agencies.

Municipal Wastewater Pumping Stations (*municipal pump stations are exempt from all setback requirements in all districts*): In ground structure and equipment which is required as part of the municipal wastewater collection system to carry away and treat domestic waste.

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

Newspaper or Printing Facility: A business facility primarily used for the gathering of news, writing, editing, editorializing and merchandising of a newspaper and which may include large format printing equipment used for the production of a newspaper, magazine, or other large-format or large circulation publications.

Nonconforming Lot: A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the minimum lot area, minimum lot width, lot area per unit, lot coverage or frontage requirements of the District in which it is located. It is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Nonconforming Structure: A structure that does not meet the setback, lot coverage, height, footprint or, if applicable, unit size standards of the District in which it is located. It is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Nonconforming Use: A use of a building, structure or area of land which does not conform to the regulations of the district or zone in which it is situated but is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

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

Normal High-Water Line or Normal High Water Mark of Inland Water: That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

Nursing Home: A facility in which nursing care and medical services are performed under the general direction of persons licenses to practice medicine in the State of Maine for the accommodation of convalescent or other persons who are not in need of hospital care but who do require, on a 24-hour basis, skilled nursing care and related medical services.

Open Space: is the portion of a lot or site which is maintained in its natural state to preserve scenic resource, farm and forest land, wetlands, groundwater recharge areas, wildlife habitat, public access to water bodies, and other important or environmentally sensitive areas or to e used for outdoor recreation purposes.

Ordinance: The Town of Rockport, Maine, Land Use Ordinance; also referred to as "this Ordinance."

Outdoor Boat Sales and Storage: A lot or lots used for the display and sale of boats and ships not associated with the manufacturing, fabricating or repair thereof. (See requirements under section 1004.1.

Outdoor Recreation Facility: A recreation facility designed and equipped for the conduct of sports leisure time activities and other customary and usual recreational activities which take place predominantly in the outdoors. This includes any accessory structures such as restrooms, storage and other buildings necessary to operate the facility.

Outdoor Sales and Service Use: A permanent seasonal display of merchandise or articles for sale in which said articles are displayed in the open, or under tents or other structures having no walls but not including any spaces, tables or other defined areas leased or rented to the public as in a flea market. Outdoor sales and service uses may include a structure serving as a sales office and may be accessory to permit enclosed uses on the same lot. Where allowed, outdoor displays shall be set back at least twenty-five (25) feet from all property lines including the road right-of-way.

Outdoor Storage Facility: is a designated area used for storing various items like equipment, materials, vehicles, or goods outside of a building.

Outlet stream: any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

Overlay District: A set of land use regulations designed to address special physical characteristics which are described in the ordinance text, whose area boundaries are delineated on the official land use map and which is imposed in addition to those of the underlying district(s). Land uses and developments within the overlay district must also conform to the requirements of the underlying district(s) or the provisions of the more restrictive district(s).

Parabolic Antenna (also known as a satellite dish antenna): An antenna that is bowl- shaped, designed for the reception and or transmission of radio frequency communication signals in a specific directional pattern.

Park: Any public or private land available for recreational, educational, cultural, or aesthetic use.

Parking: An area where motor vehicles may be located for the purpose of temporary, daily or overnight off-street parking.

Parking Space: An area not less than nine (9) feet wide and eighteen (18) feet long, not including the access thereto, accessible from the street or aisles leading to streets and usable for the storage or parking of passenger vehicles. Parking space or access thereto shall be constructed as to be usable year round. A parking space to accommodate the handicapped shall be an area not less than twelve (12) feet wide and eighteen (18) feet long.

Pathways: A designated Pathway is wider than four feet (4 ft.) and has been specifically constructed under State or Federal Pathways programs. Non-motorized vehicles (such as bicycles, skateboards, and in-line skates) may be used on designated Pathways.

Peddler – Itinerant: A person engaged in a temporary or transient business within the Town of Rockport to sell goods and products within the public right of way or on private property.

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

Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line or Within a Wetland: An above-water structure designed to allow access to deeper water that extends perpendicular to the coastline and contiguous to it. Except for mooring devices, safety equipment, equipment and structures directly associated with the services rendered to vessels using the pier, no building or structure shall extend above the level of the deck of the pier and no dwelling shall be located thereon. With the exception of public utilities, all piers and wharves, including floating wharves, in all lakes and ponds must be removed by November 1 of each year. There shall be no permanent piers in lakes and ponds.

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

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

Places of Worship: Venue, with or without living quarters for persons engaged in carrying on religious activities provided that any such religion is recognized under the laws of the State of Maine and under the laws of the United States of America as a charitable organization.

Planned Unit Development (PUD): is a housing development consisting of either single family homes, multifamily homes, condos or townhomes, or combinations thereof, and in which every homeowner belongs to a homeowners association or equivalent. PUDs are intended to cluster housing units on a lot and allow for increased density with incentives outlined in Section 817 of the Rockport Land Use Ordinance.

Primary Residence: See ***"Principal Residence"***.

Prime Farm Land: Land that has not been urbanized, has slopes that are predominantly 8% or less and that has soils identified by the National Cooperative Soils Survey as within 1 or more of the following soils classifications: Agawam, Buxton, Charlton, Elmwood, Paxton, Sudbury, Sutton or Woodbridge.

Principal Residence: is the location where the owner resides most of the year, or the property owner uses this address as their legal address for tax returns, driver's license, and/or voter registration card.

Private Way: A privately owned road, for vehicle access to structures or uses on lots.

Principal Structure: A structure other than one that is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

Principal Use: A use other than one that is wholly incidental or accessory to another use on the same lot.

Private Club: Buildings or facilities owned or operated by a corporation, association, or persons for social, educational, or recreational purposes; but not primarily for profit or to render a service that is customarily carried on as a business.

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

Professional Offices: Any structure that houses the business office of a person or persons who supply a service to the public.

Municipal Waste Treatment Facilities: The structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of effluent.

Public Utility: Those essential, public services, such as, but not limited to, water, electricity, telephone, gas and transportation, whether publicly or privately owned, which are regulated by the Maine Public Utilities Commission, the Maine Department of Transportation or Federal Communications Commission. The provisions of this Ordinance shall apply to those buildings and structures located outside of public rights-of-way but shall not apply to facilities, either above or below ground, lying wholly within public rights-of-way.

Public Utility Installations and Municipal Utility Installations including Structures, Substations, Pumping Stations (*setback requirements do not apply nor does the minimum lot size requirement*): Those essential, public services, such as water, electricity, telephone and gas, whether publicly or privately owned, which are regulated by the Maine Public Utilities Commission, or the Federal Communications Commission.

Quasi-Public: An entity organized for a recognized public purpose and that renders a public service or services but which may be under private control or under the control of a public agency other than the municipality.

Recreational Boating Facility: A facility for storing, servicing, fueling, berthing and securing and launching of private pleasure craft that may include the sale of fuel and incidental supplies for the boat owners, crews and guests.

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

Recycling Center: A building in which stable, non-toxic recyclable material such as glass, paper, metal and rubber is received, sorted, cleaned, prepared for shipping and not held on the premises for more than thirty days.

Rental Housing Unit: includes Long Term Rental, Seasonal Rental, and Short-Term Rental units.

Research Facility: A building or group of buildings, together with associated grounds, in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Residential Structure: A dwelling and any building accessory thereto.

Residual Basal Area: The sum of the basal areas of trees remaining on a harvested site.

Resort: See **"*Motel and Hotel*"**

Restaurant: A place for serving prepared food and/or beverages to the public for consumption on or off the premises.

Restaurant, Drive Through: is a **Restaurant** with a **Drive Through.**

Retail Uses: A facility used for the selling of goods or merchandise to the general public for personal or household consumption or to businesses who will be consumers or end-users of the goods. The term may include services incidental to the sale of such goods. The term does not include gasoline filling stations or restaurants.

Retail Uses of 10,000 Square Feet or Less: A facility of ten thousand (10,000) square feet or less used for the selling of goods or merchandise to the general public for personal or household consumption or to businesses who will be consumers or end-users of the goods. The term may include services incidental to the sale of such goods. The term does not include gasoline filling stations or restaurants.

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

River: A free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth. **NOTE:** The portion of a river that is subject to tidal action is a coastal wetland.

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.

Rooming or Boarding House: A building of residential character in which 3 or more rooms are rented for periods of 2 weeks or more for the purpose of lodging and possibly the taking of meals. The renting of 1 or 2 bedrooms in a dwelling otherwise used as living quarters for 1 family shall not be considered a rooming or boarding house but rather shall be considered an accessory use to the single family dwelling. The bedroom(s) shall not have any separate kitchen facilities.

Sapling: A tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level

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

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

School: A facility that provides a curriculum of academic instruction, including kindergartens, elementary schools, junior high schools, high schools, and institutions for post-secondary education. Schools may include a place or institution for teaching and learning, including by way of example only, schools for dance, music, riding, gymnastics, photography, driving or business.

Seasonal Rental: Living quarters offered for rental for a duration of more than 30 days but not to exceed one year.

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

Seismograph: An instrument that measures and records earth borne vibration induced by the detonation of explosives. The instrument shall produce a direct printout of ground motion frequency, acceleration, particle velocity, and amplitude, or produce a record from which any of these parameters can be calculated. The instrument shall be located as per the manufacturer's recommendations.

Senior Citizen Housing: Housing designed, intended for and generally limited to persons aged 55 years and older and/or those with physical disabilities.

Service Drop: Any extension of an essential service to public or private property.

Setback, Front (Front Yard): The distance measured from the edge of pavement to the nearest part of any principal or accessory structure.

Setback, Rear (Rear Yard): An open unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

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

Setback, Side (Side Yard): An open unoccupied space on the same lot line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

Sewered: Refers to a structure whose wastewater facilities consist of a pipe or system of pipes that collects and carries sewage and other wastewater to an approved municipal waste treatment facility, not including an individual septic system or other private underground system that relies on the soils for dispersion of wastewater, prior to discharge to open waters.

Ship Chandlery: A facility that sells parts, equipment, accessories and other items for boating, fishing, shipping and other maritime uses.

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

Short-Term Rental (STR): The use, control, management or operation of a legally existing residential dwelling unit offered for rent for transient occupancy for dwelling, sleeping or lodging purposes by short-term rental guests for a tenancy of less than 30 consecutive days, for compensation, directly or indirectly, excluding motels, hotels, bed-and-breakfasts, inns, seasonal rental accommodation complexes, and residential rental accommodations.

Shoreland Zone: The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, river, or saltwater body; within 250 feet of the upland edge of a coastal or freshwater wetland; or within seventy-five (75) feet of the normal high-water line of a stream.

Signs: A name, word, letter, writing, identification, description or illustration which is erected, placed upon, affixed to, painted or represented upon a building or structure, or any part thereof, or any manner upon a parcel of land or lot, and which publicizes an object, product, place, activity, opinion, person, institution, organization or place of business, or which is used to advertise or promote the interests of any person. The word "sign" shall also include "banner," "pennants," "insignia," "bulletin boards," "ground signs," "billboard," "poster billboards," "illuminated signs," "projecting signs," "temporary signs," "marquees," "yard signs," "electric signs," "wall signs" and 'window signs," wherever placed out of doors in view of the general public or wherever placed indoors as a window sign.

Flags, Banners and Pennants: Flags, banners and pennants shall be manufactured from flexible materials such as nylon, polypropylene, or silk.

Internally Illuminated Sign: A sign that has characters, letters, figures, designs or outlines illuminated by electric lighting or luminous tubes as part of the sign.

Externally Illuminated Sign: An illuminated, non-flashing sign whose illumination is derived entirely from an external artificial source and is so arranged that no direct rays of light are projected from such artificial source into residential zones or public streets.

Solid Waste Facility: A building, yard, field or other land area used to temporarily or permanently store discarded household or commercial waste.

Storage Building: is a structure primarily designed and used for storing or sheltering goods, materials, equipment, and/or vehicles.

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

Street: A public or private way which affords the principal means of access to abutting properties and which has been duly recorded as such in the Knox County Registry of Deeds.

Stream: A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

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

Subdivision: The division of a tract or parcel of land into 3 or more lots within any 5- year period, that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period. See expanded definition in ***"Subdivision Ordinance"***.

Subdivision Ordinance: The Subdivision Ordinance of the Town of Rockport, Maine.

Substantial Completion: A building is substantially completed when it is roofed, sheathed, and doors and windows are installed.

Substantial Start: A building is substantially started when the foundation is complete. A substantial start must be completed within one year of the issuance of a building permit.

Subsurface Wastewater Disposal System: Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 MRSA § 414, any surface waste water disposal system, or any municipal or quasi- municipal sewer or waste water treatment system.

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

System Height: The tower height plus the blade radius from the hub.

Take Out: The ability of the customer of a business to obtain its services or product by entering the business facility or by approaching a window, counter, service opening or any combination of the foregoing of the facility and removal of goods from the premises.

Targeted Market Coverage Area: The area that is targeted to be served by this proposed telecommunications facility.

Timber Harvesting: The cutting and removal of timber for the primary purpose of selling or processing forest products. "Timber harvesting" does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the Shoreland zone on a lot that has less than two (2) acres within the Shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 1415.16, Clearing or Removal of Vegetation for Activities Other than Timber Harvesting.

Timeshare: *see* ***"Motel and Hotel"***.

Tote Road: An access road with no gravel base for timber harvesting or other agricultural pursuits.

Tower: The structure on which a wind energy system is mounted.

Tower Height: The height above grade of the fixed portion of a tower, excluding the wind turbine.

Tradesman's Shop: The shop of a self-employed craftsman or person in a skilled trade. For the purpose of this Ordinance, the activities of a tradesman's shop 1) shall not include outdoor sales or displays; 2) shall not employ more than three apprentices; 3) shall be no nuisance, nor exhibit offensive noise, vibration, smoke, dust, odors, heat, glare, traffic or parking problem; and [4) shall not contain an exterior variation from the residential character of the principal building.

Tradesman shop may be located on an individual plot of land adjacent or distinct from an adjoining lot.

Traditional Village: A parcel of land that is planned and developed in accordance with the provisions of the Traditional Village District.

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

Tributary Stream: A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the Shoreland zone of the receiving water body or wetland.

Turbine: The parts of a wind system including the blades, generator and tail.

Undeveloped Land: Land, without structures or roads, excepting tote roads. Activities of agriculture and forestry may be conducted on undeveloped land. Fields are considered to be undeveloped land and may be mowed as appropriate.

Undeveloped land may include land with slopes of 20% or greater, wetlands, and State and Federally recognized wildlife protection and habitat areas. The vegetated areas of those portions of golf courses existing prior to June 2005 shall be considered undeveloped land. Undeveloped land may be owned in common by a home owners' association, deeded to a third party conservation organization or land trust, be retained by the owner of a proposed subdivision, or owned outright by individual owners so long as it is deed restricted to remain undeveloped or protected by appropriate conservation easements.

1. Setbacks between building envelopes, in a clustered development, and other similar buffers within developed areas shall not be considered undeveloped land.

2. To the greatest practical extent, undeveloped land shall be created in large areas.

3. Small strips of land scattered throughout a subdivision shall not be considered undeveloped land.

4. To the greatest possible extent undeveloped land in one parcel shall abut undeveloped land in adjacent parcels.

5. Undeveloped land shall be clearly monumented.

6. Small wind energy systems shall be allowed on undeveloped land of the owner's parcel within approved subdivisions.

Undue Hardships: See Section 703.4 of this Ordinance.

Unreasonable Adverse Impact: That the proposed project would produce an end result which:

1. is excessively out-of-character with the designated scenic resources affected, including existing buildings structures and features within the designated scenic resource; and

2. would significantly diminish the scenic value of the designated scenic resource.

Use: Any activity that is habitually carried out on a property or in a structure as classified in this Land Use Ordinance and which is permitted in the district in which the property or structure is located.

Variance: A variance is a relaxation of the terms of this Ordinance. It can be granted only where such variance will not be contrary to the public interest and only where a literal enforcement of the Ordinance will result in undue hardship. As used in this Ordinance, a variance is authorized only for height, area of lot and density associated therewith and size of structures and/or size of yards or setbacks.

However, a side yard or rear yard variance shall not be granted if it will interfere with the access of firefighting apparatus to a structure on the land in question or adjacent property. In general, the amount of variance granted should be only sufficient to relieve the undue hardship. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance.

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

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

Veterinary Clinic/Hospital: A building used for the diagnosis, care and treatment of ailing or injured animals which may include overnight accommodations. The overnight boarding of healthy animals shall be considered a kennel.

Victualers: Any person who serves food or drink of any kind prepared for consumption on the premises by the public.

Viewpoint: That location which is identified either in the municipally adopted Comprehensive Plan or by a Federal or State agency, and which serves as the basis for the location and determination of a particular designated scenic resource.

Viewshed: is an unobstructed location, position, or area that permits an unhindered panoramic vista of particular interest or pleasures or unique view to or from a particular point.

Village Lot Coverage: That portion of a lot covered with structures.

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.

Wall Sign: Any sign attached to the vertical plane of any structure. A single row of letters identifying the business occupying the premises is not a wall sign.

Warehouses and Storage Facility: A facility that is dedicated to the storage, wholesale and distribution of manufactured products, supplies and equipment, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

Water Body: Any great pond, river, stream or tidal area.

Watershed: Any area of land that water flows or drains underground or across on its way to a lake, river or streams. Watersheds can be delineated on a topographical map by connecting the high points of the contour lines surrounding any water body.

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.

Wetland: A freshwater or coastal wetland.

Coastal Wetland: All tidal and sub tidal lands; all lands below any identifiable debris line left by tidal action; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the highest annual tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes. **Note:** All areas below the highest annual tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

Forested Wetland: A freshwater wetland dominated by woody vegetation that is six (6) meters tall or taller.

Freshwater Wetland: freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are of 10 or more contiguous acres, or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that, in a natural state, the combined surface area is in excess of 10 acres; and inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to 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 above criteria.

Inland Wetlands: Areas enclosed by the normal high water mark of inland waters and areas otherwise identified on the basis of soils, vegetation or other criteria as inland wetlands including, but not limited to, swamps, marshes or bogs.

Upland Edge of a Wetland: Boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

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 that are separated from the great pond or river by a berm, causeway, or similar feature less than one hundred (100) feet in width, and which have a surface elevation at or below the normal high water line of the great pond or river.

Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.

Wharf: An above-water structure designed to allow access to deeper water that extends out from the coastline but mostly parallel to it. Except for mooring devices, safety equipment, equipment and structures directly associated with the services rendered to vessels using the wharf, no building or structure shall extend more than 4 feet above the level of the deck of the wharf and no dwelling shall be located thereon.

Wholesale Business: A business serving as a distribution facility for one or more manufacturers or processors, including storage and handling facilities, which sells to other wholesale or retail businesses but not to the public.

Wind Energy System: A wind energy conversion system consisting of a tower, wind turbine, and associated control conversion electronics which will be used to produce electrical power exclusively for the parcel on which it is located. All wind energy systems in Rockport must meet the standards of Section 812.

Wireless Telecommunications Facility or Facility: Any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, and personal communications service (PCS) or pager services.

Yard or Garage Sale: A sale, conducted indoors or out-of-doors, of used household goods, curios and the like. Yard or garage sales, as distinguished from flea markets, shall be considered to be accessory uses under this Ordinance and shall not be conducted more frequently than four (4)days in any six (6) month period.

CHAPTER 400 – PURPOSE AND ESTABLISHMENT OF DISTRICTS

401. Purpose

This Ordinance is designed for all purposes of zoning embraced in the Maine Revised Statutes. Among other things, it is designed to encourage the most appropriate use of land throughout the municipality and to conform to the Rockport Comprehensive Plan.

402. Establishment of Districts

For the purpose of the provisions of this Ordinance, the Town of Rockport is hereby divided into the following districts:

Harbor Village District ..... Section 901
Village District ..... Section 902
Coastal Residential District ..... Section 903
Residential District ..... Section 904
(Reserved) ..... Section 905
Modified Mixed Business / Residential District ..... Section 906
Mixed Business / Residential District ..... Section 907
Rural District ..... Section 908
Hospital and Resort District ..... Section 909
Traditional Village Overlay District ..... Section 910
Reserved ..... Section 911
Reserved ..... Section 912
Downtown District ..... Section 913
Chickawaukie Watershed Overlay District ..... Section 914
Mirror Lake and Grassy Pond Watershed Overlay District ..... Section 915
Industrial District ..... Section 916
Shoreland Zoning Overlay District ..... Section 1400

403. Conflict with Other Ordinances

Wherever the requirements of this Ordinance differ from the requirements of any other lawfully adopted rules, regulations, ordinances, deed restriction or covenants, the most restrictive or that imposing the higher standard shall govern.

404. Separability

In the event that any section, subsection or any portion of this Ordinance shall be declared by any competent court to be invalid for any reason, such a decision shall not affect the validity of any other section, subsection or other portion of this Ordinance.

405. Changes and Amendments

No land use regulation or amendment thereof shall be adopted until after the Select Board of the Town of Rockport have held a public hearing thereon at least ten (10) days before it is submitted to the legislative body for consideration. Public notice of the hearing shall be made at least seven (7) days prior to the hearing. Amendments to this Ordinance shall be considered following a citizen petition pursuant to Article II § 14 of the Rockport Town Charter, recommendation of the Planning Board or motion of the Select Board. Petitioners are encouraged to work with and request assistance from the Planning Board so that proposed changes and amendments can be of greatest benefit to the citizens of Rockport. Petitioners shall be responsible for paying for all required advertisements and notifications.

406. Conformity

1. Land within the street right-of-way shall not be considered as part of a lot for the purpose of meeting the area requirements of this Ordinance even though the owner may have title to such land, except that front setback measurements are taken from the edge of the pavement.
2. No open space requirements for one (1) building may be used as a part of the open space requirement for any other building.
3. When a lot on record at the time of enactment of this Ordinance is transected by a district boundary, the regulation set forth in this Ordinance applying to the larger part by area of such lot may also be deemed to govern in the small area, but only to fifty (50) linear feet beyond the district boundary.

CHAPTER 500 – NONCONFORMANCE

501. Nonconforming Lots

1. Vacant Lots

a. A nonconforming lot may be built upon provided that such a lot is in separate ownership and not contiguous with any other lot in the same ownership and that all provisions of this Ordinance except lot area and frontage can be met. Variance of other requirements shall be obtained only by approval of the Zoning Board of Appeals.

b. If 2 or more vacant, contiguous lots are in the same ownership of record at the time of adoption or amendment of this Ordinance, and if these lots do not individually meet the dimensional standards of this Ordinance, the lots shall be combined to the extent necessary to meet the dimensional standards, except:

i. Where the contiguous lots front onto different streets; or

ii. The lots were legally created and recorded in an approved subdivision plan. No division of any lot may be made which leaves the lot's area, lot coverage or frontage below the minimum requirements of the Ordinance, which worsens an existing nonconformance or creates a new nonconformance.

2. Lots with Structures

a. A structure built on a lot prior to enactment of this Ordinance, which lot does not conform to lot size or lot frontage, may be repaired, maintained or improved and may be enlarged, in conformity with the applicable space and bulk requirements other than minimum lot area or lot frontage. If the proposed enlargement of the structures(s) cannot meet the applicable space and bulk requirements, a variance shall be required from the Zoning Board of Appeals (See Section 900, *District Standards*).

502. Nonconforming Structures

1. Maintenance, Modification, Replacement and Reconstruction

a. Except as otherwise provided herein, a structure lawfully in existence as of the effective date of this amendment, that does not meet the height or setback requirements of Section 900 and Section 1400, may be repaired, maintained, improved, or replaced, as set forth in this section. It may be modified and/or accessory structures may be added to the site without a variance, provided that:

i. The resulting structure or structures do not exceed the height restrictions of the district in which the structure or structures are located.

ii. The resulting structure or structures do not exceed the prescribed maximum lot coverage.

iii. There shall be no increase in the nonconformity of a structure, except that a lawfully non-conforming structure may be expanded by up to 30% in volume and floor area in that portion of the structure that already exists in the front, side or rear yard setback area during the lifetime of the structure. The resulting structure shall be no closer to the front, side or rear lot line within the setbacks

than the existing nonconforming structure. In addition, the resulting structure shall be no higher than the existing structure within the side and rear yard setbacks and no higher than the district height standard within the front yard setback.

iv. No structure which is less than the required setback from the normal high- water line of a water body or the upland edge of a wetland shall be expanded further toward the water body or wetland except as provided in Section 1412.

503. Nonconforming Uses

1. **Continuance:** The use of land or structure, lawful at the time of adoption or amendment of this Ordinance, may continue although such use does not conform to the provisions of this Ordinance, except as provided in Subsection 503.3, below.

2. **Resumption:** Whenever a nonconforming use of land and/or structure is changed to a permitted use or a use permitted by conditional use, the use shall not later revert to nonconforming use.

3. **Discontinuance:** A nonconforming use that is discontinued for a period of thirty-six (36) consecutive months may not be resumed. The uses of the land, building, or structure shall thereafter conform to the provisions of this Ordinance.

4. **Expansion of Time:** A nonconforming use, including a nonconforming outdoor use of land, shall not be extended or expanded in area or function.

504. Transfer of Ownership

Ownership of nonconforming lots, structures and/or uses as defined in this Ordinance may be transferred without loss of their lawful but nonconforming status.

505. Changes in Nonconforming Lots, Structures and/or Uses

Projects not within the scope of Section 502 may be approved by the Zoning Board of Appeals under the following conditions. A nonconforming aspect of a lot, structure or use may be changed such that it is less nonconforming or no more nonconforming than the existing situation. In making its determination, the Board of Appeals shall apply the standards of Section 703 (4) – (6) and, if applicable, Sections 1412.

CHAPTER 600 – ADMINISTRATION

The Town of Rockport enforces the Maine Uniform Building and Energy Code ('MUBEC") pursuant to 10 M.R.S. § 9724. The Code Enforcement Officer of the Town of Rockport shall serve as the building official as defined in 25 M.R.S.A. § 2373 and is responsible for issuing building permits and certificates of occupancy. The Code Enforcement Officer shall be responsible for inspecting all permitted construction for compliance with all components of MUBEC, as such components may be revised from time to time by the Maine Bureau of Codes and Standards. Administration and enforcement of MUBEC, including permits, fees, violations, penalties and appeals, shall be in accordance with the provisions of this Land Use Ordinance.

601. Building Permits

1. No structure shall be constructed, moved, added to, or substantially renovated without a permit issued by the Code Enforcement Officer. No new use, change of use, resumption of a nonconforming use, or soil disturbance of 25 cubic yards or more for building construction shall occur without a permit issued by the Code Enforcement Officer. No building permit shall be issued except in conformity with the provisions of this Ordinance, except after written order from the Board of Appeals. Excluded from projects requiring a building permit are periodic maintenance and normal upkeep of structures, including, but not limited to, residing, reroofing, painting, and window and door replacement. A fee schedule for building and use permits shall be established by the Select Board.

2. If no substantial start has been made within twelve (12) months of the issuance of the building permit, the applicant may renew the permit without paying the full permit fee, but must comply with the ordinances applicable at the time of the renewal; and if, after twenty-four (24) months from the issuance of the original building permit, a substantial start has not been completed, the permit expires and the applicant must reapply, paying the then-applicable fee.

3. The Code Enforcement Officer shall not issue any permit involving the enlargement, construction or renovation of places of public accommodations and commercial facilities that require a permit from the Maine Department of Public Safety, unless the Maine Department of Public Safety approves the plan and issues a construction permit.

4. In the process of applying for a building permit, the applicant is encouraged to review the appropriate state codes. All commercial buildings and multi-family dwellings must have plans stamped by a licensed engineer or architect.

602. Applications

1. All applications for building permits shall include the location and dimensions of the proposed building or alteration and, if applicable, the proposed subsurface wastewater disposal system designed by a licensed professional engineer or site evaluator. The application shall include other information as may lawfully be required by the Code Enforcement Officer to determine conformance with this Ordinance.

2. The approval of building permit applications shall be subject to evidence of satisfactory subsurface soil conditions for drainage and subsurface wastewater disposal.

3. Approval of building permit applications shall be subject to all applicable State laws and municipal ordinances.

603. Certificates of Occupancy

All residential and non-residential structures that require a building permit shall require a Certificate of Occupancy. The Certificate of Occupancy shall be based on inspections by the Code Officer or Third-Party Inspector, Plumbing Inspector, and Fire Chief or their designee, to ensure that the structure conforms with the Plumbing Code, National Fire Protection Life Safety Code, the Maine Uniform Building and Energy Code (MUBEC), and the Rockport Land Use Ordinance. It shall be a violation of this Ordinance to use or occupy any structure until the Planning Office has issued a Certificate of Occupancy.

604. Inspection of Rental Dwelling Units

1. The Code Officer, Fire Chief or their designee shall inspect any Rental Housing Unit(s), upon the conveyance of those unit(s) or parcel(s) or written complaint from the tenant, to ensure that basic standards of habitability and life safety are met.

2. Standards of habitability and life safety shall include, but not be limited to; properly functioning potable water and wastewater systems, a functioning heating system, and life safety code standards including proper egress and smoke detectors. See NFPA 101- Life Safety, NFPA 31 – Oil Burner and Solid Fuel, State of Maine 144 CMR 241- Subsurface Wastewater Disposal, and the State of Maine Uniform Plumbing Code.

3. The Code Enforcement Officer will communicate with the owner, property manager or complainant to arrange an inspection.

4. The inspection will be followed by a written inspection report to the owner with a date to correct violations with reference to specific code violations. Violations that are not corrected within the date specified will subject the property owner to the enforcement provisions of this Ordinance.

605. Code Enforcement Officer

It shall be the duty of the Code Enforcement Officer or other person duly authorized by the Town of Rockport to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, he/she shall notify, in writing, the person responsible for such violations, indicating the nature of the violations and specifying the action necessary to correct them. He/she shall order discontinuance of illegal use of land, buildings, structures, additions or work being done, and shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

Upon appointment by the Select Board, the Alternate Code Enforcement Officer shall have all the duties, responsibilities and authority of the Code Enforcement Officer.

606. Legal Actions and Violations

When any violation of any provision of this Ordinance shall be found to exist, the Code Enforcement Officer, with the approval of the Select Board, is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable including seeking injunctions of violations and impositions of penalties, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Rockport. The Code Enforcement Officer may:

1. Enter any property at reasonable hours or enter any building with the consent of the owner, occupant or agent to inspect the property or building for compliance with the laws or ordinances specified in Section 302, *Code Enforcement Officer*. A municipal official's entry onto property under this paragraph is not a trespass;

2. Issue a summons to any person who violates a law or ordinance, which the official is authorized to enforce; and

3. When specifically authorized by the Select Board, represent the municipality in District Court in the prosecution of alleged violations of ordinances or laws, which the Code Enforcement Officer is authorized to enforce.

607. Liability for Violations

Any person, including, but not limited to, a landowner, the landowner's agent or a contractor, who violates this Ordinance is liable for the penalties set forth below.

608. Civil Penalties

1. The penalty provisions of 30-A M.R.S.A. § 4452, as amended, apply to violations of this Ordinance.

2. Assessment of penalties shall commence on the date of issuance of a Notice of Violation signed by the Code Enforcement Officer to the person or party in violation of this Ordinance. Return of the receipt indicating that the notice was undeliverable as addressed or otherwise not delivered to the person or party shall not in any respect invalidate enforcement of this Ordinance or any penalties for violation thereof. In addition to the penalties provided herein, the Town may bring action in Superior Court to enjoin violation of the Ordinance and for such other relief as the law may provide.

3. The action of the Code Enforcement Officer in issuing a "stop work" order, notices of violations or similar notices, and the action of the Code Enforcement Officer in revoking building permits, shall be appealable to the Zoning Board of Appeals by an aggrieved party within thirty days (30) days after the date of receipt of notice of such action by the aggrieved party.

609. Fire Prevention and Protection

1. Purpose

This chapter is intended to provide the Town or Rockport with rules and regulations to enhance public safety by promoting the control of fire hazards; regulating the use of structures, premises, and open area; providing for the abatement of fire hazards; and setting forth the standards for compliance and achievement of these objectives.

2. Fire prevention and building codes.

a. The Fire Chief shall have authority, along with the Code Enforcement Officer, to inspect premises related to compliance with fire prevention and protection codes adopted by the State Commissioner of Public Safety and/or incorporated into the Maine Uniform Building Code (MUBC). All decisions related to license or permits applied for under Chapter 600 shall be made by the Code Enforcement Officer and may be appealed in accordance with the Town of Rockport Land Use Ordinance.

b. The Fire Chief shall have authority, along with the Code Enforcement Officer, to enforce state fire protection rules and the Maine Unifor Building Code in accordance with 25 M.R.S.A. § 2361.

3. Inspections

a. Application to the municipality for licenses and permits requiring inspection provided by the Rockport Fire Department and Code Enforcement, which shall include but not be limited to liquor licenses, victualer licenses, and lodging licenses, shall include the Fire Department's complete review of the application and its required approval.

b. The Fire Chief or their designee shall have the authority to require an inspection of any activity site prior to approval of an application.

c. Any application for, or acceptance of, any license or permit requested or issued pursuant to this chapter shall constitute agreement and consent by the person making the application or accepting the license to allow the Fire Chief or their designee to enter the premises at any reasonable time after licensee receives notice to conduct such inspections as required by the ordinance.

4. Administration

a. This chapter shall be administered and enforced by the Fire Chief or their designee. It shall be the duty of the Fire Chief and their designee to enforce all laws and ordinances of the Town of Rockport covering the following:

i. Extinguish fires and save life and property therefrom;

ii. Demolish or pull down any building which may be on fire, or which may be deemed necessary to remove in order to prevent the spread of fire or the increase or danger to life or property;

iii. The prevention of fires;

iv. The storage and use of explosives and flammables;

v. The maintenance and regulation of fire escapes;

vi. The means and adequacy of exit in case of fire, all places in which numbers of persons work, live, or congregate, from time to time, for any purpose;

vii. The investigation of the cause, origin, and circumstances of the fires;

viii. The maintenance of fire cause and loss records.

b. The Fire Chief of the Town of Rockport may delegate any of their powers or duties under this article to any such member of the Town of Rockport Fire Department as deemed appropriate.

c. It shall be the duty of the Fire Chief of the Town of Rockport Fire Department to investigate and to recommend to the Town Manager and Select Board such additional ordinances, or amendments to existing ordinances, as may be deemed necessary for safeguarding life and property against fire.

5. False Alarms

Any alarm system that causes the transmittal of a nonemergency alarm more than three time in any calendar year, after a thirty-day start-up period for new installations, shall pay a penalty of **$100** for each subsequent instance of a nonemergency alarm in excess of that number, upon demand by the Fire Chief or their designee. The Fire Chief or designee shall give suitable written warning to any license or permit holder, or to their designee, whose alarm system sends a third nonemergency alarm in any calendar year. In the event an alarm is activated as a result of a natural or unnatural event beyond the property owner's control, no fee shall be imposed.

6. Conflict with other provisions

Whenever the requirements of this chapter are in conflict with the requirements of any other lawfully adopted rule, regulation, or ordinance, the more restrictive requirements shall govern.

610. Fee Schedule

Fees for all applications and penalties shall be set by the Select Board and found in the Fee Schedule, which may be amended from time to time.

CHAPTER 700 – BOARD OF APPEALS

701. Organization

1. The Zoning Board of Appeals ("ZBA") shall have seven (7) members, serving staggered terms of at least three (3) years. The ZBA shall elect annual a Chair and Vice Chair from its membership.

2. A quorum of the ZBA necessary to conduct an official board meeting shall consist of a majority of the ZBA members.

3. All additional matters involving the organization and governance of the ZBA shall be controlled by the ZBA Ordinance and the ZBA By-Laws.

702. Procedure

The following provisions govern the procedure of the board:

1. The Chair, or in her or his absence, the Vice Chair shall (a) call meetings of the ZBA as required; (b) call meetings when requested to do so by a majority of the members of the ZBA or by the Town Manager; and (c) preside at all meetings of the ZBA and be the official spokesperson of the ZBA.

2. The recording secretary shall create a permanent record, in the form of minutes. A permanent and public record of ZBA Business and all correspondence of the ZBA shall be filed in the Planning and Community Development Office and may be inspected at a reasonable time.

3. The ZBA may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every petitioner has the right to present that party's case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct any cross examination that is required for a full and true disclosure of the facts.

4. The digital video recording, together with all papers filed in the proceeding, constitute the permanent record. All decisions become a part of the record and must include a statement of finding and conclusions, as well as the reasons or basis for the findings and conclusions, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial of relief. Notice of any decision must be mailed or hand delivered to the petitioner, petitioner's representative, Planning Board and municipal officers within seven (7) days of the ZBA's decision.

703. Powers and Duties

The ZBA shall have the following powers and duties:

1. Interpretation

To interpret provisions of this Ordinance which are called into question.

2. 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 or the Planning Board.

3. (Intentionally Blank)

4. Variance

To grant a variance from the requirements of this Ordnance. To hear and decide, upon appeal, in specific cases, such variances from the requirements of this Ordinance as will not be contrary to public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in undue hardship. In granting by majority vote any variance, the ZBA may prescribe conditions and safeguard as are appropriate under this Ordinance and 30-A M.R.S.A. § 4353 as referenced in the following paragraph shall be strictly followed:

The ZBA may grant a variance only when strict application of the Ordinance to the petitioner and the Petitioner's property would cause undue hardship. These words. "undue hardship" as used in this subsection mean:

a. That the land in question cannot yield a reasonable return unless a variance is granted.

b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood.

c. That granting a variance will not alter the essential character of the locality.

d. That the hardship is not the result of action taken by the applicant or a prior owner.

Before granting approval of a side or rear yard setback variance that is less that fifteen (15) feet from the property line or height variance that is more than thirty-four (34) feet, the ZBA shall obtain a written statement from the Fire Chief concerning the effect of the proposed variance on fire safety.

5. Disability Variance

The ZBA may grant a variance to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The ZBA shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access or egress from the dwelling by the person with the disability. The ZBA may impose conditions on the variance, including limiting the variance to the duration of the disability or to the tine that the person with the disability lives in the dwelling. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under 5 M.R.S.A., § 4553, and is defined as any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or, in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services, and the term "structures necessary for access to or egress from the dwelling" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

6. Setback Variance for Single-Family Dwelling

The ZBA may permit a setback variance only when strict application of the Zoning Ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used I this subsection means: For a single-family dwelling, the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

a. For a single-family dwelling, the need for a variance is due to the unique circumstance of the property and not to the general conditions in the neighborhood.

b. The granting of a variance will not alter the essential character of the locality.

c. The hardship is not the result of action taken by the applicant or a prior owner.

d. The granting of the variance will not substantially reduce or impair the use of abutting property; and

e. That the granting of variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

A variance here is strictly limited to permitting a variance from a settlement requirement for a single-family dwelling that is the primary year-round residence of the petitioner. A variance under this subsection may not exceed twenty percent (20%) of a setback requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage. The petitioner may receive a variance under this subsection to exceed twenty percent (20%) of a setback requirement except for minimum setbacks from a wetland or water body required within shoreland zones, if the petitioner has obtained the written consent of an affected abutting landowner.

7. Variance Recorded

If the ZBA grants a variance, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. This certificate must be recorded in the Knox County Registry of Deeds..

8. Miscellaneous Appeals

To hear and decide only the following miscellaneous appeals from the provisions of this Chapter In granting such appeals by majority vote, the ZBA may prescribe conditions and safeguards as it deems necessary.

a. To permit variations of nonconformance as authorized under Section 505 of this Ordinance.

b. To permit adjustments from the terms of this Ordinance with respect to curb cuts and off-street parking standards, provided such variances, will not result in traffic, pedestrian or safety hazards.

704. Application Procedure

A complete application containing all the information requested in the 'Board of Appeals Application' and appropriate fee shall be submitted to the Planning Office at least fifteen (15) days prior to a regularly scheduled meeting. Applicants should carefully follow the application procedure specific to their application/appeal and precisely tailor their application and supporting documentation to the specific requirements for administrative appeals, conditional uses or variances.

705. Appeal Procedure

1. In all cases, a person aggrieved by a decision of the Code Enforcement Officer or the Planning Board, except for a Planning Board decision pertaining to subdivisions, shall commence his or her appeal to the Board of Appeals with thirty (30) days after the decision of the Code Enforcement Officer or the Planning Board.

2. In appeals to the ZBA from Planning Board decisions, the ZBA shall review the record of the Planning Board decision to determine whether the Planning Board has made an error of law, abused its discretion or made findings not supported by substantial evidence in the record, (See Section 1307 for Site: Plan Review appeals,)

3. In appeals to the Board from decisions of the Code Enforcement Officer, the Board shall review the record of the Code Enforcement Officer's decision to determine whether the Code Enforcement Officer's decision was made in conformance with Chapter 600 of this Land Use Ordinance, was an abuse that Officer's discretion or was not supported by substantial evidence in the record.

4. Before taking action on any appeal, the ZBA shall hold a public hearing advertised in advance in a local newspaper at the expense of the appellant.

5. Appeals from decisions of the ZBA may be taken by an aggrieved party to the Superior Court, pursuant to 30-A M.R.D.A. § 2691, within forty-five days of the date of the ZBA decision

706. Conditions

In granting appeals under this Section, the ZBA may impose such conditions as it deems necessary in furtherance of the intent and purposes of this Land Use Ordinance.

707. Reapplication for Appeal

If the ZBA shall deny an appeal, a second appeal affecting the same premises and requiring a similar decision shall not be heard by the ZBA within six (6) months from the date of the denial by the ZBA of the first appeal, unless in the opinion of four (4) members of the ZBA, substantial new evidence shall be brought forward, or unless four (4) members of the ZBA find, in their sole an exclusive judgment, that an error or mistake of law or misunderstanding of fact has been made.

CHAPTER 800 – GENERAL STANDARDS OF PERFORMANCE

801. Environmental

1. Soils and Erosion Control

a. In all districts, the approval of building permit applications shall be subject to evidence of satisfactory subsurface soil conditions for drainage and sewage disposal.

b. The Maine State Plumbing Code requirements shall be met.

c. The requirements and standards of the State of Maine Department of Environmental Protection shall be met.

d. No person shall perform any act or use of the land in a manner that would cause erosion or create a nuisance. Temporary vegetation or mulching to protect exposed critical areas during development shall be used.

e. See Mirror Lake /Grassy Pond and Chickawaukie Lake Overlay Districts.

2. Removal of Earth Materials

Top soil, rock, minerals, sand, gravel and similar earth materials may be removed for commercial purposes from locations where permitted under the terms of this Ordinance only after a special permit for such operations has been issued by the Code Enforcement Officer, provided that:

a. Specific plans are established to avoid hazards from excessive slopes or standing water. Where an embankment must be left upon completion of operations, it shall be at a slope not steeper than 1 foot vertical to 2 feet horizontal. Excavation below the water table is prohibited.

b. The operation is shielded from surrounding property with adequate screening and creates no disturbance of a water source.

c. No excavation shall be extended below the grade of adjacent streets unless 100 feet from the street line or unless provision has been made for reconstruction of the street at a different level and approved by the Road Commissioner or Selectmen with advice from the Public Works Director.

d. Sufficient top soil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions, all in accordance with Best Management Practices, contained in the publication entitled *Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices*, Cumberland County SWCS, Department of Environmental Protection, March 1991, as amended.

e. A surety bond payable to the Town in an amount recommended by the Planning Board and approved by the Board of Selectmen shall be filed with the Town Clerk of Rockport. The amount shall be sufficient to guarantee conformity with the grant of approval.

f. No topsoil shall be removed, except for approved construction and landscaping, from lands which, due to their soil characteristics, are identified as prime farmlands.

3. Water Quality

a. No new building, structure, activity or use shall discharge untreated wastewater directly to a water body.

b. Where a use or activity presently discharges untreated or improperly treated waste water directly to a water body, there shall be no increase or change in that use that will increase the volume or pollution load of the untreated waste water so discharged.

c. There shall be no storage of materials that by their volume, toxicity, temperature or obnoxiousness or by their location will run off from or percolate into the soils and pollute surface or ground waters.

4. Surface and Stormwater Drainage

Adequate provision shall be made for surface drainage so that removal of such waters will not adversely affect neighborhood properties, downstream water quality, soil erosion or the public storm drain system.

5. Clearcutting

a. There shall be no clearcutting of trees within 75 feet of any public right-of-way.

b. Before trees are clear-cut elsewhere within the Town, a written plan endorsing the clear-cut and prescribing steps and a timetable for the revegetation of the land to retard erosion and preserve natural beauty shall be obtained from a professional forester registered in the State of Maine and filed with the Code Enforcement Officer. The plan shall be carried out by the property owner according to the timetable in the plan.

6. Nuisances

a. Uses or structures judged to be dangerous, unsightly, noisy, bad smelling, contributing to air pollution, or otherwise offensive to the surroundings or the community as a whole are prohibited.

b. No person shall make or cause to be made repetitive loud noises which disturb, injure or endanger the comfort, health, peace or safety of others.

c. The playing of amplified music that can be heard beyond the property line is prohibited after 10 P.M., except that events on Town owned property may extend the playing of music that can be heard beyond the property line to no later than 11 P.M. if:

   i. The event proceeds shall be primarily for the benefit of one or more non-profit organizations serving Knox County; and

   ii. The event received prior approval from the Select Board.

d. Commercial construction, including the movement of earth-moving equipment, dump trucks, and construction equipment, is prohibited between 6:30 P.M. and 6:30 A.M.

7. Lighting

a. No lights shall be placed in view of any public roadway or street so that its beams or rays are directed at any portion of the roadway when the light is of such brilliance and so positioned as to impair the vision of the driver of any motor vehicle upon said roadway.

Lighting with a lumen output equal to or greater than a 200-watt mercury light shall not be directed toward the sky or adjacent to properties.

b. No rotating or flashing lights or signals, except safety signaling devices as required by law, are permitted.

c. Adequate buffers using either the natural landscape or artificial screening are required to prevent unnecessary or undesirable light from being directed beyond lot lines onto adjacent properties.

d. The following provision shall apply to new or expanded commercial, industrial, municipal, institutional, and multi-family housing building or structures, and parking lots, and private roads.

i. Lighting fixtures shall be cut-off luminaries which means that less than 2.5% of the lamp lumens occur at or above the horizontal plane and no more than 10% of the lamp lumens occur above 80 degrees.

ii. The light level at the lot lines shall not exceed 0.5 foot-candles measured at ground level.

iii. Freestanding lighting fixtures except for street lights shall not extend beyond a height of 25 feet as measured from ground level.

8. Exposed Areas

Where allowed, exposed storage areas, exposed machinery installations, sand and gravel extraction operations and areas for the storage or collection of discarded or uninspected vehicles, auto parts, metal or any other articles of salvage or refuse, shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their adverse impact on surrounding properties. At a minimum, a 6-foot screen made up of hedges, fences, berms and/or walls shall be required and shall be maintained in a sightly, well-kept condition. Plants that die shall be replaced within 1 growing season. Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and be maintained in good condition.

802. Industrial Standards

1. Wastewater

a. Industrial wastewaters may be discharged to municipal sewers in conformance with the Rockport Sewer Ordinance.

b. The disposal of industrial wastewaters by means other than a municipal sewage system must comply with all Federal, State and local laws, ordinances, rules and regulations.

2. Air Pollution

a. All air pollution control shall comply with minimum Federal, State and local requirements.

b. Any activity emitting toxic or odoriferous substances must submit detailed plans to minimize such emissions to the Code Enforcement Officer before a permit for construction is granted.

3. Buffers

a. Any industrial yard space abutting a residential area shall be maintained as a buffer strip to prevent adverse effects on environmental or aesthetic qualities of abutting properties. Natural features such as topography, stands of trees, shrubbery and rock outcroppings shall be maintained wherever possible to provide a break between the proposed development and abutting properties. When natural features do not exist or are insufficient buffers, the yard shall be landscaped with vegetation, berms or mounds in combination with fencing, as required, not less than 6 feet in width nor less than 4 feet in height.

b. All buffers shall be properly maintained in durable and tidy conditions by the owner.

803. Parking, Loading and Driveway Standards

1. Off-Street Parking and Loading Standards

a. The purpose of this Section is to provide for adequate off-street parking spaces to meet the needs of the use or structure. The off-street parking shall provide sufficient parking spaces to minimize the need for on-street parking.

b. Applicability: All new construction and changes of use shall comply with this Section.

c. Off-Street Parking General Standards: Parking areas shall be set back at least 8- feet from the side and rear property lines. Off street parking shall be considered as an accessory use when required or provided to serve conforming uses. All required parking spaces shall be located on the same lot as the principal structure or use, subject to subsections e, f, g, or h below.

d. Parking Space table, subject to subsections e, f, g, or h below. The following table specifies the minimum number of parking spaces to be provided:

Single Family Dwellings	2 parking spaces per dwelling unit
Multifamily Dwellings	2 parking spaces per dwelling unit
Motels, Hotels and Inns, Bed & Breakfast, Tourist Homes, Rooming Houses	2 parking spaces plus 1 parking space for each room offered for rent
Campgrounds	4 parking spaces plus 1 parking space for each site available for occupancy
Day Care Centers	1 parking space for each 4-5 children
Schools, Post-secondary	1 parking space for each 3 students based on the maximum number of students attending the school at any 1 period in the day
Schools, elementary and secondary, public & private	1 parking space per adult employee plus parking space to accommodate student parking if applicable, and for other school and sports events.
Hospitals & Nursing Homes	1 parking space for each 3 beds plus 1 parking space per employee based on the shift with the largest number of employees
Office Buildings	1 parking space for each 400 square feet of gross floor area
Theaters, Auditoria, Churches, Arenas	1 parking space for each 4 seats or for every 500 Square feet of assembly area of no fixed seats
Marinas	1 parking space for every 3 slips
Boat Building/Repair	1 space for every employee
Retail Uses and Personal Services	1 parking space per 200 square feet of gross floor area
Bowling Alleys	2 spaces for each bowling lane
Restaurants & Night Clubs	1 parking space for each 4 seats plus 1 parking space for each employee per shift
Food trucks and establishments serving take-out food only	5 parking spaces plus 1 parking space for each employee
Industrial Uses	1 parking space for every 1.2 employees to account for overlap during shift change
All uses not specifically listed or able to be placed into one of the above categories	Sufficient number of parking spaces, as determined by the Planning Board during site plan review, or by the Code Enforcement Officer if there is no site plan review, to minimize the necessity of on-street parking.

e. Parking Location: Off-street parking to meet the minimum number of parking spaces set forth in the table above that cannot be provided on the same lot as the principal structure or use may be located at a sperate location subject to the approval of the CEO or the Planning Board. The CEO or Planning Board shall consider the following factors in making their decision: The separate parking site is a reasonable distance from the principal structure; the principal use will provide access to the separate site such as, but not limited to: walkways, transit bus/vehicle or valet service; and the separate site is held under the same ownership or lease as the principal use or structure.

To assist in considering these factors related to off-street parking, the CEO or Planning Board may order a study of such factors, paid for by the applicant, pursuant to Section 1302.

f. Shared Parking: The join use of a parking area by 2 or more principal structures or uses to meet the minimum number of parking spaces in the table above may be provided by the CEO or Planning Board where it is demonstrated by the applicant that shared parking would substantially meet the purpose of this subsection by reason of variation in the probable time of maximum use by patrons or employees of such establishments or other factors that the applicant demonstrates will result in adequate parking spaces provided. The applicant shall provide evidence of a lease or other agreement establishing the shared parking.

g. Parking Options: The CEO or Planning Board may consider the following options if an applicant can show that adequate and safe parking can be provided:

i. A reduction in the minimum number of parking spaces from the table above, if the applicant can demonstrate that the structure or use requires less parking than specified in the parking space table.

ii. For designated peak overflow parking to provide space for infrequent increase in parking such as seasonal or holiday activity, the applicant shall provide evidence to show that the structure or use generates peak demand which is not typical for most times of the year.

h. CEO or Planning Board Conditions: The CEO or Planning Board may establish conditions to any of the parking space modifications allowed in subsections e, f and g to make sure that adequate and safe parking is provided for the structure or use.

i. Off-Street Loading Standards: Retail, wholesale and industrial operations shall provide for the loading requirements of the proposed use. Loading areas and bays shall be designated to minimize the interference with parking and traffic flow within the parking area. The loading area shall be designed so that access to the loading area does not require blocking the public roadway.

j. Landscaping of Parking Areas: The following minimum standards for landscaping of parking area shall apply:

i. Where a parking area borders an existing residential structure, adequate landscape screening shall be provided where the commercial property abuts the residential property.

ii. Where a parking area abuts a public right-of-way, the parking area shall be set back a minimum of 6 feet from the public right-of-way. Landscaping of the parking area shall not interfere with sight distances and traffic safety.

2. Driveway Entrance Standards

These standards shall apply to all driveways except those fronting on state highways.

a. Driveway Angles: Driveways must intersect roads between sixty (60) and ninety (90) degrees.

b. Driveway Spacing: The minimum distance between driveways must be forty (40) feet measured from the centerlines of the driveways at the right-of-way line. The Public Works Director may reduce this requirement when the requirement cannot be met because of driveway location on adjacent lot(s) or because of topographic or other on-site conditions. Shared driveways are exempt from the driveway spacing requirement.

c. Driveway Setback from Intersections: Driveways must be located at least fifty (50) feet, centerline to centerline, from the closest intersection. The Public Works Director may reduce this requirement when the requirement cannot be met because of driveway location on adjacent lot(s) or because of topographic or other on-site conditions.

d. Driveway Slope: Driveway slope shall not exceed 4% within the first twenty feet (20) of the road/driveway interface. Driveways shall be graded in a manner to minimize runoff onto the public way.

e. Driveway Line of Sight: The Public Works Director shall determine driveway location based on line of sight standards contained in the Uniform Traffic Code and on-site considerations.

804. Cluster Development

1. Objective

a. Cluster developments are intended to enable and encourage greater flexibility in the design of subdivisions, to minimize sprawl, to facilitate the most appropriate use of the land, to promote land conservation, and to protect the natural and scenic attributes of the land, in accordance with the goals and objectives of the Rockport Comprehensive Plan.

2. Where Allowed

a. Cluster development is allowed in all districts except for the Industrial Zone 916.

3. Compliance with Ordinances and Comprehensive Plan

a. All applications for subdivisions under the clustering provision of the Rockport Land Use Ordinance shall comply with the Comprehensive Plan of the Town of Rockport, with all applicable provisions of the Rockport Land Use Ordinance, and the Rockport Subdivision Ordinance and with all applicable state and federal laws.

4. Regulations Governing Cluster Residential Development

a. Cluster developments shall be designed and constructed to achieve the purposes of this ordinance.

b. Permitted Uses: Cluster residential developments may allow uses as described in the Land Use Table in section 917.

c. Open Space, Recreation, or Agriculture: Cluster developments shall provide open space to be owned, operated, and maintained by an Owner Association of the development.

d. Utilities: All utilities, including electric and telephone lines, shall be installed underground unless an underground installation is financially impracticable, in which case the applicant shall provide supporting documentation.

e. Building height shall not exceed those heights specified in the Rockport Land Use Ordinance.

f. Applications shall show the density allowed for a conventional subdivision application. The density shall be used in calculations for requisite open space and any possible density incentives. This calculation is the "base development density". Any land encumbered at the time of the application by conservation easement cannot be included in the calculation of based development density.

5. General Design Requirements

a. All roads shall be designed and constructed in accordance with the applicable Road Standards of the Town of Rockport.

b. Public water and sewer systems and private wells and subsurface wastewater systems shall be designed and installed in accordance with design criteria of the Town of Rockport and the State of Maine.

c. Open Space, Recreation, or Agricultural in a Cluster Development shall be owned in common by an Owners Association.

d. Setbacks from Water Bodies and Shorelands: Setbacks from waterbodies and other shoreland area requirements cannot be waived.

e. Pedestrian walkways, such as but not limited to sidewalks, are required in Cluster Developments to encourage walkability between parcels.

f. Natural surface drainage channels shall either be incorporated into the overall site design or shall be preserved as part of the required undeveloped land. All disturbed surfaces shall be treated to prevent erosion.

g. Lots, buildings, streets, parking areas, and cluster units shall be designed and arranged to; minimize alteration of the natural site features to be preserved, including but not limited to maintaining compatibility with the existing topography of the site; relate to surrounding properties, including but not limited to architectural harmony of surrounding existing buildings; improve the view from and view of buildings; lessen the area devoted to motor vehicle access; and avoid the adverse effects of noise, shadows, lights, and traffic on residents of the development.

h. Parking Requirements shall follow Section 803, except for Multi-Family developments within a Cluster Development. Multi-Family development shall include a minimum of 2 off street parking spaces per 3 dwelling units.

i. Development proposals shall include a landscaping plan to illustrate the proposed treatment of space, roads, paths, service and parking areas. Screening devices shall not impair pedestrian and vehicular safety.

j. Diversity and originality in lot layout and individual building design is encouraged to achieve the best possible relationship between the development and the land.

k. Lot size requirements within a Cluster Development on the sewer line may be reduced up to fifty percent (50%) of that required in the zone, as determined by the Planning Board. This provision does not allow for further increased density for either the Base Development Density calculation or to increase above the allowed density bonus outlined in Section 804.C.

l. Other lot dimensional requirements may be reduced as follows:

i. Lot frontage: up to fifty percent (50%) of that required in the zone, with exception regarding minimum width for a driveway and lots on Rt 1, 17, & 90.

ii. Side and rear setbacks: up to one hundred percent (100%) of that required in the zone.

iii. Front Setbacks: up to one hundred percent (100%) of that required in the zone with exception of lots on Rt 1, 17, & 90.

6. Intensity of Development

a. An increase in the number of dwelling units above the base development density will be considered on the following bases:

i. For every additional affordable dwelling unit above the required allotment as determined through the base development density, one additional market-rate dwelling unit may be allowed.

ii. For each 10% in addition of the required open space dedicated on the application parcel, one additional dwelling unit may be allowed.

iii. For the provision by deed and construction of active recreation space, or through a payment-in-lieu of dedication in an amount of $5,000 per dwelling unit, for upkeep/maintenance or acquisition of Town owned active recreation space, one additional dwelling unit may be allowed.

iv. For projects that are designed to meet the certification standards of Leadership in Energy & Environmental Design ("LEED"), or other approved equivalent sustainable building certification program, for all dwelling units, either by application or by affidavit that performance metrics will or have been met by the project, one additional dwelling unit may be allowed.

v. For projects constructing new pedestrian amenities to connect the proposed development to other areas, amenities or goods and services, one additional e dwelling unit may be allowed

vi. For projects that provide formal access to public transportation, one additional dwelling unit may be allowed.

vii. For projects that restore or preserve an historic resource existing on the property as part of the application, one additional dwelling unit may be allowed.

viii. For projects that bury all utilities, an additional two dwelling units may be allowed.

b. A Cluster Development, outside of a PUD, may never exceed the allowable number of dwelling units by more than 2.5 times the base development density.

7. Cluster Residential Management Requirements

a. The applicant or developer shall provide for and establish an Owners' Association or other legal entity with the same purpose. The Owner's Association shall have the authority, through the unit owners, to manage the common open space areas. The articles of the association or incorporation of such an entity must conform to all State regulations.

b. Membership in such Owner's Association shall be mandatory for Cluster property owners and made a required covenant in all deeds issued. The Association shall provide voting and use rights in the open space area(s) when applicable and may charge dues or levy assessments to cover expenses which may include tax liabilities of common areas, and for the maintenance of such common areas, open space areas, improvements, rights-of-way, utilities, etc. Such organizations shall be responsible for the perpetuation, maintenance, and function of all common lands, uses and facilities.

c. All common lands and improvements shall be described and identified as to location, size, use and control in a Restrictive Covenant. These Restrictive Covenants shall be written so as to run with the land and become a part of the deed of each lot or dwelling unit within the development. The Restrictive Covenant proposal shall be submitted with the application for review and approval by the Planning Board.

d. Such Restrictive Covenants and the Owner's Association shall continue in effect to control the availability of facilities for their intended function and to protect the development from additional unplanned densities and use. No open space or land can change hands by sale or otherwise, except to an organization or association conceived and organized to maintain such areas as Open Space.

8. Performance Guarantee

a. The developer shall provide the Town of Rockport at the time of submission of final plans a Performance Guarantee that shall conform to Article 13 of the Rockport Subdivision Ordinance.

805. Lots

1. Front Yards

Front yards of all non-residential uses shall be appropriately landscaped.

2. Waiver of Street Frontage Requirement

The Planning Board may waive the street frontage requirements on corner lots or cul-de-sacs, if connected to municipal sewer where this will not be deemed harmful to the overall attractiveness of the subdivision.

3. Private Ways

Purpose: To provide submission requirements and performance standards for a "Plan of a Private Way" and amendments to such plans, depending in part on the number of lots proposed to be served. Private way approval may provide frontage and access to lots which otherwise would not have adequate frontage in accordance with the following provisions:

a. A plan shall be prepared by a registered professional land surveyor. The plan shall be labeled "Plan of a Private Way" and shall provide an approval block for the signatures of the Code Enforcement Officer or the Planning Board members, whichever is applicable. The plan shall be drawn to scale, shall delineate the proposed private way and the boundaries of each of the lots to be served by or abutting the private way.

b. Roads shall be designed so as not to be subject to seasonal flooding or washout and not to disturb wetlands. Drainage ditches and culverts shall be provided wherever appropriate. A street plan, cross section and drainage plan shall be submitted for each private way serving 2 or more lots.

c. The plan shall note that the Town of Rockport will not be responsible for the maintenance, repair or plowing of the private way, and that no additional dwelling units or lots may be served by the private way without prior approval in accordance with this subsection.

d. If the private way is to provide access to 2 or more lots, a maintenance agreement shall be required and recorded in the Knox County Registry of Deeds. The maintenance agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way.

e. The construction of private ways shall comply with the following minimum standards.

	Number of Lots Served		
	1	**2**	**3 or more**
Notice to abutters	Not required	Not required	In accordance with requirements of Subdivision Ordinance
Minimum road frontage on private way	30’	40’	In accordance with street design standards in Subdivision Ordinance
Minimum roadway width	12'	16'	
Minimum sub-base (heavy road gravel with min. stone size 4")	12"	15"	
Minimum wearing surface (fine gravel)	2"	2"	
Maximum grade	10%	10%	
Minimum grade	0.5%	0.5%	
Turnaround at dead end	Circle or "T"		
Right-of-way width	30'	40'	
Storm water drainage	Approval of Public Works Director		

f. One turnout to provide space for 2 vehicles to pass shall be provided for every 500 feet of the private way.

g. Visibility: The driveway shall not cause a hazard to pedestrian or vehicular traffic. The Site Plan Review criteria for vehicular access (minimum sight distance in each direction based on allowable speed) shall be used for driveways on Routes 1, 17 and 90 and where necessary elsewhere.

h. Not more than 1 driveway is to be allowed over a given front lot to serve back lots.

i. Approval by the Code Enforcement Officer is required for private ways serving 1 or 2 lots. For private ways serving more than 2 lots, approval of the Rockport Planning Board is required.

j. The plan and/or deed description of the private right-of-way shall be recorded in the Knox County Registry of Deeds within 90 days of the date of approval by the Code Enforcement Officer or Planning Board. If it is not recorded within this time period, the approval shall be null and void.

k. Any change, such as the creation of another lot, shall require prior approval by the Planning Board or Code Enforcement Officer as applicable under this subsection.

l. Private ways approved by the Code Officer or Planning Board must be constructed and utilized by the time any of the lots to be served is developed.

806. Livestock Control

Animals other than household pets may be kept only on lots of 40,000 square feet or more. Their enclosure must be no closer than 25 feet to any property line. In the Rural District, they may extend to the property line except where they abut a residential property of one acre or less, in which case the 25-foot requirement referred to above shall apply. Conditions resulting from the maintenance of animals shall confirm to any and all State and local health standards.

807. Mobile Homes

1. Definitions

Mobile Home Park: A parcel of land approved by the Municipality for the placement of three (3) or more units of manufactured housing or older mobile homes on mobile home park lots in accordance with the provisions of this Ordinance.

2. Mobile Home Parks

In addition to receiving sub-division approval from the Rockport Planning Board, units of manufactured housing or older mobile homes shall be placed upon mobile home park lots. Each lot shall be occupied by only one unit of manufactured housing or by one older mobile home. Each unit of housing shall be placed on a pad.

3. Lot Requirements

Lots Served by Subsurface Wastewater Disposal System	
Minimum Lot Area	20,000 Square Feet
Minimum Lot Width	60 Feet
Lots Served by Centralized Subsurface Wastewater System Serving Two or More Dwelling Units Approved by the Maine Department of Human Services	
Minimum Lot Area	12,000 Square Feet
Minimum Lot Width	75 Feet
Lots Served by the Public Sewer System	
Minimum Lot Area	6,500 Feet
Minimum Lot Width	50 Feet

Mobile Home parks located within any designated Shoreland Area shall meet the lot area, lot width and shore footage requirements of the District in which that lot is located or the requirements of the Shoreland Area pursuant to this Ordinance, whichever is stricter.

4. Setbacks

In lots which abut a public way, either within the park or adjacent to the park, the individual manufactured housing unit or older mobile home unit shall meet the setback requirement of the district in which it is located. Individual mobile home units or manufactured housing units must meet the minimum side and rear setback of fifteen (15) feet or the side and rear setback of the District, whichever is greater. Individual units or older mobile homes shall be located a minimum of thirty (30) feet from any other unit.

Where a mobile home was lawfully placed on a lot before the date of adoption of this Ordinance such that it does not meet these setback requirements, it may be replaced by

another mobile home in the same location of the same lot so long as the non-conforming aspects of the original placement are not worsened.

5. Buffer Requirements

All mobile home parks shall be designed with a fifty (50) foot wide buffer strip along the perimeter boundaries of that property. The buffer strip shall be maintained as a landscaped area, containing no structures. Roads may cross the buffer strip to provide access to the park and to provide access to utilities. On the first twenty-five (25) feet of the buffer strip, as measured from the exterior boundaries of the park, the buffer strip shall be improved and maintained in the same manner as a seventy-five (75) foot buffer strip for commercial properties set forth in § 1002.3.5 of this Ordinance.

6. Open Space Reservation

For mobile home parks served by a public sewer system, an area equaling ten (10) percent of the combined area of the individual lots within the mobile home park shall be set aside and reserved as open space to meet the recreational and community needs of the residents of the mobile home park. The area reserved for open space shall be suitable for use by residents of recreational purposes or for use by residents for storage. The reserved open space shall have slopes of less than five (5) percent and shall not be located on poorly drained soils and shall be accessible from roads from within the mobile home park.

7. Road Standards for Mobile Home Parks

a. The layout, design and construction of roads within the parks shall conform to the following standards:

i. The road system shall be reasonably safe and convenient for travelers, shall provide access to all lots within the park and shall provide for all-season emergency vehicles access to every unit in the park;

ii. Roads within the mobile home park that the applicant proposes as public roadways shall be designed and constructed in accordance with the design and construction standards for a road set forth in this Ordinance, under general standards of performance.

Mobile home park roads that are to remain private shall meet the following minimum standards:

iii. The roads shall be designed by a professional engineer registered in the State of Maine;

iv. The road shall have a minimum right-of-way of twenty-three (23) feet;

v. The road shall have a paved travel surface with a minimum width of twenty (20) feet;

vi. The construction of these roads shall meet the standards of the Manufactured Housing Board.

b. The roads or lots shall be laid out so that no lot within the park shall have direct vehicular access to a public street.

c. The entrance to a mobile home park shall be in conformance with Article 12.2 (Traffic Conditions) of the Town of Rockport Subdivision Ordinance.

d. Applications for approval of a mobile home park shall contain an estimate of average daily traffic flow. Estimates of traffic generation shall be based on the Trip Generation Manual, current edition, published by the Institute of Transportation Engineers. If the park is projected to generate more than four hundred (400) vehicular trips per day, the application shall also include a Traffic Impact Analysis, by a registered professional engineer with experience in transportation engineering.

e. Utility requirements: All mobile home parks shall provide permanent electrical, water and sewer disposal connections to each lot in accordance with applicable State and local rules and regulations. Electrical utilities and telephone lines may be located above ground.

808. Access Management

1. Access Permit Required (Routes 1 and 90 only)

In order to provide municipal oversight over driveways and other access ways which connect or intersect with Routes 1 and/or 90, and avoid costs resulting from improper installation, an Access Permit is required from the Code Enforcement Officer for single-family dwellings and duplexes and from the Rockport Planning Board for commercial and multi-family and all other uses including subdivisions prior to the construction, installation, relocation or establishment of a driveway, road or other access way into a site. Permits must be approved when the proposed use complies with the standards set forth in sections 808.2 and/or 808.3 below.

2. Traffic Access - Single Family Dwellings and Duplexes (Route 1 and Route 90)

The following standards apply to new single-family and two-family dwellings which are established with a connection or intersection with Route 1 or Route 90 and which are established after June 14, 2000.

a. One Entrance Per Lot. In order to minimize traffic congestion and conflict no more than one entrance per lot providing direct access onto Route 1 or Route 90 is permitted. The Planning Board shall have the authority to allow a separate entrance and exit for one driveway per lot in the event that the Planning Board determines that a separate entrance and exit are required to meet reasonable safety concerns which arise from a single entrance per lot providing direct access onto Route 1 or Route 90.

b. Shared Driveways. Owners of adjacent properties are encouraged to construct shared driveways. Road frontage requirements, as referenced in Rockport's Land Use Ordinance, may be reduced by 10% when abutting property owners share one driveway.

c. Turn-Around Area. Driveways must be designed with sufficient on-site turn- around area on the lot to enable a driver to exit the premises without backing onto Route 1 or Route 90.

d. Width of Driveways. The traveled portion of such driveways shall be no greater than eighteen (18) feet in width.

e. Turning Safety. Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.

f. Angles. In order to minimize turning time and driver confusion, driveways that permit traffic flow for ingress and egress must intersect the road at an angle of or as near to ninety (90) degrees as site conditions will permit and in no case less than sixty (60) degrees. Driveways permitting one-way access for ingress or egress only shall form an angle of at least sixty (60) degrees with Route 1 or Route 90.

g. Corner Lots. Where a lot has frontage on two or more roads, the primary access to and egress from the lot must be provided to the road where the Planning Board determines there is less potential for traffic congestion and for traffic and pedestrian hazards.

h. Driveway Spacing. In order to minimize traffic accidents resulting from turning vehicles, the minimum distance between driveways must be seventy-five (75) feet measured from the centerlines of the driveways at the right-of-way line. This standard applies to driveways on the same lot or on adjoining lots. The Planning Board may reduce this requirement when the requirement cannot be met because of driveway location on adjacent lot(s) or because of topographic or other on-site conditions. Shared driveways are exempt from the driveway spacing requirement.

i. Minimum Setback from Intersections. To minimize accidents at intersections, driveways and road entrances/exits must be located at least one hundred (100) feet from the closest unsignalized intersection of Route 1 or Route 90 and another public road, and at least one hundred fifty (150) feet from the closest signalized intersection of Route 1 or Route 90 and another public road. The Planning Board may reduce this requirement if the shape of the site does not allow conformity with this standard.

3. Traffic Access – Commercial, Multi-Family and All Other Uses (Route 1 and Route 90)

The following standards apply to the connections or intersection of driveways and other access ways with Route 1 or Route 90 which are established after June 14, 2000 for multi-family residential dwellings, subdivisions, and all other non-residential uses which require direct access to Route 1.

a. Access into the Site

i. Safe Sight Distance. Unless otherwise specified by the Maine Department of Transportation, any driveway or road must be located and designed so as to provide, to the maximum extent possible, a safe sight distance measured in each direction. Refer to current Maine Department of Transportation Entrance Rules for site distance standards.

Sight distance is measured from the driver's seat of a vehicle that is ten (10) feet behind the curb line (or edge of shoulder) with the height of eye three and one-half (3.5) feet above the pavement and height of an object four and one- quarter (4.25) feet above the pavement.

ii. Turning Safety. The intersection of any driveway or proposed street must function:

1) Adequately so that appropriate turning radii are provided to prevent tractor-trailer service vehicles or other large vehicles (buses, recreational vehicles, etc.) from encroaching into the opposing lane of travel where traffic is expected.

2) Adequately without creating excessive delay to through traffic on Route 1 or Route 90. Auxiliary turning lanes shall be installed where it is essential for public safety as determined by the Planning Board.

iii. Angles. In order to minimize turning time and driver confusion, driveways which permit traffic flow for ingress and egress must intersect the road at an angle of or as near to ninety (90) degrees as site conditions will permit and in no case less than sixty (60) degrees. Driveways that permit one-way access for ingress only or egress only shall form an angle of at least sixty (60) degrees with Route 1 or Route 90.

iv. Grades. Steep grades can cause accidents and create icy conditions on public roads. For driveways and proposed streets, the maximum grade is three percent (3%) for the first forty-five (45) feet from the edge of the existing road.

v. Driveway Turn-Around. Driveways must be designed with sufficient on-site turn-around area on the lot to enable a driver to exit the premises without backing onto the road. This standard is presumed to be met when a driveway terminates in an on-site parking lot.

vi. Driveway Length. Driveways must be of sufficient length and in no case less than 75 feet to avoid the queuing of vehicles (vehicles waiting in line) on Route 1 or Route 90.

vii. Corner Lots. Where a lot has frontage on two (2) or more roads, the primary access to and egress from the lot must be provided to the road where there is less potential for traffic congestion and for traffic and pedestrian hazards. Access from other streets may be provided if it is safe and does not promote shortcutting through the site.

viii. Number of Access Points. Unchecked access points along Route 1 or Route 90 creates traffic hazards and increases congestion. The Maine Department of Transportation has specified standards for the number of access points intersecting or connecting with Route 1 and Route 90. Refer to current Maine Department of Transportation Entrance Rules for spacing standards.

ix. The intersection of any driveway or proposed street must function:

1) At a Level of Service D following development if the project will generate 1,000 or more vehicle trips per twenty-four (24) hour period; or

2) At a level that will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.

x. Parking Lot Access. So as to minimize traffic conflicts, no parking lot or portion of a parking lot may be directly accessible from any public way. Ingress to and egress from parking areas must be limited to driveway entrances.

xi. Right-Turn Deceleration Lane.

1) Where a driveway serves as an entrance to a development containing fifty (50) or more parking spaces and the adjacent arterial, either Route 1 or Route 90, has an average annual traffic volume (A.A.D.T.) exceeding 7,500 vehicles, a deceleration lane shall be provided, where suitable frontage exists, for traffic turning right into the driveway from the arterial. The deceleration lane shall be at least two hundred (200) feet long, not including taper, and at least twelve (12) feet wide measured from the road edge or curb line.

2) The Planning Board may also require a deceleration lane where: (1) a traffic impact study determines a right-turn lane is necessary to meet the level-of-service criteria; or (2) at any intersection where the accident experience, existing traffic operations or engineering judgment indicates a significant hazard to right-turning vehicles; or (3) meets minimum volume warrants for right-turn lanes.

b. Left-Turn Lane. The Planning Board may require that the applicant construct a left-turn lane when the Planning Board can document, through an independent traffic study conducted at the expense of the applicant, that such treatment is necessary to avoid conflicts with through traffic, congestion or other unsafe conditions on the arterial, as set forth in the Maine Highway Design Manual, 1990 edition or later. To determine whether a left-turn lane is warranted, the independent traffic study shall include a determination of the advancing, opposing, and left-turning volumes at the point of access, and such determinations shall be determined based on the standards contained in the Maine Highway Design Manual, 1990 edition or later

c. Driveway Location and Spacing

i. Driveway Spacing. In order to minimize traffic accidents resulting from turning vehicles, the minimum distance between driveways must be seventy- five (75) feet measured from the centerlines of the driveways at the right-of- way line. This standard applies to driveways on the same lot or on adjoining lots. The Planning Board may reduce this requirement when the requirement cannot be met because of driveway location on adjacent lot(s) or because of topographic or other on-site conditions. Shared driveways are exempt from the driveway spacing requirement.

ii. Shared Driveways. Road frontage requirements, as referenced in Rockport's Land Use Ordinance, may be reduced by 10% when abutting property owners share one driveway.

iii. Minimum Setback from Intersections. To minimize accidents at intersections, driveways and road entrances/exits must be located at least one hundred (100) feet from the closest unsignalized intersection of Route 1 or Route 90 and another public road, and at least one hundred fifty (150) feet from the closest signalized intersection of Route 1 or Route 90 and another public road. The Planning Board may reduce this requirement if the shape of the site does not allow conformity with this standard.

iv. Commercial or Residential Subdivision Access. In order to minimize future road congestion and avoid traffic conflicts, in the event that a proposed subdivision, as subject to the Rockport Land Use Ordinance or subject to Title 30-A MRSA Sections 4401-4407, has access to Route 1 or Route 90, the following provisions shall apply:

1) Permitted Access. Access to the development shall include one of the following:

   a) One driveway leading to a common frontage road running parallel to Route 1 or Route 90. The sideline of such common frontage road closest to Route 1 or Route 90 shall be least fifty (50) feet from the nearest sideline of Route 1 or Route 90.

   b) A common driveway, which shall intersect Route 1or Route 90, and which serves the individual lots or businesses or a common parking lot adjacent to the individual lots or businesses; or

   c) One or more minor roads, to be constructed by the developer, to serve the development.

2) Prohibited Access. Direct access from Route 1 or Route 90 to any individual lot is not permitted unless the Planning Board grants a waiver after finding that one or more of the following conditions is met:

   a) There is too little road frontage to reasonably allow creation of a new road;

   b) The shape or physical condition of the parcel does not permit access to or creation of a street other than Route 1; or

   c) A common access or shared driveway will be utilized to serve proposed lots.

d. On-Site Vehicle Circulation

i. Truck Loading/Unloading. In order to minimize traffic back-ups caused by parked delivery vehicles, non-residential uses that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate design to allow for on-site turning and backing.

ii. Emergency Vehicle Access. For public health and safety purposes, clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (e.g., fire lane - no parking).

iii. Loading Docks. Loading docks must not be located on any street frontage. Provision for handling all freight must be on those sides of any buildings that do not face on any street or proposed streets.

iv. Inter-Connections

1) For all uses, provision for vehicular connections to existing or future uses on adjacent properties shall be encouraged wherever feasible and to the maximum extent possible so as to minimize the traffic exit/enter movements.

2) Where appropriate and feasible, shared circulation roads for major non-residential projects shall be located between 150 feet and 300 feet from the main highway in order to avoid intersection conflicts.

3) The Planning Board may reduce lot size, road frontage, and parking requirements by 5 percent when the developer agrees to establish vehicular connections to adjacent developments of a type, scale and intensity similar to the proposed development.

e. Traffic Impact Study

Developers shall provide a description of the traffic movement to be generated by the development including types and peak hour and average daily vehicle trips, travel routes, and duration of traffic movement both during and following construction.

i. Full Traffic Study Requirement

If the development will meet (i) or (ii) below, the developer shall provide a full traffic impact study at his or her own expense.

1) Volume. During any one-hour period, traffic attributable to the development equals or exceeds 35 trips at the project driveway(s). A trip can be either inbound or outbound.

2) Safety or Capacity Deficiencies. The Planning Board, in consultation with the Maine Department of Transportation, determines that a traffic impact study must be conducted because of traffic safety or capacity deficiencies in the vicinity of the development.

ii. Content of Full Traffic Study

If a full traffic impact study is required under paragraph a., as determined by the Planning Board, the developer shall include the following at a minimum:

1) Site description. A description of the site including, as applicable, the locations of driveways and streets located on any property immediately adjacent to the site and across the street or road in the immediate vicinity of the project driveway(s).

2) Use Description (Site). A description of the existing and proposed uses of the site.

3) Regional Map. A regional map showing the site, and roads in the vicinity of the development, and other proposed projects in the vicinity of the development.

4) Description of Traffic Increases. A description of any traffic increases that are likely to occur in the vicinity of the development during the study period. The developer shall include, as applicable, projects which are: under construction and not fully occupied; are pending state or local approval; or have state or local approval but are not constructed or fully occupied.

5) Trip Generation Calculation and Summary Table. The study shall include a calculation of the trip generation for the development and other likely traffic increases, including a summary table listing each type of land uses, the size involved, the average trip generation used, and the resultant total trips generated.

6) Trip Distribution Description and Diagram. The study shall include a description and diagram of the anticipated distribution of traffic entering and exiting the site.

7) Define Study Area. The study shall include a definition of the study area including all links and intersections using the following threshold criteria:

   a) The study area shall include the first major intersection to either side of the project driveway(s).

   b) The study area shall be expanded beyond the first major intersection(s) to either side of the project driveway to include those links and intersections for which, during any one-hour peak period, traffic attributable to the development equals or exceeds the following at any intersection in the vicinity of the development:

      (i) 25 vehicles in a left-turn only lane;

      (ii) 35 vehicles in a through lane, right-turn lane, or a combined through and right-turn lane; or

      (iii) 35 vehicles (multiplying the left-turn lane volume by 1.5) in a combined left-turn, through and right-turn lane.

8) Use Description and Diagram (Roads). The study shall include a description and diagram of the anticipated utilization of roads and intersections in the vicinity of the development.

9) Diagram/Documentation of Traffic Volume. The study shall include a diagram and appropriate documentation of the traffic volume on roads and intersections in the vicinity of the development for both the estimated annual average daily traffic and the a.m./p.m. peak hour traffic (including turns during the peak hour). The study shall show the following on the traffic diagrams.

   a) Existing traffic volume based on actual counts.

   b) Traffic attributable to other projects that are proposed or approved.

   c) Traffic attributable to the development assuming full build-out and full occupancy.

   d) Projected traffic volume for the design hour at the time the development will begin operation assuming full build-out and full occupancy of the development.

   e) Left-turn lane/right-turn lane warrant analysis.

10) Capacity Analysis. The study shall include a capacity analysis or determination of the level of service for each road and intersection in the vicinity of the development. Capacity analyses must be performed for all intersections that are currently operated or will be operated as part of a signal interconnect system. The analysis shall report whether or not length of storage for through or turning lanes are adequate.

11) Traffic Signal Analysis. The study shall include an analysis of the need for new traffic signals in the vicinity of the development. The Manual of Uniform Traffic Control Devices shall be used as the basis to analyze the need for construction or elimination of traffic signals, as appropriate.

12) Sight Distance Determination. The study shall include a determination of the available sight distance in all directions at each intersection in the vicinity of the development.

13) Inventory and Analysis of accidents. The study shall include an inventory and analysis of traffic accidents in the vicinity of the development during the most recent 3-year period. A collision diagram shall be provided for all links and intersections found to meet Maine Department of Transportation criteria for "High Accident Locations."

14) Description of Improvements. The study shall include a description of recommendations for improvements to deficient roads or intersections, and the results of implementation of the recommendations.

809. Wireless Telecommunications Facilities

1. Applicability

This section applies to all construction and expansion of wireless telecommunications facilities, including communication facilities and towers, except as provided in subsection 809.2.

2. Exemptions

The following are exempt from the provisions of this Ordinance:

a. Wireless Telecommunications Facility. Wireless communication facilities for telecommunications by public officials.

b. Amateur (Ham) Radio Stations. Amateur (ham) radio stations licensed by the Federal Telecommunications Commission (FCC).

c. Parabolic Antenna. Parabolic Antennas less than seven (7) feet in diameter, that are an accessory use of the property.

d. Maintenance or Repair. Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.

e. Temporary Wireless Telecommunications Facility. A temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) days.

f. Antennas as Accessory Uses. An antenna that is an accessory use to a residential dwelling unit.

3. Site Plan Review Application.

Wireless telecommunications facilities, including expansions of existing facilities, shall comply with the application requirements of the Town of Rockport Land Use Ordinance, Section 1300, Site Plan Review, and shall also include the following additional information:

a. A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility will comply with FCC regulations.

b. A USGS 7.5 minute topographic map showing the current location of all structures and wireless telecommunications facilities above 150 feet in height above ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed facility. This requirement shall be deemed to have been met if the applicant submits current information (i.e. within thirty days of the date the application is filed) from the FCC Tower Registration Database. Include documentation of longitude and latitude.

c. A site plan prepared and certified by a professional engineer registered in Maine indicating the location, type and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access and setbacks from property lines. The site plan must include certification by a professional engineer registered in Maine that the proposed facility complies with all American National Standards Institute (ANSI) and other applicable technical codes.

d. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level.

e. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.

f. Photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or their designee, during the pre-application review. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.

g. A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.

h. Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, which may consist of any one or more of the following:

   i. Evidence that no existing facilities are located within the targeted market coverage area as required to meet applicant's engineering requirements.

   ii. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements.

   iii. Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:

      1) Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.

      2) The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.

3) Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.

iv. For facilities existing prior to the effective date of this Ordinance, the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this Ordinance or amendment thereto.

i. A signed statement stating that the owner of the wireless telecommunications facility and his or her successors and assigns agree to:

i. Respond in a timely, comprehensive manner to a request for information from a potential collocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

ii. Negotiate in good faith for shared use of the wireless telecommunications facility by third parties;

iii. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location;

iv. Require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.

j. A form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned.

4. Standards

a. Location. A wireless telecommunications facility may be permitted only in the following locations:

i. Within 1,000 feet of the top of Ragged Mountain or within a Rural District;

ii. Collocated on an existing facility;

iii. Placed onto an existing structure when they are designed to blend harmoniously into the existing architecture and appearance of the original structure. Examples include, but are not limited to, a facility using a steeple which has the appearance of being part of the existing steeple or a facility atop a building which has the appearance of a chimney, vent, or other traditional appurtenance to the existing building.

iv. Where there is no adverse effect on the health and safety of the public.

b. Siting on Municipal Property. If an applicant proposes to locate a new wireless telecommunications facility on municipal property, or expand an existing facility on municipal property, the applicant must show the following:

   i. The proposed location complies with applicable municipal policies and ordinances.

   ii. The proposed facility will not interfere with the intended purpose of the property.

   iii. The applicant has adequate liability insurance and a lease agreement with the municipality that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.

c. Design for Collocation. A new or expanded wireless telecommunications facility and related equipment must be designed and constructed to accommodate future collocation of at least three additional wireless telecommunications facilities or providers. Collocation shall not be considered an expansion.

d. Height. The maximum height of new or expanded wireless telecommunications facilities shall be 195 feet. The facility shall be designed to collapse in a manner that does not harm other property.

e. Setbacks. A new or expanded wireless telecommunications facility must comply with the setback requirements set forth in the Town of Rockport Land Use Ordinance or be set back one hundred five percent (105%) of its height from all property lines, whichever is greater. The setback may be satisfied by including the areas outside the property boundaries if secured by an easement. An antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.

f. Landscaping. The base of a new or expanded wireless telecommunications facility must be screened, with plants, from view by abutting properties, to the maximum extent practicable. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable.

g. Fencing. A new or expanded wireless telecommunications facility must be fenced with a secured perimeter fence of a height of eight (8) feet to discourage trespass on the facility and to discourage climbing on any structure by trespassers.

h. Lighting. A new or expanded wireless telecommunications facility must be illuminated as necessary to comply with FAA or other applicable state, federal and local requirements or Site Plan Review conditions. Security lighting may be used as long as it is shielded to be down-directional to retain light within the boundaries of the site, to the maximum extent practicable.

i. Color and Materials. A new or expanded wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.

j. Structural Standards. A new or expanded wireless telecommunications facility must comply with the current Electronic Industries Association/ Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."

k. Noise. Except during construction, repair, or replacement, operation of a back-up power generator at any time during a power failure and testing of a back-up generator between 8 a.m. and 9 p.m. are exempt from existing municipal noise standards.

5. Standard Conditions of Approval

The following standard conditions of approval shall be a part of any approval issued by the Planning Board. Reference to the conditions of approval shall be clearly noted on the final approved site plan, and shall include:

a. The owner of the wireless telecommunications facility and his or her successors and assigns agree to:

i. Respond in a timely, comprehensive manner to a request for information from a potential collocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

ii. Negotiate in good faith for shared use of the wireless telecommunications facility by third parties;

iii. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for collocation.

iv. Require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the wireless telecommunications facility.

6. Abandonment

A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The Code Enforcement Officer shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of a written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.

If the Owner fails to show that the facility has not been abandoned, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.

If a surety has been given to the municipality to ensure removal of the facility, the owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.

810. Service Drops

1. Electric Service/Telephone Service/Internet Services/Cable Services

a. The placement of wires and/or the installation of utility poles shall be located entirely upon the premises of the customer requesting service or upon a roadway right-of-way.

b. Underground service shall be upon the customer's premises or upon a Roadway right-of-way.

2. Placement in Road Right-of-Way

Service Drops, including, but not limited to, sewer, water, electrical, gas, telecommunications, and all other utilities, shall not be placed on, over or beneath the ground in the right-of-way of any State highway or Town way without a permit from the Town of Rockport and all other required permits.

811. Home Occupations

No use permit shall be granted for a home occupation in any district unless the conduct and operation of the proposed home occupation meets each of the following criteria.

1. A day care center located in the home of the person(s) operating the day care center, serving 12 or fewer children, shall be considered a home occupation. An outside play area shall be permitted.

2. The home occupation shall be carried on wholly within the residence or an accessory building. The use of the dwelling for a home occupation shall clearly be incidental and subordinate to its use for residential purposes.

3. There shall be no more than six people engaged in a home occupation of which there can be no more than two people outside the family.

4. There shall be no exterior display, no exterior sign (except as expressly permitted by the district regulations of this Ordinance), no exterior storage of materials and no other exterior indications of the home occupation or variation from the residential character of the principal building.

5. There shall be no nuisance, offensive noise, vibration, smoke, dust, odors, heat, glare, traffic or parking problem generated by the home occupation.

6. There shall be no large-scale commercial or industrial machinery used by a home occupation to process goods, materials or food.

7. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of each employee and the vehicles of the maximum number of customers the home occupation may attract during peak operating hours.

8. The home occupation may include the retailing of items actually produced on the premises, provided all other conditions pertaining to home occupations are met.

9. The home occupation shall not utilize more than 50% of the total floor area of the dwelling unit and accessory structures.

10. If the average daily vehicle trip count, based on the Institute of Traffic Engineers, Trip Generation, Current Edition, is greater than twenty (20) business vehicle trips per day, then the project shall require site plan review.

812. Wind Energy Systems

1. Purpose:

The intent of the Section is to regulate the placement, construction, and modification of wind energy systems while allowing the safe, effective, and efficient use of this technology.

2. Siting Requirements for Small Wind Energy Systems

a. Wind energy systems shall be a permitted use in all Districts.

b. Each parcel shall be limited to one small wind energy system.

c. Wind energy system towers shall not exceed a maximum height of 100 ft. except school parcels which shall not exceed a maximum height of 140 ft. above existing grade.

d. Wind energy system towers shall not be lighted unless required by the Federal Aviation Administration (FAA).

3. Setback Requirements

Wind energy systems shall be set back a distance equal to one hundred and ten (110) percent of the height of the tower and blade length from adjoining property lines.

4. Sound Requirements

a. An automatic braking, governing or feathering system shall be required to prevent uncontrolled rotation.

b. Prior to approval, the applicant shall provide documentation from the manufacturer that the wind energy system will not produce noise levels in excess of the following standards, as measured at the closest property line.

c. After approval and installation of the wind energy system, the Planning Office shall perform sound measurements at the closest property line to determine ambient and operating decibel levels.

Ambient Reading Without Wind Tower	Maximum Permitted Reading with Wind Tower
45	55
50	56
55	61
60	62
65	66

d. Upon complaint of an abutter, ambient and maximum permitted decibel measurements shall be performed by an agent designated by the Planning Office. The report shall be submitted to the Planning Office for review. The fee for this service shall be paid by the complainant unless the maximum permitted decibel level has been exceeded in which case the owner of the system shall pay the fee.

e. If the maximum decibel readings are exceeded, the installation shall be considered a nuisance under the provisions of Section 801.6 of this Ordinance.

f. The nuisance violation must be corrected within 90 days from notification of the violation and if the violation cannot be corrected, the wind energy system shall be removed or relocated.

5. Permitting Requirements

a. In addition to the application and supporting documentation required by Section 602, the applicant for a wind energy system shall provide the following information to the Planning Office:

b. A site plan of the property showing the location of the proposed system, existing and proposed structures, and any other significant features on the property,

c. Structural drawings of the wind tower, base pad, footings, and guy wire prepared by the manufacturer or a professional engineer,

d. Drawings and specifications of the generator, hub, and blade, prepared by the manufacturer or a professional engineer,

e. Photographs of the proposed site and the specific small wind energy system to be installed.

6. Prohibitions

Any wind energy system larger than the standards outlined in this Section is prohibited in all districts.

813. Blasting Standards

1. Purpose

The intent of this Section is to provide for the health, safety and welfare of the residents of Rockport through the establishment of reasonable standards for blasting operations. It is further intended that this Section accomplish this purpose through provisions for permitting, notification, and monitoring of blasting operations within the Town of Rockport.

2. Permitting Process

a. Permit Required

A permit shall be obtained from the Planning Office prior to any blasting operations within the Town of Rockport.

b. Permitting Requirements

In addition to the application and supporting documentation required by Section 600, the applicant for a permit for blasting operations shall provide the following information to the Planning Office on their application.

i. Proof of insurance.

ii. A description of the proposed blasting operation.

iii. The projected blasting dates and estimated number of detonations per day.

iv. The estimated number of cubic yards of materials to be removed or displaced by the blasting.

v. An estimate of the number of blasts required to complete the project.

vi. An abutters map and address list of all residents within the 'notification radius'- *this information will be provided by the Planning Office from the assessing database.*

vii. The schedule for pre-blast surveys that will be offered to all landowners within the notification radius.

3. Applicant Responsibilities

a. The applicant shall obtain a permit for blasting operations at least five (5) days prior to the scheduled blasting date.

b. The applicant shall notify all property owners within the 'notification radius' at least five (5) days prior to the scheduled blasting operations.

c. The applicant shall offer to conduct a pre-blast survey to all property owners within the notification radius.

4. Notification Process

a. Notification Radius: The applicant shall notify all owners of property within the 'notification radius' by delivery of a written notice of a proposed blasting operation. Notice shall be provided to all owners of property within the notification radius; District 908 - 500 ft in, Districts 903, 904, 907, 909 – 300 ft., and Districts 901, 902 and 916 – 200ft.

b. Contents of Written Notice: The applicant shall provide to property owners the following information in a written notice. The written notice shall contain all the information identified in Section 813.2.1 including a description of the blasting operation, the projected dates of blasting, the estimated number of cubic yards of materials to be removed by blasting, an estimate of the number of blasts required to complete the project, and information on the process that the property owner should follow if they want a pre-blast survey.

c. Method of Delivery of Written Notice: The written notice shall be hand delivered to all developed properties in the notification radius and also be sent by first class mail to all owners of property in the notification radius.

d. Unanticipated Small Blasting Projects: In unanticipated blasting projects of less than 10 cubic yards the notice period is shortened to 48 hours.

5. Pre-Blast Survey Process

a. Offer of Pre-Blast Survey: The applicant shall offer a pre-blast survey, at the applicant's expense, to all property owners with structures within the notification radius. The pre-blast survey will be conducted by a representative of the applicant. The survey shall include video or photographic documentation of pre-existing conditions or structural features on the inside or outside of buildings that could be affected by a blasting operation.

b. Offer of Pre-Blast Water Test for Wells: The applicant shall offer a pre-blast water test, at the applicant's expense, to all property owners with wells within the notification radius. The pre-blast water test will be conducted by a representative of the applicant. The water test shall document the static water level.

6. Post Blast Inspection

Offer of Post Blast Inspection: Property owners, who requested a pre-blast survey, may request the applicant to conduct a post blast inspection. The post blast inspection shall be at the applicant's expense. The post blast inspection shall document any changes that have occurred on the property subsequent to the blasting operation.

7. Exemptions

This Section shall not apply to the Town of Rockport and utility companies such as Aqua Maine and Central Maine Power for emergency repairs of existing infrastructure.

8. Limits on Time of Detonation

Hours of detonation shall be limited to 8 a.m. to 5 p.m., Monday through Saturday. All other aspects of blasting operations shall adhere to the standards in Section 801.6.

814. Large Solar Energy Systems

1. Applicability

The section applies to the construction and expansion of Large Solar Energy Systems (LSES).

2. Site Plan Review Application for Large Solar Energy Systems.

a. An application for a Large Solar Energy System shall address applicable submission requirements identified in Section 1304, Site Plan Content, and shall address the following specific additional requirements identified below. It is recognized that certain information requirements identified in Section 1304 are not relevant to an application for a LSES, thus, the Planning Board shall have broad latitude in determining the Information requirements that do and do not apply. A description of the owner of the system, the operator if different, and detail of qualifications and technical ability of the owner or operator to construct, maintain and operate the facility.

b. If the operator is leasing the site, a copy of the lease agreement (minus financial compensation) and any and all related easements, clearly outlining the relationship of the respective parties, inclusive of the rights and responsibilities of the operator, landowner and any other responsible party with regard to the LSES and the term or duration of the agreement. Further, the operator shall identify any and all agreements or obligations of the landowner to the operator regarding any premises that are not specifically subject to the lease agreement, but which the operator has certain rights to use as part of the operation of the solar energy system. Names and contact information for key technical personnel shall also be included.

c. A description of the maximum amount of energy to be produced and to whom it will be distributed.

d. A copy of the agreement and schematic details of the connection arrangement with the transmission system that clearly indicates who is responsible for various requirements and how such will be operated and maintained.

e. A basic description of the number and configuration of panels to be installed, including make and model, and associated major system components.

f. Site plan drawings that show a layout for panels and other equipment that will be used for the LSES. The drawing shall indicate North and have dimensions included. The property lines shall be shown and the placement of panels and equipment on the property. Access roads shall be shown.

g. A construction plan and timeline that identifies known contractors, site control, when project construction will commence and the anticipated date that the system will be on-line.

h. An operations, safety, and maintenance plan for the projected operating life of the system;

i. An emergency management plan that identifies potential hazards and the response to such hazards.

j. Evidence of financial and technical capacity to construct and operate the proposed facility;

k. Identification of methods that the operator will use to manage on-site vegetation.

l. Identification of how the applicant will address buffering and screening requirements.

m. Submission of a decommissioning plan that includes estimated expenses for decommissioning in average inflation adjusted dollars. Plan should include the expected operating life of system in years.

n. Evidence provided, that prior to receiving Site Plan approval by the Planning Board, the owner or operator, has applied for any State, Federal, and all non-city permits that may be required for the installation of the proposed system; for example, a stormwater management permit from the State Department of Environmental Protection.

3. Placement and Size

Large Solar Energy Systems shall only be permitted in the 908 Rural zoning district. A single LSES installation, shall not exceed 50 acres in land area, inclusive of setbacks and buffers. At the discretion of the Planning Board, larger projects may be considered for approval.

4. Dimensional Requirements

a. Ground Mounted Solar Energy Systems will not exceed 25 feet in height.

b. Minimum front setback from the nearest road shall be 50 feet, minimum side setback shall be 50 feet and minimum back setback shall be 50 feet.

5. Lighting

Lighting shall be limited to that required for safety and operational purposes and shall be shielded from interference with abutting properties. Lighting of the LSES equipment shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution and shall otherwise comply with the provisions of the Land Use Ordinance, Section 801.7. Other than required lighting, lighting shall not be used/visible between 9pm and 7am, except for emergencies.

6. Signage

The owner or operator shall install a sign that identifies the name of the owner, the name of the operator, and a 24 hour emergency contact phone number for the operator. The Sign shall comply with standards set forth in section 1100 Signs and Advertising related to the 908 zone district, and will be in the vicinity of the entrance to the LSES.

Educational signage around the perimeter of the LSES is permitted and encouraged.

7. Electrical Connections

All on-site electrical wires or piping associated with the system shall be installed underground except for the "tie-ins" from above ground mounted installation, and within 10 feet of connection to public utility company transmission poles, towers and/or lines.

8. Glint and Glare

All LSESs and their associated equipment shall be situated to eliminate concentrated glare onto nearby structures or roadways

9. Vegetation Management

The owner or operator of a LSES shall prepare a vegetation management plan associated with the operation of the system. A LSES, by its nature, may occupy a large land area. An application for a large system shall identify measures it will use to effectively manage vegetation, including methods such as but not limited to vegetating the solar array area as a pollinator-friendly manner and allowing the area for the grazing of farm animals or cultivation of crops. No chemical herbicides shall be permitted to control vegetation. The removal of trees to construct the LSES is discouraged and subject to the approval of the Planning Board.

10. Screening, Security, Maintenance and Regulatory Compliance

a. Subject to the approval of the Rockport Planning Board, the applicant shall make reasonable efforts, as determined by the Planning Board, to minimize visual impacts associated with the installation of a LSES. The Board shall consider the size, location and topography of the site and the characteristics of the surrounding property and the amount and type of development on said properties in determining the amount and type of screening and buffering that it deems appropriate.

b. Screening measures shall include but are not necessarily limited to the following:

   i. preserving natural vegetation, particularly in the setback area for the solar energy system;

   ii. planting new vegetation, particularly in the setback area for the solar energy system;

iii. installing a raised berm and appropriate plantings, particularly in the setback area

c. Subject to the approval of the Rockport Planning Board, the solar panels and associated equipment shall be protected by a perimeter fence. A fence with natural elements that blends with the surrounding environment, shall be favored over a chain link fence.

d. For purposes of emergency services, the owner or operator of a Ground Mounted Solar Energy Systems shall provide a copy of the project summary, electrical schematic, and emergency site plan to the Rockport Fire Chief. Upon request, the owner or operator shall cooperate with the Fire Department in developing an Emergency Response Plan. All means of shutting down the system shall be clearly marked on the plan. The owner or operator shall identify a responsible person to the Code Enforcement Officer and the Fire Chief for public inquiries throughout the life of the installation.

e. A sign shall be posted at the town roadway entrance to the site that includes names and contact information for emergencies and this same information shall provided to Rockport Police, Fire, and Public Works departments prior to the start of construction and operation. Additionally, one or more signs shall be affixed to the fence identifying the owner of the facility and emergency contact information. These signs are for the duration of construction and can be removed once construction is final.

f. The owner or operator of a LSES shall maintain the facility in good condition. Maintenance shall include but not be limited to, painting, structural repairs, vegetation control and integrity of security measures. Site access shall be maintained to a level acceptable to the Rockport Fire Chief. The owner or operator shall be responsible for the cost of maintaining the access road(s) unless the road(s) is accepted as a public way.

g. The owner or operator of a LSES shall build and maintain it in compliance with all relevant Federal, State and Local Laws, Regulations, and Ordinances.

11. Performance Guarantee

After the plan is approved but before a permit is issued, the applicant for a Ground Mounted Solar Energy System shall submit to the Town of Rockport a performance guarantee in the amount of 150% in average inflation adjusted dollars of the applicant's estimated demolition cost of the system, subject to a review of such cost by the Code Enforcement Officer. The applicant may apply to the Code Enforcement Officer for release of the guarantee at such time that it or its assignees remove the system and associated abandoned structures, and such completed removal is found to be satisfactory by the Code Enforcement Officer.

12. Decommissioning and Removal

a. Any LSES that has reached the end of its useful life, ceases to generate power or has been abandoned shall be removed pursuant to a plan approved by the Rockport Planning Board during the application process. The owner or operator shall be complete in the physical removal the installation no more than 180 days after the date of discontinued operations. The owner or operator shall notify the Code Enforcement Officer by certified mail, return receipt requested, of the proposed date of the discontinued operations and plans for removal.

b. Decommissioning shall consist of:

i. physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site;

ii. disposal of all solid and hazardous waste in accordance with Local, State and Federal waste disposal regulations; and

iii. stabilize or re-vegetation of the site as necessary to minimize erosion. The Code Enforcement Officer may allow the owner or operator to leave landscaping or designated below-grade foundations to minimize erosion and disruptions to vegetation.

c. Absent a notice of a proposed date of decommissioning or written notice of extenuating circumstances, LSES shall be considered abandoned when it fails to generate electricity for more than one year, without having first obtained the written consent of the Code Enforcement Officer. Determination of abandonment shall be made by the Code Enforcement Officer.

d. If the owner or operator of a LSES fails to remove the installation in accordance with the requirements of this section within 180 days of abandonment or the proposed date of decommissioning, the Town of Rockport retains the right to use the performance guarantee and any and all legal or available means necessary to cause an abandoned, hazardous or decommissioned solar energy system to be removed.

815. Accessory Dwelling Units

This section defines the requirements for Accessory Dwelling Units (ADU), consistent with state legislation, Title 30-A §4364-B.

1. Purpose

The purpose of an ADU is to support increased housing density and affordable housing options.

2. Restrictions

An ADU may be constructed subject to the following provisions:

a. Within an existing single family dwelling unit on the lot; or

b. Attached to or sharing a wall with a single-family dwelling unit; or

c. As a new structure on a single family lot, for the primary purpose of creating an ADU.

d. A newly constructed, detached ADU, shall not exceed the height nor floor area and shall be subordinate to the existing primary dwelling.

e. Additionally, existing accessory structures can be converted into an ADU.

f. One ADU is permitted to be added on any lot where a single-family dwelling unit is the principal structure, and

g. No more than two ADU's are permitted to be added on any lot where a single-family dwelling unit is not the principal structure.

h. Either the principal structure or converted ADU shall be occupied by the owner of the property as their principal residence.

3. Zoning Density Requirements

An ADU is exempt from zoning density requirements and lot coverage calculation of table 918, related to the area in which the accessory dwelling unit is constructed. In reviewing an ADU, the setback and dimensional requirements for a single-family home continue to apply to the primary structure and the ADU, as specified in the dimension tables of Section 918.

4. Parking

There are no additional parking requirements for the ADU, beyond those required for the single-family dwelling. See Section 803.

5. Accessory Dwelling Unit Size

ADUs must be at least 190 square feet in size.

6. Shoreland Zoning

An ADU must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and the shoreland zoning requirements, Section 1400 of the Rockport Land Use Ordinance.

7. Water and Wastewater

The owner of an ADU must provide written verification to the municipality that the ADU is connected to adequate water and wastewater services before the municipality may certify the ADU for occupancy. Written verification under this subsection must include:

a. If an ADU is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the ADU and proof of payment for the connection to the sewer system;

b. If an ADU is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22, section 42, Maine statutes;

c. If an ADU is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the ADU, proof of payment for the connection and the volume and supply of water required for the ADU; and

d. If an ADU is connected to a well, proof of access to potable water must be supplied. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

8. Restrictive Covenants

Section 816 may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid or enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

816. Planned Unit Development

1. Purpose and Intent

a. The purpose of the Planned Unit Development (PUD) is to provide an opportunity for residential subdivision developments on tracts of land to embody the principles of:

i. Clustering of dwelling units to create buffers, open space and recreation areas;

ii. Reducing infrastructure needs;

iii. Reducing negative impacts to the environment from the development: and

iv. Promoting affordable housing per Title 30-A MRSA § 4364.

b. The intent of a PUD is to encourage development which benefits the Town as a whole by offering incentives. The PUD seeks to provide for enhanced planned development by:

i. Allowing greater freedom of design;

ii. Improving the opportunity for flexibility and creativity in the land development process; and

iii. Utilizing techniques which foster community and pedestrian access.

2. District and Authority

a. The PUD is a development option in the following zone districts: the Harbor Village 901, Village District 902, Residential 904, Mixed Business Residential 906, Mixed Business Residential 907, Rural 908, Hospital and Resort 909, and Downtown 913, in those areas served by the Town sewer system. Properties in the above noted districts with a portion of land in the Shoreland Residential, Resource Protection and Stream Protection Districts may apply for a PUD; however, these properties must still meet shoreland standards contained in Chapter 1400.

b. Applicants may choose to apply as a PUD; otherwise, the underlying zoning requirements apply.

c. The Planning Board is the permitting authority for a PUD; however, any other permits and approvals required must be sought and received by the applicant. A PUD does not relieve the applicant from obtaining any local, state or federal permits that may be required.

d. To achieve the purpose and intent of a PUD, the Planning Board may approve a waiver request of a requirement(s) outlined in the Land Use Ordinance if the requirement(s) is/are deemed to be unnecessary to a specific development project, pursuant to the authority in 30-A M.R.S. § 4353(4-C).

3. PUD process

a. The PUD process shall include the requirements of a subdivision approval process as outlined in the Subdivision Ordinance.

b. In addition to Subsection 817.3.a, applicants shall provide an analysis including graphic illustrations of the visual impacts and viewshed alterations that the proposed development will have on neighboring properties because of the location and configuration of proposed structures, parking areas, open space, and gradient changes.

c. The Planning Board may require the applicant to prepare a plan to show a possible layout for a conventional subdivision application.

4. Parcel size and eligibility

a. The minimum size of a parcel seeking application of a PUD shall be the minimum lot size in its zoning district.

b. An application for a PUD may consist of land with more than one owner, provided that all land comprising the parcel lies entirely within the PUD overlay district and is contiguous. Lots separated by a minor street may be considered contiguous for this purpose.

c. Proposed developments may include preexisting buildings, provided that all PUD requirements are satisfied by each new or existing building, and that all buildings are included in calculations for the PUD as a whole.

5. Permitted Uses.

PUD may allow residential uses as described in the Land Use Table in section 917.

6. Intensity of development

a. Affordable units and lots. In the final plan the minimum number of affordable units or lots must be at least 20% of the development. These units and lots must be in compliance with Section 818, Affordable Housing.

b. Parking Requirements shall follow section 803, except for Multi-Family developments within a PUD. Multi-Family development shall include a minimum of 2 off-street parking spaces per 3 dwelling units.

c. Open space.

i. All PUDs shall set aside by deed or easement an area in square footage at least 20% of the application parcel as open space.

ii. Open space calculation may not include land that is under conservation easement at the time of application.

iii. Open space shall be contiguous.

iv. No more than 75% in the aggregate of the following land types can be used in the calculation of open space:

v. Wetlands and significant vernal pools;

vi. Sustained slopes greater than 20%;

vii. Stormwater management systems; and

viii. Area(s) within 75 feet, horizontal distance, of the normal high-water line of a stream, great pond, river, saltwater body, or significant vernal pool, unless otherwise specified in Chapter 1400.

ix. Restrictive language. The applicant shall present the Planning Board with proposed language for incorporation into deeds, recorded plans and declarations designed to ensure the integrity, protection, and maintenance of the common open space. Such language shall be subject to the approval of the Town Attorney to be sure it will accomplish its intended purposes. The applicant will comply with all reasonable requests of the Town to incorporate such language in appropriate documentation to ensure the purposes of this section will be met.

d. Number of allowable dwelling units

i. Applications shall show the density allowed for a conventional subdivision application. This density shall be used in calculations for requisite open space, affordable unit dedication, and also as the base requirement that the Planning Board may increase as noted below. This calculation is the "base development density". Land encumbered at the time of the application by conservation easement cannot be included in the calculation of base development density.

ii. An increase in the number of dwelling units above the base development density shall be considered for the following provisions:

1) For every additional affordable housing unit as defined above the minimum required allotment as determined through the base development density, one additional market-rate dwelling unit may be allowed.

2) For each 10% in addition to the required open space dedicated on the Site Plan , one additional dwelling unit may be allowed.

3) For the provision by deed and construction of active recreation space, or through a payment-in-lieu of dedication in an amount of $5,000 per dwelling unit, for upkeep/maintenance or acquisition of Town owned active recreation space, one additional dwelling unit may be allowed.

4) For projects that are designed to meet the certification standards of Leadership in Energy & Environmental Design ("LEED"), or other approved equivalent sustainable building certification program for all dwelling units, either by application or by affidavit that performance metrics will or have been met by the project, one additional dwelling unit may be allowed.

5) For projects constructing new pedestrian amenities to connect the proposed development to other areas, amenities or goods and services, one additional dwelling unit may be allowed.

6) For projects that provide formal access to public transportation, one additional dwelling unit may be allowed.

7) For projects that restore or preserve a historic resource existing on the property as part of the application, one additional dwelling unit may be allowed.

8) For projects that place all public utilities underground on the applicable parcel, an additional two dwelling units may be allowed.

iii. A PUD may never exceed the allowable number of dwelling units by more than two and a half times (2.5) the base development density.

e. Dimensional controls.

i. Setbacks may be modified through review by the Planning Board to promote cluster development pursuant to the authority in 30-A M.R.S. § 4353(4-C).

ii. Lot size requirements within a PUD on the sewer line may be reduced up to fifty percent (50%) of that required in the zone. This provision does not allow for further increased density for either the Base Development Density calculation or to increase above the allowed density bonus outlined in § 817.6.d.i.

iii. Other lot dimensional requirements may be reduced as follows:

1) Lot frontage: up to fifty percent (50%) of that required in the zone, with exception regarding minimum width for a driveway and lots on Rt 1, 17 & 90.

2) Side and rear setbacks: up to one hundred percent (100%) of that required in the zone. Front Setbacks: up to one hundred percent (100%) of that required in the zone, with exception of lots on Rt 1, 17, & 90. The aggregate lot coverage of a PUD cannot exceed that of the underlying district. In no event shall height requirements be allowed to exceed the requirements of the underlying district.

3) Building Height maximum indicated in Section 918 Dimensional Tables my be increased by up to one additional story, per 30-A MRSA §4364, sub-§2-A.

7. Criteria for approval

a. In reviewing PUD applications, the Planning Board shall apply the requirements found in the Subdivision Ordinance and the Land Use Ordinance as applicable.

b. The Planning Board also shall use the requirements of Chapter 1400 Shoreland Zoning, which shall not be modified, for review of property in a shoreland zone.

817. Affordable Housing

1. Purpose.

The Town finds that an adequate supply of affordable housing for persons of moderate income is desirable for public health, safety and welfare in that it promotes a community rich in economic, social, and cultural diversity. It is therefore a public purpose to make available and integrate into the Town an adequate supply of housing for people of all economic segments of the community.

2. Applicability.

Any reference to affordable housing in this Ordinance shall comply with the following provisions unless otherwise modified by the Planning Board.

3. Standards.

a. Affordable Housing units, as defined in Chapter 300, shall be sold or rented to qualified parties. All affordable housing units shall be owner-occupied or, in the case of rental units, occupied by the renter.

b. The applicant shall submit for Planning Board review and acceptance an agreement which preserves the long-term (fifty years) affordability of the units. The agreement shall be either a second mortgage or deed restriction, or a combination of the two. Agreements must include but not be limited to:

i. A proven method to preserve long-term (fifty years) affordability to moderate-income buyers;

ii. A formula for accruing limited equity to the buyer which includes any physical improvements to the property;

iii. An option giving the Town, or a qualified housing nonprofit organization, the right to purchase the affordable units if no qualified buyers apply at the affordable price within 180 days of publicly listing the property for sale;

iv. The option to return housing to market rates only if there are no qualified buyers within 180 days of the property being on the market with a method to return excess profits to the Town, or a qualified housing nonprofit organization, if the units are returned to market rates;

v. Terms of covenants that may be enforced by the Town of Rockport without unreasonable legal expense;

vi. Provisions for reimbursement of administrative costs incurred by the Town of Rockport if the Town is required to enforce terms of the agreement or administer transfers of the property; and

vii. Identification of other third-party entities that may be responsible for managing or supervising terms of the agreement.

c. The mandatory affordable housing provisions shall run with the land.

d. Affordable housing units shall be constructed and completed at a rate proportional to the market rate units in a subdivision or multifamily project. The rate of development shall be determined by dividing the total number of units in the development by the total number of affordable units. No building permits shall be issued for a market rate unit in excess of the proportion of affordable housing units for which a certificate of occupancy has been issued.

e. When calculating proportionality, any fractional sum shall be rounded up to the nearest whole building unit.

f. Renters of affordable units shall:

i. Have income that qualifies for Affordable Housing as defined.

g. Buyers of affordable units shall;

i. Have income that qualifies for Affordable Housing as defined.

h. Affordable housing lots

i. Any lot created to meet the provisions for affordable housing may be sold or conveyed to a qualified nonprofit housing organization.

ii. Any conveyance of the affordable lot(s) shall be concurrent with the recording of the subdivision plan at the Knox County Registry of Deeds.

iii. All deeds shall contain language that preserves long-term (fifty years) affordability to moderate-income buyers. This language is subject to the approval of the Planning Board.

iv. A covenant shall be placed on the lot giving the Town or other qualified nonprofit housing organization the right to purchase the affordable lot if no qualified buyers apply at the affordable price within 180 days.

4. Optional payment.

In lieu of providing the requisite affordable housing units, the applicant shall make a payment to a nonprofit housing development organization with the mission to create affordable housing in Rockport, or within Knox County. The amount of the payment shall be calculated as follows: (The number of required affordable units) multiplied by (the annual average income for a family of four in Knox County, multiplied by 3). Evidence of payment shall be provided prior to the issuance of a building permit for the construction of the approved plan.

CHAPTER 900 – ZONING DISTRICTS

901. Harbor Village District

1. Purpose

To maintain the physical, historic, aesthetic and social quality of Rockport's Harbor Village.

2. Permitted Uses and Standards

a. Permitted Uses and Conditional Uses for this zoning district are referenced in the table at Section 917 of the Land Use Ordinance.

b. Dimensional standards for this zoning district are referenced in the tables at Section 918 of the Land Use Ordinance.

c. Other administrative, performance and general standards referenced in the Land Use Ordinance are also applicable in this zoning district.

3. Special District Standards

a. Planned Unit Developments are allowed in this zone district.

b. Max lot coverage for municipal buildings is 100%

c. Max building footprint for non-residential buildings is 6,000 sq.ft.

i. Multiple structures may be constructed on a single lot subject to the lot size, coverage and footprint restrictions. Such structure may be joined by a connector or connectors subject to the definition of a connector in Chapter 300.

d. Max building height may be increased by one story for developments that:

i. Include 10% of the units to be affordable as outlined in Section 817, and

ii. bury all public utilities on site,

902. Village District

1. Purpose

To promote the development of Simonton's Corner, West Rockport, Rockville and Glen Cove Villages while at the same time preserving their physical, historic, aesthetic and social qualities.

2. Permitted Uses and Standards

a. Permitted Uses and Conditional Uses for this zoning district are referenced in the table at Section 917 of the Land Use Ordinance.

b. Dimensional standards for this zoning district are referenced in the tables at Section 918 of the Land Use Ordinance.

c. Other administrative, performance and general standards referenced in the Land Use Ordinance are also applicable in this zoning district.

3. Special District Standards

a. Planned Unit Developments are allowed in this zone district.

b. Exceptions to the building footprint requirement are Public Buildings, Schools, Athletic Facilities, and Boat Storage/Shipyard/Sales facilities.

c. Landscaping businesses shall be permitted in the 902 District but such use, be it a structure, outdoor storage or associated activities shall not be permitted less than 100 feet from any property with a preexisting residential use.

903. Residential Coastal District

1. Purpose

To provide a low-density residential setting while respecting the natural saltwater shorelines of the Town and other natural features of the coastal area.

2. Permitted Uses and Standards

a. Permitted Uses and Conditional Uses for this zoning district are referenced in the table at Section 917 of the Land Use Ordinance.

b. Dimensional standards for this zoning district are referenced in the tables at Section 918 of the Land Use Ordinance.

c. Other administrative, performance and general standards referenced in the Land Use Ordinance are also applicable in this zoning district.

904. Residential District

1. Purpose

To preserve the physical, historic and aesthetic quality of that area of Rockport between the Villages and the Rural areas of the Town. To provide an opportunity for less dense growth than in the Villages, but denser growth than in the Rural areas, while minimizing sprawl.

2. Permitted Uses and Standards

a. Permitted Uses and Conditional Uses for this zoning district are referenced in the table at Section 917 of the Land Use Ordinance.

b. Dimensional standards for this zoning district are referenced in the tables at Section 918 of the Land Use Ordinance.

c. Other administrative, performance and general standards referenced in the Land Use Ordinance are also applicable in this zoning district.

3. Special District Standards

a. Planned Unit Developments allowed in this zone district.

905. (RESERVED)

906. Modified Mixed Business / Residential District

1. Purpose

The objective of the Modified Mixed Business/Residential District is to encourage commercial growth and residential uses in a setting that creates a village atmosphere. The village setting should encourage pedestrian traffic while slowing vehicular traffic. These objectives are in addition to those of the Section 907 Rockport Mixed Business/Residential District.

2. Permitted Uses and Standards

a. Permitted Uses and Conditional Uses for this zoning district are referenced in the table at Section 917 of the Land Use Ordinance.

b. Dimensional standards for this zoning district are referenced in the tables at Section 918 of the Land Use Ordinance.

c. Other administrative, performance and general standards referenced in the Land Use Ordinance are also applicable in this zoning district.

3. Special District Standards

a. Exceptions to the building footprint requirement are Public Buildings, Schools, Athletic Facilities, and Boat Storage, Shipyard/Sales facilities.

b. Planned Unit Developments allowed in this zone district.

c. Heavy Landscaping Businesses require a 100 ft setback from any pre-existing residential use within this zone.

d. Max building footprint for non-residential buildings is 6,000 sq.ft.

   i. Multiple structures may be constructed on a single lot subject to the lot size, coverage and footprint restrictions. Such structures may be joined by a connector or connectors subject to the definition of a connector in Chapter 300.

e. Drive Through restaurants are allowed within this zone, with frontage on US-1, and within 0.5 miles of the Town of Rockland line.

907. Rockport Mixed Business / Residential District

1. Purpose

The objective of the Rockport Mixed Business/Residential District is to encourage commercial growth and residential uses along Routes 1, 17 and 90 and to preserve the scale, size and character of existing architecture, without the design and traffic problems of strip development.

2. Permitted Uses and Standards

a. Permitted Uses and Conditional Uses for this zoning district are referenced in the table at Section 917 of the Land Use Ordinance.

b. Dimensional standards for this zoning district are referenced in the tables at Section 918 of the Land Use Ordinance.

c. Other administrative, performance and general standards referenced in the Land Use Ordinance are also applicable in this zoning district.

3. Special District Standards

a. Fully-enclosed, Private Sport/Recreational Facilities (for example, hockey rinks and tennis, gymnastics or basketball courts) with frontage on Routes 1, 17, and 90, may have a maximum building footprint larger than 10,000 sq.ft., with front setbacks from the road of at least 200 feet, maximum footprint and side and rear setbacks subject to the approval of the Planning Board.

b. Exceptions to the building footprint requirement are Public Buildings, Schools, Athletic Facilities, and Boat Storage, Shipyard/Sales facilities.

c. Multiple structures may be constructed on a single lot subject to lot size and coverage restrictions. Such structures may be joined by a connector or connectors, subject to the requirements of the definition of "connector" in Section 300.

d. The front setback area shall be screened in accordance with the Standards of Performance for Routes 1, 17 and 90 and Old County Road, found in this Ordinance.

e. Planned Unit Developments allowed in this zone district.

f. Heavy Landscaping Businesses require a 100 ft setback from any pre-existing residential use within this zone.

g. The maximum building height for a School within this district shall be 55ft.

h. Max building footprint for non-residential buildings is 10,000 sq.ft.

i. Multiple structures may be constructed on a single lot subject to the lot size, coverage and footprint restrictions. Such structures may be joined by a connector or connectors subject to the definition of a connector in Chapter 300.

908. Rural District

1. Purpose

To preserve natural resources while allowing for development that is sensitive to lake water quality, wildlife habitat, scenic vistas, steep slopes and ridge lines. To encourage the continuation of resource-based opportunities including blueberry production, farming and woodland management. To, as much as is practical, encourage structures build at high elevations to blend in with the surrounding landscape.

2. Permitted Uses and Standards

a. Permitted Uses and Conditional Uses for this zoning district are referenced in the table at Section 917 of the Land Use Ordinance.

b. Dimensional standards for this zoning district are referenced in the tables at Section 918 of the Land Use Ordinance.

c. Other administrative, performance and general standards referenced in the Land Use Ordinance are also applicable in this zoning district.

3. Special District Standards

a. Planned Unit Developments allowed in this zone district.

909. Rockport Hospital And Resort District

1. Purpose

To provide areas in the Town of Rockport in which quality recreational and tourist development and in which medical care facilities can occur in harmony with other uses while maintaining the character of the Town.

2. Permitted Uses and Standards

a. Permitted Uses and Conditional Uses for this zoning district are referenced in the table at Section 917 of the Land Use Ordinance.

b. Dimensional standards for this zoning district are referenced in the tables at Section 918 of the Land Use Ordinance.

c. Other administrative, performance and general standards referenced in the Land Use Ordinance are also applicable in this zoning district.

3. Special District Standards

a. Hospitals shall have a minimum of 10 contiguous acres of land.

b. Resorts shall have a minimum of 25 contiguous acres of land.

c. Camping and tenting areas shall have a minimum of 10 contiguous acres of land.

d. Retail sales and services within 250 feet of Route 1 shall not exceed 10,000 square feet in size.

e. Setback requirements for hospital, motels, inns, resorts and hotels on at least 25 acres of land that exceed 34 feet but are equal to or less than 55 feet shall equal the height of the building for front, rear, and side yard setbacks, or the standard front, rear and side yard setbacks of the District, whichever is greater.

f. The maximum building height for Hospitals, Motels, Inns and Hotels on at least 25 acres of land shall be 55 feet.

g. The minimum distance between principal buildings on the same lot shall be equivalent to the height of the taller building, except that the Planning Board, pursuant to the cluster development provisions of this Ordinance, may permit two or more buildings to share common walls or to be otherwise connected provided that they meet the provisions of Section 804 of this Ordinance.

h. For all non-residential uses, within five hundred (500) feet of the edge of pavement of Routes 1, 17, 90 and Old County Road, the seventy-five (75) foot front yard setback must be screened in accordance with the Standards of the Business/Residential District along Routes 1, 17, 90 and Old County Road.

i. Planned Unit Developments allowed in this zone district.

910. Traditional Village District

1. Purpose

To encourage growth to occur in areas which are best suited for increased density in accordance with the Comprehensive Plan; to encourage communities to be built in such areas on the pattern of traditional Maine villages; to promote pedestrian travel and street life by placing houses, shops, workplaces and public places in close proximity; to reduce traffic congestion and dependence on the automobile by creating a hierarchy of streets and ways which equitably and efficiently serve pedestrians, cyclists and drivers; to provide opportunities for the development of employment-generating uses; to provide focuses for community life by providing for commercial services, village greens and sites for civic buildings; to create a built environment that fosters a sense of community and greater independence for senior citizens and children; to promote the physical and social integration of citizens diverse in age, lifestyle and economic status; to provide housing affordable to residents with a wide range of incomes; to create more affordable housing by reducing the amount of land and infrastructure which is built for each dwelling unit; and to promote a pattern of development which permits the efficient delivery of municipal services.

2. General

An owner or owners of land which meets the terms of "Eligible Land" below may propose to develop their land as a Traditional Village, instead of in accordance with the underlying district zoning or other conflicting provisions of the Land Use Ordinance or the Subdivision Ordinance, by complying with the provisions of this Section.

a. Eligible Land: A Traditional Village shall be land which is contiguous, but which may include land on opposite sides of a street or streets, and which is in a Traditional Village District. Land of any size adjacent to an approved Traditional Village and in a Traditional Village District may be added to the Traditional Village subject to the following:

   i. The land which is not originally part of the Traditional Village shall be subject to the limitations in Section 910.2.4 independently;

   ii. The Traditional Village with such addition shall still comply with all the provisions of this Ordinance and the Subdivision Ordinance; and

   iii. The addition must be able to be made without causing increased expense, altered land uses, reduced land value or alteration of the development process of the original Traditional Village or the addition must have the approval of the applicant for the original Traditional Village if such applicant owns ten percent (10%) or more of the land area of the Traditional Village or the approval of such applicant's successor in interest provided such successor owns ten percent (10%) or more of the land area of the Traditional Village. An applicant for an addition to a Traditional Village Plan shall prepare a Traditional Village Plan with the addition in conformity with this Ordinance and the Subdivision Ordinance.

b. Subdistricts: A Traditional Village may be divided into the following districts: Residential, Civic, Cottage, Commercial and Light Industrial. Each Traditional Village shall have at least one (1) Residential Subdistrict, one (1) Civic Subdistrict and one (1) Commercial Subdistrict. The Subdistricts are intended to provide for the diversity necessary for village life while maximizing the synergy among related uses and minimizing the adverse impacts of incompatible uses upon each other.

i. A Residential Subdistrict is intended to contain houses and related uses.

ii. A Civic Subdistrict is intended to contain non-commercial uses of community-wise importance and other compatible uses.

iii. A Cottage Subdistrict is intended to be primarily residential in character but with features and other uses which may attract seasonal residents and tourists.

iv. A Commercial Subdistrict is intended primarily to provide uses which meet the retail and service needs of a Traditional Village and its vicinity and may contain other compatible uses.

v. A Light industrial Subdistrict is intended to generate employment opportunities and to contain service uses which are not appropriate for a Commercial Subdistrict, utility related uses and other compatible uses.

c. Locations of Subdistricts: The Subdistricts of a Traditional Village shall be located in accordance with the following:

i. One (1) or more Civic Subdistricts shall be located to be no more than one thousand eight hundred feet (1,800') by a pedestrian route from eighty-five percent (85%) of the land area of the Residential Subdistricts.

ii. A Commercial Subdistrict intended to serve an area beyond the Traditional Village shall be located to permit vehicular access from outside the Traditional Village without passing through a Residential Subdistrict.

iii. A Light Industrial Subdistrict shall be located to permit vehicular access outside the Traditional Village without requiring passage through a Residential Subdistrict and so that it may be effectively buffered from Residential Subdistricts.

iv. A Cottage Subdistrict shall be located more remotely from a Civic Subdistrict and a Commercial Subdistrict than Residential Subdistricts in general so that year-round uses are not separated from each other by uses that are seasonal.

d. Density: The total number of dwellings in a Traditional Village shall not exceed two-and-a-half (2.5) times the total number of acres in the Traditional Village and the total amount of space within buildings for uses (including artisan living/working use) other than dwellings shall not exceed two thousand five hundred (2,500) sq. ft. times the total number of acres in the Traditional Village.

e. Natural Areas and Open Space: A minimum of ten percent (10%) of the land area of a Traditional Village shall be open space of the following types:

i. Greens;

ii. Publicly accessible recreational areas (which may be accessory to other uses);

iii. Land which is to be maintained in its natural state (which may be in lots provided it is publicly accessible by footpaths); and

iv. Bodies of water provided their banks are publicly accessible at least every five hundred feet (500').

f. Greens: A Traditional Village shall include Greens measuring a total of at least forty thousand (40,000) sq. ft. plus an additional ten thousand (10,000) sq. ft. for each one hundred (100) dwelling units or part of one hundred (100) dwelling units permitted pursuant to 3 above. Each Civic Subdistrict shall have a Green of at least twenty-five thousand (25,000) sq. ft. No Green shall be more than twenty percent (20%) paved.

g. Minimum Size of Civic Subdistrict: A Civic Subdistrict shall consist of, at least, a Green in accordance with Subsection (F) above, and all lots abutting the Green.

h. Minimum Size of a Commercial Subdistrict: At least two percent (2%) of the land area of a Traditional Village shall be a Commercial Subdistrict or more than one (1) Commercial Subdistrict.

3. Permitted Uses and Standards

a. Permitted Uses: The following shall be permitted in the stated Subdistrict of a Traditional Village.

i. Residential:

1) Single-family detached dwelling;

2) Two-family dwellings;

3) Accessory residential uses, including home occupations.

ii. Civic:

1) Schools (public, private and commercial);

2) Day care center;

3) Libraries;

4) Churches and other houses of worship;

5) Professional uses;

6) Bed and Breakfasts;

7) Neighborhood restaurants;

8) Single-family detached dwellings;

9) Two-family dwellings;

10) Accessory uses, including home occupations;

11) Municipal wastewater pumping stations (Municipal pump stations are exempt from all setback requirements in this District).

iii. Cottage:

1) Single-family detached dwellings;

2) Single-family attached dwellings;

3) Two-family dwellings;

4) Bed and breakfasts;

5) Inns;

6) Hotels;

7) Restaurants;

8) Health clubs;

9) Commercial swimming pools and ice-skating rinks;

10) Accessory uses, including home occupations.

iv. Commercial:

1) Retail uses of 10,000 sq. ft. or less;

2) Professional office;

3) Personal services;

4) Tradesmen's shops;

5) Restaurants;

6) Schools, commercial;

7) Hotels, motels, inns and bed and breakfasts;

8) Outdoor sales and services;

9) Commercial swimming pools and ice-skating rinks;

10) Artisan living/working uses;

11) Single-family detached dwellings;

12) Single-family attached dwellings;

13) Two-family dwellings;

14) Elderly congregate housing;

15) Senior citizen/handicapped housing;

16) Nursing homes;

17) Accessory uses.

v. Light Industrial:

1) Light industrial uses;

2) Gasoline filling stations;

3) Automobile repair shops;

4) Commercial car wash;

5) Tradesmen's shops;

6) Artisan living/working use;

7) Wholesale businesses;

8) Public utilities facilities, including substations, pumping stations

9) Outdoor sales and services;

10) Neighborhood restaurants;

11) Horticultural uses;

12) Schools, commercial;

13) Municipal open space and recreational uses;

14) Retail uses;

15) Accessory uses.

b. Conditional Uses: The following uses shall be permitted in the stated Subdistricts of a Traditional Village if they are permitted as conditional uses on appeal to the Planning Board.

i. Residential:

1) Multi-family dwellings;

2) Single-family attached dwellings;

3) Senior citizen/handicapped housing;

4) Elderly congregate housing;

5) Professional offices;

6) Rooming houses;

7) Bed and breakfasts;

8) Retail uses of 1,000 sq. ft. or less.

ii. Civic:

1) Multi-family dwellings;

2) Single-family attached dwelling;

3) Senior citizen/handicapped housing;

4) Elderly congregate housing;

5) Nursing homes;

6) Rooming houses;

7) Boarding care facilities;

8) Community living uses;

9) Community buildings and quasi-public uses;

10) Inns;

11) Fully enclosed places of assembly, amusement and culture operated for profit;

12) Retail stores of 2,000 sq. ft. or less, including art galleries.

iii. Cottage:

1) Multi-family dwellings;

2) Rooming houses;

3) Boarding care facilities;

4) Motels;

5) Day care;

6) Retail uses of 2,000 sq. ft. or less, including art galleries.

iv. Commercial:

1) Retail uses in buildings of more than 10,000 sq. ft.;

2) Senior citizen/handicapped housing;

3) Elderly congregate housing;

4) Rooming houses;

5) Boarding care facilities;

6) Community living uses;

7) Gasoline filling stations;

8) Fully enclosed places of assembly, amusement and culture

9) Night clubs;

10) Community buildings and quasi-public uses;

11) Outdoor sales and services.

v. Light Industrial:

1) Recycling center;

2) Public and private middle schools, junior high schools and high

3) Fully enclosed places of assembly, amusement and culture;

4) Animal hospitals and veterinary clinics;

5) Waste treatment facilities which are public utilities and which

c. Other Provisions Regarding Uses:

i. Public utility facilities including substations, pumping stations and waste treatment facilities are permitted in Subdistricts of a Traditional Village other than Light Industrial either if they are identified on the Traditional Village plan at the time of subdivision approval or if they are permitted as conditional uses on appeal to the Planning Board. As a condition to permitting such uses in a Subdistrict other than Light Industrial, the reviewing Board shall find that the use cannot be sited in the Light Industrial Subdistrict with undue expense.

ii. Municipal uses shall be permitted either if they are identified on the Traditional Village Plan at the time of subdivision approval or if they are permitted as conditional uses on appeal to the Planning Board and shall be located in the Subdistrict in which the Permitted Uses or uses permitted by Conditional Use most closely resemble the municipal use.

iii. Greens are permitted in all Subdistricts.

iv. The following are permitted in a Traditional Village:

1) Any retail use, restaurant or personal service (except gasoline filling stations) which encourages patrons to remain in their automobiles while receiving goods or services; and

2) Any use not specified in this Section 910.3 unless permitted by the Board of Appeals upon a variance appeal.

v. The uses permitted in a Commercial Subdistrict (either as-of-right or as conditional uses) shall be permitted in a Civic Subdistrict either if they are identified on the Traditional Village Plan at the time of subdivision approval or if they are permitted as Conditional Uses on appeal to the Planning Board.

vi. Lots with front lot lines along at least twenty percent (20%) of the circumference of a Green in a Civic Subdistrict (i.e. either facing a Green across a street or directly fronting on a Green) shall be reserved for Community uses and be so designated on a Traditional Village Plan. However, after two years subsequent to approval of a Final Plan for a Traditional Village, other uses permitted in a Civic Subdistrict pursuant to other provisions of Section 910.3 above, may be permitted on the lots so designated as conditional uses on appeal to the Planning Board.

vii. In-ground sewage disposal systems, including leaching fields, are permitted uses in all Subdistricts and shall be either on the lot served or on a lot dedicated for such use and owned or controlled by an entity capable of assuring the maintenance of the systems.

d. Standards:

i. The General Standards of Performance of Section 800 shall be observed unless they are inconsistent with the provisions of this Section 910 pertaining to a Traditional Village.

ii. The following standards shall apply in all Subdistricts of a Traditional Village, except as stated.

1) Minimum Lot Size:

a) In a Cottage Subdistrict	3,000 sq. ft.
b) In all other Subdistricts	3,000 sq. ft.

2) Maximum Lot Coverage:

a) In a Commercial Subdistrict	90%
b) In all other Subdistricts	60%

3) Minimum Dwelling Size	600 sq. ft.
4) Minimum Efficiency or One Bedroom	400 sq. ft.

5) Minimum Setback for Driveway, Parking Space or Pavement Unless Shared with Adjacent Property:

a) From side property line	None
b) From rear property line (except for driveway entering from rear property line)	8 feet
c) Along an alley	None
d) Along a side or rear property line in a Light Industrial Subdistrict which coincides with the Subdistrict boundary	15 feet

6) Minimum Front Setback from Edge of Pavement:

a) In a Commercial Subdistrict	Minimum 5 ft.
b) In a Cottage Subdistrict	Minimum 10 ft.
c) In a Civic Subdistrict	Minimum 30 ft.
d) In all other Subdistricts	Minimum 15 ft.

7) Minimum Side Setback:

a) From a Side property line in a Light Industrial Subdistrict which coincides with the Subdistrict boundary	25 Feet
b) For Buildings complying with Building Code separation	25 Feet
c) In all other cases	8 Feet

8) Minimum Street Frontage

a) In a Cottage Subdistrict	30 Feet
b) In all other Subdistricts	50 Feet

9) Minimum Rear Setback

a) For an accessory building along an alley.	None
b) From a rear property line in a Light Industrial District which coincides with the Subdistrict boundary	25 Feet
c) In all other cases	8 Feet

iii. Minimum distance between principal buildings on the same lot shall be the height equivalent of the taller building except, however, two (2) or more buildings may be closer or share common walls or be otherwise connected, provided the buildings comply with the Building Code Separation Requirements.

iv. For the purpose of setbacks on a corner lot, any lot line along a street (other than an alley) shall be a front line, any lot line along an alley shall be a rear lot line, any lot line between two (2) lots and intersecting a lot line along a street (other than an alley) shall be a side lot line and any lot line intersecting two (2) other lot lines which are not along a street (other than an alley) shall be a rear lot line.

v. The facade of any garage, carport or other accessory structure designed for accessory parking of automobiles shall be setback at least ten (10) feet further from the front property line than the foremost facade of the principal building facing the front property line (stoops, porticos, open colonnades and open porches excluded), except that no setback shall be required in a Light Industrial Subdistrict and, except further, that the facade of any garage, carport or other accessory structure designed for accessory parking of automobiles need not be setback beyond the foremost facade of the principal building on a corner lot, if such facade does not contain the main entrance to the principal building.

vi. Except in a Light Industrial Subdistrict, the front edge of any off-street parking area shall be setback at least as far as the foremost facade of the principal building facing the front property line (stoops, porticos, open colonnades and open porches excluded).

vii. All front, side or rear property lines in a Light industrial Subdistrict which coincide with a boundary of a Light Industrial Subdistrict shall have the buffers described in Section 802.3.

viii. All lots in a Traditional Village shall front on a street or a Green.

ix. Stoops, porticos, open colonnades and open unglazed porches all attached to a principal building may encroach up to twelve feet (12') into front setbacks.

x. Special Parking Standards for a Traditional Village

1) The minimum number of parking spaces required in Section 803 shall be provided unless different standards are stated below:

a) For an Accessory Dwelling Unit, One (1) parking space shall be required, in addition to the spaces required for the principal use.

b) For Offices, Professional and Public Building Spaces one (1) parking space shall be required for each four hundred (400) sq. ft. of gross floor space.

c) For retail Uses and Personal Services One (1) parking space shall be required for each four hundred (400) sq. ft. of gross floor space

d) For all other Uses not listed above or in Section 803, a sufficient number of spaces shall be required, as determined by the Planning Board at the time of approval of a Traditional Village Plan if the use is identified on the Plan, or by the Code Enforcement Officer if the use is not identified on the Plan.

2) On-street parking spaces along the front property line of a lot shall be counted toward the minimum of parking spaces required for the use on the lot.

3) On-street parking shall be provided on at least one (1) side of a collector street in a Commercial, Civic and Light Industrial Subdistrict, except that:

a) No on-street parking shall be permitted in a parking lane for thirty feet (30') in front of a community use; and

b) No parking shall be required in the portion of a collector street which is within a designated wetland.

4) On-street parking shall be provided along the side of any street which abuts a Green in a Civic Subdistrict.

5) On-street parking shall be permitted if shown on a Traditional Village Plan at the time of subdivision approval:

a) No on-street parking shall be permitted in a parking lane for thirty feet (30') in front of a community use; and

b) In all other Subdistricts, along one (1) side of a local street.

6) Off-street parking may be located with six hundred feet (600') (measured along a publicly accessible route) from the lot containing the use to which the parking is accessory, provided that either the lot containing the parking is owned or leased to the owner of the principal use or the lot containing the parking is dedicated to parking for as long as the use to which it is accessory shall continue and is owned or controlled by an entity capable of assuring its maintenance as accessory parking. Only parking for uses permitted in a Residential Subdistrict shall be permitted in a Residential Subdistrict.

7) Parking lots may not be located within twenty-five (25) feet of a street intersection.

e. Streets:

i. The streets of a Traditional Village shall be laid out to promote pedestrian circulation and ease of access from all points in the Traditional Village to the Civic and Commercial Subdistricts.

ii. Easements shall be reserved to permit the streets of a Traditional Village to be extended to the edge of the Village and on to adjoining property, if the adjoining property is added to the Traditional Village.

iii. Streets (including private ways) and alleys shall terminate at streets or proposed streets. The distance between an intersection and the end of a street terminating at a proposed street shall be no more than four hundred feet (400').

iv. A collector street shall extend from at least one (1) boundary of a Traditional Village to the Green in each Civic Subdistrict.

v. One or more collector street(s) of a Traditional Village shall connect to streets outside the Traditional Village in at least two (2) points.

vi. Street lights shall be provided at each street intersection of a collector street with another collector street or with a local residential street in a Traditional Village, and at each street intersection along a Green. A street light shall be mounted on a standard between eight (8') and fourteen feet (14') in height and be equipped with an incandescent, metal halide or other full spectrum bulb.

vii. Sidewalks shall be provided along all sides of streets along which on- street parking is provided and in front of community uses.

viii. Street trees shall be provided as follows:

1) One (1) tree shall be planted for every one hundred (100) linear feet of collector or local residential street in a Traditional Village. The location and layout of the foregoing number of street trees shall be shown on a Traditional Village Plan.

2) Street trees shall be deciduous trees of not less than two and one- half inch (2½") caliper.

4. Approval Procedure for a Traditional Village Plan

a. An owner or owners of land meeting the requirements of Eligible Land above may apply for approval of a Traditional Village Plan by the Planning Board. A proposed Traditional Village Plan shall be reviewed by the Planning Board as a major subdivision pursuant to the provisions of the Subdivision Ordinance.

b. No site plan review shall be required for any lot in a Traditional Village, except a lot in Light Industrial Subdistrict otherwise requiring site plan review.

c. Any private way in a Traditional Village shall be reviewed by the Planning Board during the review of a Traditional Village Plan and no separate approval shall be required. the provision of Section 805.3. (Private Ways) shall not apply to a Traditional Village.

d. The provisions of Section 804 (Cluster Development) shall not apply to a Traditional Village.

911. (RESERVED)

912. (RESERVED)

913. Downtown District

1. Purpose

To preserve and enhance the mixture of small businesses, civic, educational, residential, and water-dependent development in the Downtown District and to provide additional uses and alternative standards for increased development potential on specific lots with street frontage on Central Street and Main Street consistent with historical patterns of development.

2. Permitted Uses and Standards

a. Permitted Uses and Conditional Uses for this zoning district are referenced in the table at Section 917 of the Land Use Ordinance.

b. Dimensional standards for this zoning district are referenced in the tables at Section 918 of the Land Use Ordinance.

c. Other administrative, performance and general standards referenced in the Land Use Ordinance are also applicable in this zoning district.

3. Special District Standards

To encourage patterns of development that are consistent with the historical development on the harbor side of Central Street, the following additional Uses and alternative Standards shall apply to parcels with Map-Lot numbers 29-303, 29-297, 29-295, 29-293, 29-291, 29-291-001, 29-289 and 29-287 and on parcels subsequently divided within these bounds. In all other respects, the normal Uses and Standards of the 913 Downtown District as found in the tables at Sections 917-918 shall apply within these bounds.

a. At street level, within the first twenty (20) feet of buildings facing Central Street within these bounds, only Commercial Uses are permitted.

b. In addition to Uses otherwise permitted in the Downtown District, the Residential Multi-family Use, as defined, shall be permitted within these bounds.

c. In addition to Uses otherwise permitted in the Downtown District, the following non-residential Uses, as defined, shall be permitted within these bounds: Art Galleries; Barber Shop/Salon; Medical Clinics; and Places of Assembly.

d. In addition to Uses otherwise permitted in the Downtown District, the following Uses, as defined, shall be permitted by Conditional Use within these bounds: all Industrial/Manufacturing/Wholesale Uses found in the table at Section 917 except Agricultural product processing and Wholesale facility.

e. The following alternative Standards shall apply to parcels with street frontage on Central Street within these bounds.

   i. There shall be no minimum setbacks.

   ii. There shall be no maximum lot coverage.

   iii. There shall be no minimum lot area per dwelling unit.

   iv. The maximum building height shall be fifty (50) feet measured from the highest point on the Central Street sidewalk adjacent to the foundation.

   v. The maximum height at the eave shall be forty (40) feet measured from the highest point on the Central Street sidewalk adjacent to the foundation.

   vi. Within buildings facing Central Street, the minimum depth of Commercial Uses at street level shall be the first twenty (20) feet.

   vii. The minimum frontage shall be twenty (20) feet.

f. The following alternative Standards shall apply to parcels with street frontage on Main Street within these bounds.

   i. There shall be no minimum setbacks.

   ii. There shall be no maximum lot coverage.

   iii. For Marine-related uses, there shall be no building footprint requirements, and the maximum building height shall be fifty (50) feet measured from the highest point of original grade adjacent to the foundation.

g. Planned Unit Developments allowed in this zone district.

h. No more than 40 (forty) rooms, in the aggregate, shall be permitted at Inns/Hotels in this zone district.

i. Max lot coverage for municipal buildings is 100%

914. Chickawaukie Lake Watershed Overlay District

1. Purpose

The purpose of this regulation is to prevent the degradation of the present water quality of the Chickawaukie Lake Watershed area to ensure its use for recreational purposes and its suitability as a potential drinking water supply source by controlling the amount of phosphorous and nutrient discharge to the ground or to the groundwater from land uses and development by the application of Best Management Practices (BMPs).

2. Permitted Uses and Standards

Permitted uses and land use activities in the underlying district are allowed to continue subject to compliance with the Best Management Practices requirements of the Chickawaukie Watershed District. Land use activities in the watershed requiring Best Management Practices shall require a land use permit from the Code Enforcement Officer.

3. Special District Standards

The Chickawaukie Lake Watershed Overlay District is an overlay district encompassing all of the area of Rockport in which the surface and ground water flows or drains into Chickawaukie Lake as delineated on the Town of Rockport Zoning Map. Compliance with the Shoreland Zoning Overlay District is also required if the activity occurs within two hundred and fifty feet (250') of the mean high-water mark. If there is a conflict between this Overlay District and the Shoreland Zoning Overlay District, then the more restrictive provisions or those provisions imposing a higher standard shall apply.

a. Erosion and Sediment Control Plan

Within the Chickawaukie Watershed District, all activities other than normal home gardening and property maintenance, involving soil disturbance greater than 1,000 sq. ft. shall require the preparation of a written Erosion and Sediment Control Plan. The requirements of this section shall be met by selecting the most appropriate Best Management Practices contained in the publication Maine Erosion and Sediment Control BMP'S, Maine DEP, 2003 as amended, which is incorporated by reference within this Ordinance.

b. Agricultural Practices and Uses

Within the Chickawaukie Watershed Overlay District all agricultural practices, activities and uses shall require the preparation of an agricultural practices plan for each contemplated activity. The requirements of this section shall be met by selecting the most appropriate Best Management Practices (BMPs) contained in the current publication Manual of Best Management Practices for Maine Agriculture, Maine Department of Agriculture, 2007, which is incorporated by reference within this Ordinance.

c. Timber Harvesting Operations

Persons carrying on timber harvesting operations of more than two (2) acres within the Chickawaukie Watershed Overlay District must submit a Forest Harvesting Plan prepared by a Maine licensed forester. The requirements of this section shall be met by selecting the most appropriate Best Management Practices (BMPs) options contained in the current publication Best Management Practices for Forestry – Protecting Maine's Water Quality, Maine Forest Service, 2004, which is incorporated by reference within this Ordinance.

915. Mirror Lake And Grassy Pond Watershed Overlay District

1. Purpose

The purpose of this regulation is to prevent the degradation of the water quality of the Mirror Lake and Grassy Pond watershed area in order to ensure its present and future suitability as a drinking water supply source by controlling the amount of phosphorous and nutrient discharge to the ground or to the groundwater from land use activities through the application of Best Management Practices (BMPs).

2. Permitted Uses and Standards

Permitted uses and land use activities in the underlying district are allowed to continue subject to compliance with the Best Management Practices for the Mirror Lake and Grassy pond Watershed District. Land use activities in the watershed requiring a land use permit from the Code Enforcement Officer shall also require a Best Management Practices Plan for soil disturbances.

The Code Enforcement Officer shall notify the owner/operator of the water utility., in writing, within five (5) working days of the receipt of an application for a land use permit for disturbances greater than 1,000 sq. ft.

3. Special District Standards

The Mirror Lake and Grassy Pond Watershed Overlay District is an overlay district encompassing all of the area of Rockport in which the surface and ground water flows or drains into Mirror Lake and Grassy Pond as delineated on the Town of Rockport Official Zoning Map. Compliance with the Shoreland Zoning Overlay District is also required, if the activity occurs within two hundred fifty feet (250') of the normal high-water mark. If there is a conflict between this Overlay District and the Shoreland Zoning Overlay District, the more restrictive provisions shall apply.

a. Erosion and Sediment Control Plan

i. Within the Mirror Lake and Grassy Pond Watershed District, all activities other than normal home gardening and property maintenance, involving the disturbance of the existing ground cover (e.g. topsoil or vegetation) due to excavation, grading or filling or other similar activity involving an area in excess or in total accumulation of 1,000 sq. ft. shall require the preparation of a written Erosion and Sediment Control Plan. The requirements of this sections shall be met by selecting the most appropriate Best Management Practices (BMPs) options contained in the publication Maine Erosion and Sediment Control BMP'S, Maine DEP, 2003, as amended, which is incorporated by reference within this Ordinance.

ii. Temporary mulch shall be placed over the unvegetated area as soon as possible but no later than 14 days from the removal of the ground cover or the placement of fill.

b. Agricultural Practices and Uses

Within the Mirror Lake and Grassy Pond Watershed District all agricultural practices and uses shall require the preparation of an agricultural practices plan for each contemplated activity. The requirements of this section shall be met by selecting the most appropriate Best Management Practices (BMPs) options in the publication Manual of Best Management Practices for Maine Agriculture, Maine Department of Agriculture, as amended, which is incorporated by reference within this Ordinance.

c. Timber Harvesting Operations

Persons carrying on timber harvesting operations greater than two (2) acres within the Mirror Lake and Grassy Pond Watershed District must submit a Forest Harvesting Plan prepared by a Maine licensed forester. The requirements of this section shall be met by selecting the most appropriate Best Management Practices (BMPs) options contained in the publication Best Management Practices for Forestry – Protecting Maine's Water Quality, Maine Forest Service, 2004, as amended, which is incorporated by reference within this Ordinance.

d. Pollution Prohibited

No one shall pollute, in any manner, the waters of the Mirror Lake and Grassy Pond Watershed Overlay District. Nor shall anyone leave pollutant materials upon the water bodies when frozen, or upon the shores, or within the watershed's lands. Such pollutants include, but are not limited to, refuse, rubbish, garbage, dead animals, excrement, sewage and the drainage of anything that can compromise the purity of the water bodies.

916. Industrial District

1. Purpose

To provide area within the Town of Rockport for manufacturing, processing, treatment, research, warehousing and distribution.

2. Permitted Uses and Standards

a. Permitted Uses and Conditional Uses for this zoning district are referenced in the table at Section 917 of the Land Use Ordinance.

b. Dimensional standards for this zoning district are referenced in the tables at Section 918 of the Land Use Ordinance.

c. Other administrative, performance and general standards referenced in the Land Use Ordinance are also applicable in this zoning district.

3. Special District Standards

a. Landscaping: All front yards shall be landscaped according to a plan submitted to and approved by the Planning Board.

917. Land Use Table

A. RURAL / AGRICULTURAL / RECREATION

	901	902	903	904	906	907	908	909	913	916
Agricultural	CU	CU	CU				P			
Camp Sites Individual								P		
Campgrounds						P		P		
Golf Courses							P	P		
Golf Range							P	P		
Horticultural	CU	P	P	P		P	P	P		
Private Club		CU							P	
Recreational Boat Facility									P	
Indoor Recreation Facility	P				P	CU	CU	P		
Outdoor Recreation Facility					P	P	P	P		
Resort								P		
Timber Harvesting				CU			P			

B. RESIDENTIAL

	901	902	903	904	906	907	908	909	913	916
Accessory Dwelling Unit	P	P	P	P	P	P	P	P		
Community Living Facility	P	P	P	P	P	P	P	P	P	
Cluster Development	SB	SB	SB	SB	SB	SB	SB	SB	SB	
Congregate Housing	CU	CU		CU				P		
Home Occupations	P	P	P	P	P	P	P	P	P	
Mobile Home Park		CU								
Dwelling, Single Family	P	P	P	P	P	P	P	P	P	
Dwelling, multi-family	P	P	P	P	P	P	P	P	P	
Dwelling, multi-family 20	P	P		P	P	P	P	P		
Dormitories	CU	CU								
Rooming Houses	CU	CU		CU					P	

KEY: P = Permitted CU – Conditional Use SB = Subdivision

C. COMMERCIAL

	901	902	903	904	906	907	908	909	913	916
Agricultural Processing							CU			
Animal hospital/veterinary					P	P				
Animal kennel & facilities					CU	CU				
Art Galleries	P	P	CU		P	P	P		P	
Auto service/sales					P	P				
Barber Shop/Salon					P	P			P	
Bed & breakfast	CU	CU		CU	P	P	P			
Commercial greenhouse						P				
Grocery Store	P	P			P	P			P	
Heavy Landscaping Business					P	P				
Hotels/Motels/Inns		CU			P	P		P	P	
Landscaping Business		P			P	P				
Medical Clinics	CU	CU			P	P		P	CU	
Professional Office	P	P			P	P	CU	P	P	P
Commercial Parking Facilities	CU	CU							CU	
Restaurant▲	P	P			P	P		P	P	
Restaurant, Drive Through					P*					
Retail	P	P			P	P		P	P	P
Tradesman shop	CU	CU		CU	P	P	CU		CU	

▲ follow the Polystyrene take-out food containers ordinance
* See 906.3

D. GOVERNMENT / INSTITUTIONAL

	901	902	903	904	906	907	908	909	913	916
Cemetery	CU	CU		CU			CU			
Places of Worship	CU	CU		CU	P	P	CU	CU	P	
Community Building	CU	CU		CU				P	P	
Boarding Care	CU	CU		CU						
Day Care Facility	CU	CU		CU	P	P		P	P	
Hospital						P		P		
Nursing Home	CU	CU		CU				P		
Municipal Uses	CU	CU	CU	P	P	P			P	P
Schools	CU	CU		CU	CU	CU				
Solid waste facilities										P

KEY: P = Permitted CU – Conditional Use SB = Subdivision

E. INDUSTRIAL / MANUFACTURING / TRANSPORTATION / WHOLESALE

	901	902	903	904	906	907	908	909	913	916
Agricultural Processing							CU			
Boat Storage Commercial	CU	CU		CU					P	
Boat storage/shipyard/sales		P			P	P			P	
Ship Chandlery					P	P			P	
Commercial Fish Pier									CU	
Industrial						P				P
Marina/boat yard									P	
Mini-storage										
Outdoor Storage facility										P
Research Facility									P	P
Storage Building						P				
Wholesale facility					P	P				

F. OTHER

	901	902	903	904	906	907	908	909	913	916
Accessory Structures	P	P	P	P	P	P	P	P	P	P
Accessory Uses	P	P	P	P	P	P	P	P	P	P
Essential Services	P	P	P	P	P	P	P	P	P	P
Municipal Pumping station	P	P	P	P	P	P	P	P	P	P
Public Utility Facility	CU	CU	CU	CU	P	P	CU	P		

KEY: P = Permitted CU = Conditional Use SB = Subdivision

918. Dimensional Tables

The following tables show the dimensional requirements for the zoning districts as indicated. In addition to these tables other sections of the Land Use Ordinance also contain dimensional requirements which must be followed depending upon the proposed activity. Consult Chapter 1400 for additional dimensional requirements for the Shoreland Zoning Overlay District.

A. General Dimensional Requirements

	901	902	903	904	906	907	908	909	913	916
Minimum lot size without public sewer	20,000 sq. ft.	20,000 sq. ft.	20,000 sq. ft.	20,000 sq. ft.	20,000 sq. ft.	20,000 sq. ft.	130,000 sq. ft.	20,000 sq. ft.	20,000 sq. ft.	20,000 sq. ft.
Minimum lot size with public sewer	3,000 sq. ft.	3,000 sq. ft.	20,000 sq. ft.	4,000 sq. ft.	4,000 sq. ft.	10,000 sq. ft.	130,000 sq. ft.	10,000 sq. ft.	0 sq. ft.	0 sq. ft.
Max. lot coverage	60%	60%	33%	60%	60%	60%	60%	60%	100%	60%
Max building height NOTE	34 ft.	34 ft.	34 ft.	34 ft.	34 ft.	34 ft.	34 ft.	34 ft.	34ft	34 ft.
Minimum street frontage	60 ft.	60 ft.	60 ft.	60 ft.	60 ft.	60 ft.	150 ft.	60 ft.	0 ft.	60 ft.
Minimum frontage Rts 1, 17, 90 and Old County Rd.			75 ft.	100 ft.	75 ft.	100 ft.				
Minimum side/ rear setbacks	8 ft.	8 ft.	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	0.	25 ft.
Min. side and rear setback parking / driveways	4 ft	4 ft.	8 ft.	8 ft.	10 ft.	8 ft.	8 ft.	8 ft.	0.	8 ft.
Min. front yard setback condo / internal roads	10 ft	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.		
Min. front yard setback	10 ft	10 ft.	40 ft	40 ft.	15 ft.	35 ft.	20 ft.	35 ft.	0.	35 ft.
Minimum front yard setback on Rts. 1, 17 & 90		20 ft.	50 ft	40 ft.	20 ft. residential use		35 ft.			
					20 ft. comm.	20 ft. comm.				

B. General Dimensional Requirements

1. Lot Density for Dwelling Units

	901	902	903	904	906	907	908	909	913
Single family dwelling w/o public sewer	20,000 sq. ft	20,000 sq. ft	20,000 sq. ft.	20,000 sq. ft.	20,000 sq. ft.	20,000 sq. ft.	130,000 sq. ft.	20,000 sq. ft.	20,000 sq.ft.
Single family dwelling with public sewer	3,000 sq. ft.	3,000 sq. ft.	20,000 sq. ft.	4,000 sq. ft	4,000 sq. ft.	10,000 sq. ft.	130,000 sq. ft.	10,000 sq. ft.	0 sq. ft
Multi-family & Multi-family 20 w/o public sewer	20,000 sq. ft. per unit	20,000 sq. ft per unit	20,000 sq. ft per unit	20,000 sq. ft per unit	20,000 sq. ft per unit	20,000 sq. ft per unit	65,000 sq. ft. per unit	20,000 sq. ft per unit	20,000 sq.ft.
Multi-family & Multi-family 20 with public sewer	2,700 sq. ft. per unit	3,000 sq. ft. per unit	20,000 sq. ft. per unit	4,000 sq. ft. per unit	3,000 sq. ft. per unit	2,000 sq. ft. per unit	32,500 sq. ft. per unit.	10,000 sq. ft. per unit	0 sq.ft.
Multi-family in shoreland overlay with public sewer	15000 sq. ft. per unit								

2. Minimum Lot Density for Other Uses

	901	902	904	906	907	909
Boarding Care, Nursing Home Community Living and Dormitories without sewer	20,000 sq. ft. + 3,000 sq. ft. per bedroom	20,000 sq. ft. + 5,000 sq; ft. per bedroom	40,000 sq. ft. +20,000 sq. ft. per bedroom			20,000 sq. ft. per bedroom
Boarding Care, Nursing Home Community Living and Dormitories with sewer	12,000 sq. ft. + 3,000 sq. ft. per bedroom	15,000 sq. ft. + 5,000 sq. ft. per bedroom	40,000 sq. ft. +20,000 sq. ft. per bedroom			10,000 sq. ft. per bedroom
Congregate Housing with or without sewer (see Note 6)	12,000 sq. ft. + 3,000 sq. ft. per bedroom	15,000 sq. ft. + 5,000 sq. ft. per bedroom	40,000 sq. ft. + 10,000 sq. ft. per bedroom			
Motels, Hotels, Inns, Bed & Breakfast, Community Living, Boarding Care, & Dormitories with and without sewer				40,000 sq. ft. + 5,000 sq. ft per bedroom	40,000 sq. ft. + 5,000 sq. ft. per bedroom	
Motels, Hotels Inns or Resorts w/o sewer						40,000 sq. ft. +10,000 sq. ft per bedroom
Motels, Hotels, Inns or Resorts with sewer						20,000 sq. ft. + 5,000 sq. ft. per bedroom

Building height note: The building height is 42 feet for residential structures with roof slopes greater than 8/12 pitch and commercial structures with roof slopes greater than 4/12 pitch.

919. Conditional Uses

The Planning Board may vote to grant such Conditional Uses with such conditions and safeguards as are appropriate under this ordinance, or to deny such Conditional Uses when not in Harmony with the Purposes and intent of this Ordinance.

A Conditional use may be granted only if the applicant has established to the satisfaction of the Planning Board that the following criteria are met.

If the application will require Site review, and if the Board determined that subsections 2-5 below will be adequately addressed during Site review, then the Board may grant the Conditional Use after making a finding in the affirmative only on subsection 1 below.

1. That the proposed use is consistent with a specific goal or strategy of the Town of Rockport's current Comprehensive Plan.

2. The expanse of pavement, intensity of use and the bulk and material of any buildings a planned for the proposed Conditional Use would not have a significant adverse effect on: the value of surrounding properties or the use and quiet possession of surrounding property owners.

3. That the proposed use will not create an unreasonable demand for public services, including, but not limited to, public roads, fire protection, police protection, solid waste disposal, sewage treatment, public water supplies, schools, public open spaces and recreational programs and facilities.

4. That the proposed use would not result in an inordinate amount of pedestrian and/or vehicle traffic at or surrounding the site and/or cause any problems regarding emergency vehicle access.

5. The following shall be considered by the Planning Board as possible conditions of approval for any Conditional Use granted:

    a. Hours of Operation generally;

    b. Hours of operation for heavy equipment- may be stricter than Section 801.6: and

    c. Preservation of existing landscaping and other visual buffering.

Chapter 1000 – PERFORMANCE STANDARDS

1001. Applicability and Purpose

The purpose of this section is to provide standards and guidance for the landscaping, architectural design and parking areas for all commercial properties in the Town of Rockport. The section's intent is to ensure that new commercial development is done in a manner that enhances the overall aesthetic appeal and visual character of Rockport's roadways and neighborhoods.

All new commercial development proposed within Rockport shall be subject to the regulations, procedures and standards specified in the following sections, in addition to those standards pertaining to the particular district in which the development occurs.

To achieve these goals the Planning Board may waive requirements that it deems to be unnecessary to a specific development project.

1002. Area Landscape Regulations

1. Landscape Plan Requirements

Landscape plans prepared by a qualified person familiar with local growing conditions shall be included as part of applications for all non-residential developments and shall address the applicable sections that follow. Landscape plans required under this section should include:

a. Planting Schedule. A planting schedule showing location, quantity, and type of proposed plantings.

b. Plant Names. A planting plan naming plants to be used for landscaping, quantity and size at installation.

c. Horizontal Landscape Construction. All horizontal landscape construction such as drives, decks, terraces, and similar features shall be drawn on the conceptual landscape plan and labeled according to material and finish.

d. Vertical Landscape Construction. All vertical landscape construction such as walls, fences, raised decks, shelters, light standards, signs, flagpoles, trellises, seats, mailboxes, and similar features, shall be drawn and labeled sufficiently to indicate size, materials and general appearance.

e. Lighting. Landscape lighting, if used on-site, showing location, wattage, typical fixture design, type of bulb and quantity.

f. Existing Vegetation. A landscape plan shall also show what existing vegetation will remain and what will be removed.

g. Maintenance. The planting plans presented to the Planning Board should anticipate a three to eight-year growing cycle to achieve maturity for shrubs, and15-20 years for trees. Proper maintenance shall be assured so the site continues to improve as the landscaping achieves maturity. The site plan shall be designed and plantings selected with due consideration for maintenance requirements.

2. General Requirements

a. Variety. A variety of plant materials that exhibit seasonal color and interesting texture shall be used to create a distinctive, yet low maintenance environment. Planting plans shall strike a balance between monoculture and too much variety.

b. Integration. Plantings shall be massed to soften edges, corners, and pavement areas, and to integrate the building into the landscape.

c. Boulevard Effect. Large spreading deciduous trees shall be planted in appropriate locations to define the edge of the travel way, clean the air, and add scale to the commercial corridor. Within the Modified 907 District, street trees shall be planted not more than 40' apart.

d. Tree and Plant Protection. Every effort shall be made to preserve existing or unique trees or other plant material.

e. Safety. The ultimate form and height of plant materials shall be considered so as they mature they will not create unsafe conditions or block sight lines for pedestrians, bicyclists, or motorists.

f. Buffers and Screening. Plant materials and other landscape elements shall be used to create suitable buffers between residential and commercial properties. Buffers shall be designed to consider the appearance from both commercial and residential viewpoints. Evergreen plantings shall be considered for effective year- round buffering. Existing trees and plants may be considered as buffers and screening.

g. Minimum Plant Sizes. Unless otherwise required by site conditions, plantmaterials shall meet the following size standards:

Canopy Trees	2.5 inch caliper
Flowering Trees	2 inch caliper
Evergreen Trees	5-7 foot height
Deciduous Shrubs	24 inch height
Evergreen Shrubs	18 inch height / spread
Perennials	2 – Year clumps
Ornamental Grasses	2 – Year clumps
Ground Covers	3 inch pots

h. Tree Selection and Plantings

i. Coordination with Architecture. Trees shall be carefully selected and located to complement the building elevation without blocking storefronts, signs or lighting.

ii. Roadside Plantings. Except in the Modified 907 District, trees shall be planted a minimum of 20 feet from the edge of pavement. Trees and other landscaping planted at intersections shall preserve an adequate sight triangle as determined by the traffic engineer. For Modified 907 District guidelines, see Section 1002.3 below.

3. Front Yard Landscaping Requirements

Purpose. The purpose of these front yard landscaping requirements is to improve the appearance of the vehicular use areas and property abutting public rights-of-way; to require buffering between potentially incompatible uses; and to protect, preserve and promote the aesthetic appeal, character and value of all areas of Rockport, especially the Route 1, Route 90, and Route 17.

a. Prohibition and Exceptions. There shall be no development within the required front yard with the following exceptions:

   i. Roadway or driveway access

   ii. Utility and service lines, including electrical, telephone, cable and other utilities

   iii. Pedestrian sidewalks and/or bicycle paths

   iv. Signs and lighting fixtures which comply with Section 1100-Signs and Advertising

   v. Clear sight distances at permitted entrances and exits to proposed uses

   vi. The addition of plantings, earth forms or other visual buffers that, in the opinion of the Planning Board, would better serve the purposes of this section of the Ordinance.

b. Maintenance. All front yard areas that are to be preserved in their natural state shall be maintained.

c. Guidelines for public sidewalks and foot paths in the Modified 907 District

   i. Purpose: The intent of these guidelines is that at such time as by reason of public or private funding for a comprehensive re-development of Route 1 in Glen Cove and/or Route 90 in West Rockport, there be included plans for construction of sidewalks or walkways in the Modified 907 District.

   ii. Sidewalks shall be no less than five (5) feet and no more than six (6) feet wide and shall be constructed of asphalt or concrete with asphalt or concrete borders.

   iii. Sidewalks shall create a linked network of walkways connecting all uses with parks and other greenway areas. Informal walkways and footpaths shall connect and not terminate abruptly.

   iv. Sidewalks shall be separated from the edge of pavement, or the curb, by a grassed area or esplanade not less than six (6) feet wide. Shade trees shall be placed a minimum of twelve feet from the edge of pavement and to the degree possible create an alignment parallel with the street.

d. Parking Lots and Signs. Cultivated landscaped areas around and in conjunction with parking lots are required as detailed in Section 1004.3.

e. Front Yard as Buffer Zone Only. The area falling within the front yard setback along Route 1, Route 17, and Route 90 shall be used only as a landscaped buffer zone.

   i. Purpose of Buffer. The purpose of this buffered front yard is to soften the view of the traveling public along these major routes, the non-residential building or

buildings and the non-residential use including parking and any outdoor storage.

ii. No Parking Lots. No portion of any parking lots for non-residential uses, whether paved or otherwise, shall be permitted in the front yard buffer zone.

iii. Signs and Entryway Permitted. With the exception of a sign and an entryway, the front yard setback area along Route 1, Route 17, Route 90 and Old County Road must be maintained as a buffered zone.

iv. Required Frontage Trees. For each one hundred feet (100') in length, this buffer zone, as a minimum, shall contain two (2) canopy or evergreen trees, four (4) understory trees and six (6) shrubs. For every mature canopy or evergreen tree existing in the buffer area and retained within this area, the required number of new trees shall be reduced by two (2). If any such retained tree dies within five (5) years of the date of the issuance of the original permit, it shall be replaced with two (2) canopy trees meeting the standards of this Ordinance.

v. Definitions. A canopy tree is a tree that reaches at least thirty-five feet (35') in height at maturity; an evergreen tree is at least thirty-five (35') feet at maturity. An understory tree reaches ten feet (10') to thirty-five feet (35') at maturity. Shrubs have mature heights of two (2') to ten feet (10').

vi. Minimum Size. The above plants shall have the minimum size standards at the time of installation, with calipers measured in diameter at breast height, as set forth in Section 1002.2(7), above.

vii. Modified 907 District: In the Modified 907 District street trees shall be planted not more than 40’ apart.

1003. Architectural Review Standards

1. General

a. Proposed development shall be located and configured in a visually harmonious manner with the terrain and vegetation of the parcel and surrounding parcels. Structures shall impede as little as reasonably practical, scenic views from the main road or from existing structures and nearby undeveloped areas.

b. The architectural design of structures and their materials and colors shall be visually harmonious with the overall appearance of neighboring structures.

c. Buildings that do not conform with these standards and that are stylized to the point where the structure is a form of advertising or exhibits a franchise style are not permitted.

d. For properties with more than one building, there shall be an overall design concept that demonstrates a cohesive relationship between the buildings.

e. Accessory structures shall be treated as architectural elements and shall meet the same design standards as larger buildings.

f. Where drive-throughs are permitted, they shall be incorporated into the design of the building through their scale, color, detailing, massing and other architectural treatments. Drive-through elements shall not face the street, unless for safety or security reasons there is no alternative.

2. Renovations and Additions

Renovations and additions represent an opportunity to add visual interest to a building and to strengthen its relationship with the site and nearby structures. In many instances, existing buildings can be greatly improved by well-designed additions or remodeling efforts. The Town expects high-quality architectural and site design for all renovated structures.

a. Compliance with Standards. Where an existing building meets these standards, proposed renovations and additions shall be designed to respect the proportions, window patterns, materials, and details of the original building. Where the existing building does not meet these standards, the owner is encouraged to upgrade the entire building.

b. Distinctive Features. Renovations should avoid the removal or disturbance of any distinctive architectural features or examples of skilled craftsmanship of historical significance.

3. Roofs

Long monotonous facade designs including, but not limited to, those characterized by unrelieved repetition of shape or form or by an unbroken extension of line shall be avoided. Rooflines should be designed to provide diversity and visual interest.

a. Pitched roofs or the appearance of pitched roofs with a minimum slope of four (4) to twelve (12) are strongly encouraged.

b. Flat and Mansard Roofs. The use of flat and mansard roofs is prohibited on the façade(s) visible from the street, except for buildings three stories and higher located in the Section 913 Downtown zoning district.

c. Preferred Materials. Preferred materials for visible roofing include composite shingles, standing-seam, non-glare metal or natural materials.

d. Colors. Roof stripes and roof advertising shall be prohibited.

e. Roof-mounted Equipment. Mechanical equipment mounted on rooftops shall be screened.

4. Building Materials

Building materials should be treated as significant design elements that define the appearance of the structure. Where possible, sustainable, long-wearing recyclable products should be utilized.

a. Siding. The use of traditional building materials common to northern New England, including natural wood siding, brick or other materials with similar texture and appearance are recommended. Contemporary materials that have the same visual characteristics as traditional materials are acceptable.

b. Exterior Finish. Plain, unfinished, concrete block; T-111 and plywood shall be prohibited.

c. Colors. Bright, garish colors shall be prohibited.

5. Awnings and Canopies

Awnings and canopies can enhance the appearance and function of a building by providing shade, shelter, shadow patterns, and visual interest. Where used in this manner, awnings and canopies should complement the design, materials, color and appearance of the building.

a. Location. Fixed or retractable awnings and canopies should be located directly over windows or doors to provide protection from the elements. Arbitrary placement of awnings that disregard the building's architecture shall not be permitted.

b. Materials. Awnings and canopies should not be made of reflective material, such as metal or plastic. Their color should be the same as or complementary to the building facade. Pitched roofs and fascia trim are preferred for canopies.

c. Advertising. Graphics and wording included on the awning/canopy will be considered part of the total signage area. Signs mounted on canopies are restricted to 16 square feet.

6. Linear Commercial Structures

Linear commercial structures, such as multi-tenant offices or commercial buildings are allowed, provided they are designed with façade and pitched roofline elements window openings, and other modulations that reduce their scale, break up the façade and add architectural interest.

a. Design. Façades with multiple storefronts shall be visually unified through the use of complementary architectural forms, similar materials and colors, consistent details and a uniform sign size and mounting system.

b. Setbacks. Variations in the front setbacks should be considered to add visual interest, create space for common entries, outdoor eating/social spaces, gardens, and similar landscaped areas.

c. Focal Points. Linear commercial buildings should include a focal point, such as a raised entryway, clock tower, or other architectural elements, to add visual interest and help reduce the scale of the building.

1004. PARKING LOT DESIGN

1. General

a. Off-Street Parking Required. All development shall provide permanent off-street parking space in accordance with the minimum number of parking spaces specified in Section 803 of this Ordinance.

b. Auto Sales. There shall be a maximum of 200 feet of road frontage devoted to the display of vehicles for sale and no more than 50 vehicles for sale on the premises. Employee parking and service areas shall be on the side or rear of the building.

c. Outdoor Boat Sales and Storage. There shall be a maximum of 200 feet of road frontage devoted to the display of boats for sale and no more than 50 boats for sale on the premises. In addition, there may be up to seventy-five (75) boats stored, but not for sale on the premises. Employee parking and service areas shall be on the side or in the back of the building.

Chapter 1100 – SIGNS AND ADVERTISING

1101. Purpose

The purpose of this chapter is to provide reasonable opportunities to advertise events, goods and services in the Town of Rockport while maintaining an attractive and inviting viewscape for residents and the traveling public.

1102. Signs on Private Property Only

Only All signs must be located on private property, with the exception of (1) official business directional signs as defined in 23 M.R.S.A. §1903; (2) any other traffic, directional, and temporary signs erected by Rockport, the State or Federal Government or as permitted by the Town of Rockport; and (3) the temporary signs described in § 1104 (4) and § 1105 (2) and (3) of this Chapter.

1103. Administration and Maintenance

1. No new sign, either on-premises or off-premises, shall be erected, attached to a building, physically altered, or reconstructed, until the payment of a fee determined by the Select Board and a permit has been issued by the Code Enforcement Officer. The application for a permit shall be accompanied by plans and specifications showing the location, dimensions, materials, and type of sign. Maintenance of or replacement of the exact same size, content and type as an existing permitted sign shall not require a new permit.

2. All signs shall be kept clean, neatly painted, and free of all hazards, such as, but not limited to, faulty wiring or loose fastenings, and shall be maintained in a safe condition.

3. Signs which:

   a. Are not properly maintained.

   b. Are not allowed in public ways.

   c. Have not received a permit from the Code Enforcement Officer

   may be removed at the direction of the Code Enforcement Officer or Public Works Department and the owner, if known, shall be notified that they have three (3) days to retrieve them from behind the Town Office before they are discarded.

4. Any sign which advertises a business no longer conducted, a product no longer sold, an activity which has ended or a campaign which is over, shall, within thirty (30) days thereafter, be removed by the owner or person having the use of the premises upon which such sign is located. This provision shall not be construed to require the owners of seasonal businesses to remove signs at the end of each season.

5. The Code Enforcement Officer is not required to enter upon private property to remove signs which violate this Ordinance. The Code Enforcement Officer shall give the property owner three (3) days' notice to remove the relevant sign. If the property owner fails to remove the relevant sign, the property owner may be fined $100 per day.

1104. Signs Exempt from Permitting Process

The following signs are exempt from the permitting requirements of this Ordinance:

1. House address signs, family name signs, no trespassing signs, no hunting signs, and danger signs. Such signs cannot exceed twelve (12) square feet in area. With the exception of a temporary hazardous warning sign and signs authorized pursuant to § 1106 no sign can be internally lit, nor can it contain any moving parts.

2. Directional signs indicating ingress and egress placed at entrance locations, containing no advertising material or display area except business name, not exceeding two (2) sq. ft., and not extending higher than four (4) feet above ground level.

3. Traffic control signs, including handicap access signs.

4. Temporary signs placed within a public right-of-way for a maximum of 12 weeks per calendar year except that a temporary sign may not be placed within the Town of Rockport right-of-way for more than six (6) weeks from January 1st to June 30th or for more than six (6) weeks from July 1st to December 31st. A temporary sign may not be placed within thirty (30) feet of another temporary sign bearing the same or substantially the same message. A temporary sign may not exceed six (6) square feet in area must include or be marked with the name and address of the individual, entity or organization that placed the sign within the right-of-way and the date the sign was erected within the public right-of-way.

5. As an alternative to the placement of temporary signs within a public right-of-way pursuant to § 1104 (4), the Town of Rockport may create designated locations and structures for such temporary signs to preserve lines of sight along streets and highways and to avoid visual clutter. Other than location, such signs shall otherwise comply with § 1104(4).

6. Signs showing the time and place of services and meetings of religious and civic organizations.

7. Signs for rent, sale or lease.

8. Signs identifying construction projects.

9. Signs off premise for the seasonal sale of agricultural products. Such signs cannot exceed eight (8) square feet in area.

10. Signs announcing lawn or garage sales. Such signs cannot exceed eight (8) square feet in area and shall be removed within two days after the event.

11. Temporary signs not requiring a permit pursuant to § 1105(1).

1105. Temporary Signs

1. Temporary Signs Not Requiring a Permit

    a. One (1) temporary sign, not exceeding twelve (12) square feet in area may be erected advertising the sale, lease or rental of the premises upon which the sign is located and shall be removed by the owner or agent when the property is sold, rented or leased. One (1) additional temporary sign, not exceeding twelve (12) square feet may be located off premises at the intersection of the road on which the premises is located and the more heavily traveled adjacent public way with the adjacent property owner's permission. This sign shall also be removed upon the sale of the premises.

b. One (1) temporary sign, not exceeding twelve (12) square feet in area may be erected at the site of a construction project solely to identify the project and contractors and shall be removed at the completion of the project. One (1) additional temporary sign, not exceeding twelve (12) square feet may be located off premises at the intersection of the road on which the premises is located and the more heavily traveled adjacent public way with the adjacent property owner's permission. This sign shall be removed at the completion of the construction project.

c. One temporary sign less than fifteen (15) square feet may be placed on private property for a period not exceeding thirty (30) days announcing an event to be held in Rockport by charitable public, civic, religious organization(s). Such signs shall be removed within two (2) days after the event.

2. Temporary Signs Requiring a Permit. Temporary signs placed on public land, other than in a right-of-way, shall require a permit. A fee shall be applicable unless the sign is for an event to be held in Rockport by charitable public, civic, or religious organization(s). These signs shall promote only Rockport events or activities. Applications for temporary signs not requiring a fee may be received and permits issued electronically on request.

3. Temporary signs must include or be marked with the name and address of the individual, entity or organization that placed the sign within the public right-of-way and the date the sign was erected within the public right-of-way.

1106. Internally Illuminated Signs

With respect to any illuminated sign authorized by the Chapter, the intensity of the light shall remain constant in color, location and brightness and shall not constitute a hazard to the flow of traffic. Internally illuminated signs are prohibited except for the following:

1. A hospital may have one internally illuminated sign. Illuminated signs must be illuminated externally and shall be lighted from sources which are shielded from streets and adjoining property with no exposed source of illumination.

2. A single internally illuminated outdoor sign containing only the words "vacancy" or "no vacancy" and limited to a maximum sign area of two (2) square feet (sq. ft.) are permitted for transient accommodations for hotels and bed and breakfasts located in District 907 and 909.

3. Indoor internally illuminated signs that are clearly visible from the road are prohibited, with the exception that in Districts 901, 902, 903, 906, 907, 908, 909, 913, and 916 one internally illuminated sign no greater than two (2) sq. ft. stating "open" or "closed" is allowed.

1107. Off Premises Business Signs

One sign for a business may be located off premises on private property with the property owner's permission, at the intersection of the road on which the business is located and the immediately adjacent public way. This provision applies only to those businesses located on a private way, dead end street or a cul-de-sac. The size of this additional sign shall count toward the business owner's total sign allowance for the district in which the business is located.

1108. Subdivision Signs

1. One (1) sign is allowed designating the name of a residential subdivision with a maximum height of nine (9) feet measured from the ground to the top of the sign with a maximum total sign area of thirty-two (32) square feet.

2. One (1) sign is allowed designating the name of a commercial subdivision with a maximum height of sixteen (16) feet measured from the ground to the top of the sign with a maximum total sign area of sixty (60) square feet. The purpose of this sign is to identify the businesses in the commercial subdivision. This sign shall be erected at the subdivision entrance.

1109. Wall Signs

Wall signs are allowed and must meet all other requirements of this Chapter. Wall signs are included in determining the maximum amount of size space allowed.

1110. State of Maine Official Business Direction Signs

1. State of Maine Official Business Direction Signs are allowed and shall not exceed forty-eight (48) inches in width and nine (9) inches in height.

2. The location of State of Maine Official Business Directional Signs must be approved by the Code Enforcement Officer and the Maine Department of Transportation.

1111. Gasoline and Diesel Price Signs

Businesses that sell gasoline and diesel are permitted to have one sign that informs the traveling public of the brand and price of these engine fuels. This brand and price sign shall be limited to a total maximum size of eighty (80) square feet for brand and price combined or maximum total of forty-four (44) square feet for price only. This signage is in addition to the maximum allowable signage in the District.

1112. Flags, Banners and Pennants

1. In Districts 906 and 907, flags, banners or pennants are allowed for fifteen (15) square feet or less in size for one business with a maximum of three (3) flags, banners and pennants per property. In addition, one flag, banner or pennant fifteen (15) square feet or less, indicating whether the business is opened or closed is allowed.

2. In all other Districts, flags, banners and pennants are allowed for each location of fifteen (15) square feet or less for one or twelve (12) square feet or less for two (2) flags, banners and pennants.

3. Notwithstanding the above, flags, banners and pennants in place for less than thirty (30) days and those located at hospitals, public schools and recreational facilities shall not require a permit or otherwise be subject to the requirements of this Chapter.

1113. Dimensional Standards for Signs by District

1. Unless otherwise restricted by this Chapter, free standing signs shall not extend more than sixteen (16) feet measured from the ground to the top of the sign.

2. Sign Standards for Districts 906, 907 and 916.

    a. The maximum sign area on each parcel is sixty (60) square feet.

b. To improve aesthetics, ladder signs are encouraged for multiple businesses. In addition to the maximum sign area of sixty (60) square feet for the property each business may have one ladder rung on a ladder sign. A maximum size of one and one-half (1.5) feet x six (6) feet is allowed for each rung.

c. In addition to the sixty (60) sq. ft., each property may have a total of three banners, pennants, flags, or sandwich boards each of which is limited to fifteen (15) sq. ft. or less.

d. Letters identifying the business or owner are permitted on the building, provided the letters do not exceed twelve inches (12") in height. Each building is limited to one (1) row of letters per business. These letters are not counted in determining the sixty (60) square feet maximum allowed sign area.

3. Sign Standards for District 913

a. The maximum sign area on each parcel within District 913 is twenty (20) square feet total or ten (10) square feet for double-faced signs.

b. In addition to the twenty (20) square feet, each parcel may have a total of three banners, pennants, flags, or sandwich boards each of which is limited to fifteen (15) square feet or less.

c. In addition, letters identifying the business or owner are permitted on the building, provided the letters do not exceed ten inches (10") in height. Each building is limited to one (1) row of letters per business. These letters are not counted in determining the twenty (20) square foot maximum sign space in this District.

4. Sign Standards for Districts 901, 902, 903, 904, 908 and 910

a. The maximum sign area on each parcel within these Districts is twelve (12) sq. ft. total.

b. In addition to the twelve (12) square feet each parcel may have a total of three banners, pennants, flags, or sandwich boards each of which is limited to fifteen (15) square or less.

c. In addition, letters identifying the business or owner are permitted on the building, provided the letters do not exceed ten inches (10") in height. Each building is limited to one (1) row of letters per business. These letters are not counted in determining the twelve (12) square foot maximum sign space in these Districts.

5. Sign Standards for District 909

a. For signs in this District that are in direct view of a public way:

i. The maximum sign area for free-standing signs shall be thirty (30) square feet per side;

ii. The maximum sign area for free-standing signs for Hospital Use, may be increased to fifty (50) square feet per side, provided that the universal Hospital symbol (white “H” on blue background) is included as part of the sign; and

iii. The maximum height for free-standing signs shall be twenty (20) feet.

b. Signs in this District that are not in direct view of a public way shall not be subject to the Dimensional Standards of this § 1113.

1114. Sign Prohibitions

1. Roof signs are not allowed.

2. Signs located on private property, relating to goods or services not sold or rendered on that property are not allowed.

3. No sign shall have visible moving parts or have blinking, moving or glaring illumination, or consisting of, in whole or in part, of, ribbons, balloons, streamers, spinners or other similar devices.

4. A string of lights shall not be used for the purpose of advertising, provided, however, that this subsection shall not be construed to prohibit the display of traditional holiday decorations.

5. No sign shall be attached to any tree, utility pole, rock or other natural feature, except that this paragraph shall not be deemed to prohibit metal commemorative plaques attached to rocks.

1115. Miscellaneous

1. Signs shall meet the State law concerning setback requirements where applicable. On streets without sidewalks, signs, shall be located at least eight (8) feet from the edge of the pavement and shall not cause a hazard to traffic or pedestrians. On streets with sidewalks, signs shall not extend past the curb or be placed in the sidewalk. Signs in District 906 and 907 shall be set back at least twenty-five (25) feet from the side property line if abutting a residential district. In other districts signs shall be setback at least eight (8) feet from side and rear property lines.

2. No sign shall be erected, altered, relocated, or moved to another parcel except in conformity with this Ordinance. Non-conforming signs existing on the date of enactment of this provision may remain in place and be maintained but may not be altered, replaced, relocated, or moved except in conformity with this Ordinance.

CHAPTER 1200 – [RESERVED]

CHAPTER 1300 – SITE PLAN REVIEW

1301. Purpose

Substantial development or major changes in the uses of land may cause a material impact on the cost and efficiency of municipal services, public utilities, road systems and traffic congestion, and may affect the visual characteristics of neighborhoods and the Town, and the general health, safety and welfare of the community. The purpose of this Section to minimize the potential negative impacts of development, while maximizing development's positive effects by assessing the impact of new development on surrounding properties, municipal facilities and services, and the natural environment.

Only uses that have been recognized as being permitted uses in their zoning district, or as the result of successful review as a conditional use, are permitted to proceed to site plan review. Therefore, the purpose of site plan review is not to establish the right of a use to be located in the area proposed, but rather to ensure that the way the use if designed and placed on a lot is appropriate to its surroundings.

The Planning Board may consider the historic importance, scenic beauty or irreplaceability of natural areas during the site plan review. This may require a proposed development or structure to relate harmoniously to the terrain and surrounding environment, including existing buildings in the vicinity that have a visual relationship, with the proposal being considered.

1302. Administration

No building permit, plumbing permit or certificate of occupancy shall be issued by the Code Enforcement Officer or Local Plumbing Inspector for any use or development within the scope of this Section until a site plan review of the proposed development has been approved by the Planning Board.

An applicant may request a pre-application meeting with the Planning Board prior to formal submission of a site plan.

The Planning Board may require the applicant to perform additional studies, perform inspections or tests, and submit additional materials pertaining to municipal sewer service, water supply, traffic, parking, stormwater and other impacts of the development. The cost of the additional studies, inspections, tests, or additional materials shall be borne by the applicant.

The materials submitted must include, but are not limited to, a written statement defining the proposed project and a Sketch Plan. The Sketch Plan may be a freehand drawing and shall show:

1. The outline of the tract or parcel with estimated dimensions, road rights-of-way and existing easements;

2. The layout of existing and proposed building(s), driveways and parking areas;

3. Identification of general areas of steep slopes, wetlands, streams and floodplains;

4. Estimated calculation of the percent of lot coverage (see definition).

Every applicant applying for site plan review should submit two (2) hard copies and one (1) digital copy of the application and supporting documentation to the Planning and Development Office All copies shall be prepared in accordance with Section 1304 and accompanied by the associated cost included in the Fee Schedule.

Within fourteen (14) days of receiving an application, the Planning and Development Office shall review the application for completeness. If found incomplete the applicant shall be notified of the specific material needed to make the application complete. The Planning and Development Office may conduct a site visit of the proposed activity before deeming the application is complete. The applicant shall be responsible for providing the additional material to make the application complete. In no case shall a complete application take longer than 60 days to be placed on the Planning Board agenda.

Recommendations from the Fire Chief, Police Chief, and Public Works Director shall be solicited from the Planning and Development Office prior to the site plan review meeting.

For any application requiring Planning Board review, the Town will send notice to all abutters and abutting property owners, as currently listed by the Town Tax Assessor, by priority mail seven (7) days prior to submission of Application to the Planning Board. The applicant will be responsible for all associated costs included in the Fee Schedule.

Such notice shall include:

1. The address and map-lot number where the construction is proposed,
2. A general description of the proposed construction,
3. And instructions on how to obtain additional information regarding the project.

A List of all abutters notified will be supplied by the Town seven (7) days before the schedules Planning Board meeting.

The Planning Board may schedule an on-site inspection meeting. The on-site inspection shall be jointly attended by the applicant or his or her duly authorized representative and at least two Planning Board members.

Within sixty (60) days after the date on which the site plan application first appears on the Planning Board agenda, the Planning Board shall act to approve, approve with conditions, continue, or disapprove the site plan application submitted or amended. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant.

An applicant for site plan review shall obtain any conditional use and/or variances that may be required from the Zoning Board of Appeals prior to review by the Planning Board. An applicant may request a pre-application meeting prior to receiving ZBA Conditional Use approval.

1303. Applicability

The following shall require site plan review and approval:

1. The construction or expansion of buildings, including accessory buildings and structures, for commercial use by a total floor area of 1,000 sq. ft. or more.
2. The creation of more than ten thousand (10,000) square feet of new impervious area at commercial or multi-family residential properties;
3. A commercial Building that has been vacant for more than two (2) years;
4. The conversion of a residential building to a commercial use;
5. Revisions to an existing Site Plan seeking an amendment to that previously approved Site Plan; or

6. Any change of use in which the intensity of use – as reflected in traffic generated, impacts on municipal services, the environment and surrounding neighborhood – will differ in a substantial way from that of the preceding use.

1304. Site Plan Content

The Content of the site plan application shall include as a minimum:

1. Site Plan

A site plan or plans prepared at a scale of not less than 1-inch equals 40 feet, containing the following information:

a. Name and address of the applicant and her and/or his authorized agent and name of proposed development and any land within 500 feet of the proposed development in which the applicant has title or interest.

b. Municipal map and lot numbers and names of abutting landowners.

c. Plans drawn to scale detailing total floor area and footprint of each proposed structure and the lot coverage as defined in Section 300 of the Land Use Ordinances.

d. Elevations drawn to scale detailing the proposed siding and roofing materials, sizes of door and window openings and other features which may assist the Planning Board in making appropriate findings related to Architectural Review as noted in Section 1003 of this Ordinance.

e. Scale, true north arrow, legend and a space for dates of any revisions that may be required.

f. Exact dimensions and acreage of parcel to be built upon. The corners of the parcel shall be located and marked on the ground and shall be referenced on the plan. For any site for which construction or grading is proposed, other than an enlargement of an existing building or construction of an accessory building, the Planning Board may require that the site plan include an actual field survey of the boundary lines of the lot, giving complete descriptive data by bearings and distances made and certified by a registered land surveyor.

g. Existing and proposed locations and dimensions of any utility lines, sewer lines, waterlines, easements, drainage ways and public or private rights-of-way.

h. The size, shape and location of existing and proposed buildings on the parcel.

i. If the site is to be served by a subsurface wastewater disposal system, a report by a licensed site evaluator shall be provided.

j. Location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of ingress and egress of vehicles to and from the site onto public streets and curb and sidewalk lines.

k. Landscaping plan showing location, type and approximate size of plantings and location and dimensions of all fencing and screening. Maintenance and replanting provisions shall be noted.

l. Natural contours at intervals of two (2) feet and final contours at intervals of two (2) feet, the natural contours to be shown by dashed lines and the final contours to be shown by solid lines. Where sufficient detail cannot be shown with two (2) foot

contours, spot evaluations shall be required, with existing spot evaluations shown in parentheses to be distinguishable from final spot elevations. Where construction will not disturb the entire lot proposed for development, the requirement to map contours or spot elevations shall apply only to those portions of the lot that will be altered in any way and portions of the lot downslope from the proposed alterations to an extent sufficient to clearly delineate the existing and proposed course of drainage and the point or points of discharge from the lot.

m. Specification of quantities and grades of materials to be used if land-filling is proposed.

n. Photos of the project area prior to any site preparation shall be submitted with the map.

o. A digital copy of lot lines and buildings shall be submitted, if available.

2. Written Statement

A written statement by the applicant shall consist of:

a. Evidence by the applicant of her and/or his title and interest on the land that the application covers.

b. A description of the proposed uses to be located on the site.

c. Total floor area and footprint of each proposed building and structure and the lot coverage as defined in the Rockport Land Use Ordinance.

d. Summary of existing and proposed easements, restrictions, and covenants on the property.

e. Method of solid, liquid, chemical, or other waste disposal.

f. Erosion and sedimentation control plan, stormwater drainage control plan, and soils information.

g. Approximate amount of blasting required, if any, and a disposition plan for removed materials. Any blasting shall be performed in accordance with Section 813 of this Ordinance.

h. If public water and sewer are to be used, written statements from the water utility and sewer district shall be provided commenting on the capacity of the system and the availability of the utility to provide service to the new development

i. An estimate of the date when construction will start and be completed.

j. List of approvals and permits required by the Office of the State Fire Marshal and other State and Federal Agencies.

3. Revisions to Approved Site Plans

a. Applicants proposing revisions to an existing site plan should submit two (2) hard copies and one (1) digital copy of the revision application to the Planning and Development Office.

b. Application materials shall consist of the amended site plan as proposed and supporting documentation for all Written Statement and Standards applicable to the revision.

c. The Planning Board may schedule an on-site inspection meeting. The on-site inspection shall be jointly attended by the applicant, or his or her duly authorized representative, and at least two Planning Board members.

d. Within sixty (60) days after the date on which the site plan revision application first appears on the Planning Board agenda, the Planning Board shall act to approve, approve with conditions, continue, or disapprove the site plan application submitted or amended. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant.

e. Applications for revisions to previously approved Site Plans shall be exempt from the pre-application process.

1305. Performance Standards

The following standards are to be used by the Planning Board in judging applications for site plan reviews and shall serve as minimum requirements for approval of the site plan. The site plan shall be approved unless, in the judgment of the Planning Board, the applicant is not able to reasonably meet one or more of these standards. In all instances, the burden of proof shall be on the applicant.

1. Preserve and Enhance the Landscape

At completion, as defined during site plan review, landscaping should be designed and planted to define, soften or screen the appearance of off-street parking areas from the public right-of-way and abutting properties and structures.

2. Soils and Erosion Control

The soils on the site shall have adequate capacity and stability to support all proposed development.

Filling, excavation and earth moving activity shall be carried out in a way that keeps erosion and sedimentation to a minimum. The design shall include best management practices that;

a. Preserve and protect the natural vegetation.

b. Keep the duration of exposure of disturbed soils to as short a period as possible and stabilize the disturbed soils as quickly as practicable,

c. Use temporary vegetation or mulching to protect exposed critical areas during development.

3. Vehicular Access

Vehicular access shall comply with the access management standards of Sections 803 and 808.

4. Parking and Circulation

The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives and parking areas, shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas and arrangement of parking areas.

5. Surface Water Drainage

Adequate provision shall be made for surface drainage so that removal of storm waters will not adversely affect neighborhood properties, downstream water quality, soil erosion or the public storm drain system. Whenever possible, on-site absorption of run-off waters shall be used to minimize discharges from the site.

6. Existing Utilities

The development shall not impose an unreasonable burden on sewers and storm drains, water lines or other public utilities.

7. Special Features of Development

Exposed storage areas, exposed machinery, installations, service areas, truck loading areas, utility buildings and similar structures shall have sufficient setbacks and screening to provide an audio and visual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties.

8. Exterior Lighting

Exterior lighting shall meet the provisions of Section 801.7

9. Emergency Vehicle Access

Provisions shall be made for practical and safe emergency vehicle access to all buildings and structures at all times of the year.

10. Municipal Services

The development will not have an unreasonable adverse impact on municipal services.

11. Water Quality

Must comply with Federal and State regulations.

12. Air Quality

Must comply with Federal and State regulations.

13. Water Supply

The development has sufficient water available for the reasonably foreseeable needs of the development and will not cause an unreasonable burden on an existing water supply, if one is to be used.

14. Sidewalk Connectivity

The development must provide for a system of pedestrian walkways within the development appropriate to the type and scale of development. This system must connect the building entrances and exits with parking areas and with existing or planned sidewalks in the vicinity of the development. The pedestrian walkway network may be located either in or outside the street right-of-way. The system must be designed to link the use with residential, recreational, and commercial facilities; schools; bus stops; and sidewalks in the neighborhood.

1306. General Provisions

1. The Planning Board may modify or waive any of the above application requirements or performance standards when the Planning Board determines that because of the special circumstances of the site or the size of the project such application requirements or standards would not be applicable or would be an unnecessary burden upon the applicant and not adversely affect the abutting landowners and the general health, safety and welfare of the Town.

2. All construction performed under the authorization of a building permit issued for development within the scope of this Ordinance shall be in conformance with the approved site plan.

3. Site plan approval shall expire two (2) years after Planning Board approval if a building permit has not been issued. Applicants may seek a two-year extension prior to an approved site plan's expiration, unless the ordinance, at the time of renewal, has changed to such an extent that the previously-approved use would no longer be permitted.

4. The Planning Board, after reviewing and finding specific technical deficiencies, may hire its own civil engineer, soil scientist, geologist or other expert to review the plan submitted by the applicant. The applicant shall pay for this expense.

5. Conditions: The Planning Board may, in order to carry out the purposes of this Section, require reasonable conditions necessary to protect the public interest and to fit such uses harmoniously into their neighborhoods. Such conditions imposed shall be included in the building permits issued by the Planning and Development Office.

6. The Planning Board's decisions shall be made independently of and concurrently with State and Federal agencies' reviews but may be subject to their stricter requirements.

1307. Appeals

An appeal of the Planning Board's final decision may be filed by any person aggrieved by that decision. An appeal from a final decision of the Planning Board shall be by appellate review to the Zoning Board of Appeals based on the Planning Board record to determine whether the Planning Board's decision was within the scope of its authority and supported by substantial evidence in the record.

CHAPTER 1400 – SHORELAND ZONING

1401. Purposes

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

1402. Authority

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

1403. Applicability

This Ordinance applies to all land areas within 250 feet, horizontal distance, of the

- normal high-water line of any great pond or river,
- upland edge of a coastal wetland, including all areas affected by tidal action, or
- upland edge of a freshwater wetland,
- all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.
- And, to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

1404. Effective Date of Ordinance and Ordinance Amendments

This Ordinance, which was adopted by the municipal legislative body on June 10, 2020, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

1405. Availability

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

1406. Severability

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

1407. Conflicts with Other Ordinances

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

1408. Amendments

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

1409. Districts and Zoning Map

1. **Official Shoreland Zoning Map.** The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:

   a. Resource Protection

   b. Stream Protection

   c. Other Shoreland Areas

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

3. **Certification of Official Shoreland Zoning Map**. The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.

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

1410. Interpretation of District Boundaries

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

1411. Land Use Requirements

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

1412. Non-Conformance

1. **Purpose.** It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 1412. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

2. **General.**

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

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

3. **Non-Conforming Structures.**

   a. **Expansions.** All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Chapter 1400. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (i) and (ii) below.

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

      ii. Notwithstanding paragraph (i), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Chapter 1400.

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

the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.

iii. All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 1412(3)(a) or Section 1412(3)(a)(i), above.

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

2) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 1412(3)(a)(ii)(1)) and Section 1412(3)(a)(iii)(1)), above.

3) In addition to the limitations in subparagraphs (1) and (2), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 1412(3)(a)(ii)(1)) and Section 1412(3)(a)(iii)(1)), above.

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

b. Foundations. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 1412(3)(c) Relocation, below.

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

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

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 1415(19). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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

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

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

d. Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 1412(3)(a) above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be

replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 1412(3)(c) above.

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

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 1412(3)(c) above, the physical condition and type of foundation present, if any.

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

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

4. Non-Conforming Uses.

a. Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 1412(3)(a) above.

b. Resumption Prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

c. Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 1412(3)(e) above.

5. Non-Conforming Lots

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

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

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

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

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on June 11, 1996 and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

i. Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or

ii. Any lots that do not meet the frontage and lot size requirements of Section 1412(5)(c)(i) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

1413. Establishment of Districts

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

a. Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

b. Areas of two or more contiguous acres with sustained slopes of 20% or greater.

c. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

d. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

2. **All other.** All other includes all other shoreland areas not otherwise included in the Resource Protection District or Stream Protection Districts.:

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

1414. Table of Land Uses

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 1415. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

1414. Table of Land Uses

All land use activities in the Shoreland Zoning Overlay District shall conform to all of the applicable land use standards in Section 1415 as well as any applicable Additional Uses and Alternative Standards per Section 913.3. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Key to Table of Land Uses:

YES = Allowed (no permit required but the use shall comply with applicable standards)
NO = Use is prohibited
CEO = Allowed with permit from Code Enforcement
PB = Allowed if approved by Planning Board
LPI = Allowed with permit issued by Local Plumbing Inspector

TABLE 1414

	LAND USES		**DISTRICTS**	
		Stream Protection	**Resource Protection**	**All Other**
1.	Non-intensive recreational uses not requiring structures	YES	YES	YES
2.	Motorized vehicular traffic on existing roads and trails	YES	YES	YES
3.	Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO[1]	YES/CEO
4.	Fire prevention activities	YES	YES	YES
5.	Wildlife management practices	YES	YES	YES
6.	Soil and water conservation practices	YES	YES	YES
7.	Mineral exploration	NO	YES[2]	YES[2]
8.	Mineral extraction, including sand and gravel extraction	NO	PB[3]	PB
9.	Surveying and resource analysis	YES	YES	YES
10.	Emergency operations	YES	YES	YES
11.	Agriculture	YES	CEO	YES
12.	Aquaculture	PB	PB	PB
13.	Principal structures and uses			
	A. One and two family residential, including driveways (see limitations on residential uses standards in Section 913.3 if applicable)	CEO	PB[8]	CEO
	B. Multi-unit residential (see limitations on residential uses standards in Section 913.3 if applicable)	NO	NO	PB
	C. Commercial	NO	NO[9]	PB
	D. Industrial	NO	NO	PB
	E. Governmental and institutional	NO[11]	NO	PB
	F. Small, non-residential facilities for educational, scientific or nature interpretation purposes	PB[4]	PB	CEO
14.	Structures accessory to allowed uses	PB[4]	PB	CEO
15.	Piers, wharves, bulkheads and other structures extending beyond the high water line or within a wetland A. Temporary B. Permanent	CEO[1] PB	CEO[1] PB	CEO[1] PB
16.	Conversion of seasonal residence to year-round residence	NO	NO	LPI/CEO
17.	Home occupations (see limitations on residential uses and standards in Section 913.3 if applicable)	CEO	CEO	CEO

TABLE 1414 (cont'd)

	LAND USES		**DISTRICTS**	
		Stream	**Resource**	**All Other**
18.	Private sewage disposal systems for allowed uses	LPI	LPI	LPI
19.	Essential services	CEO[5]	CEO[5]	YES
	A. Road side Distribution lines (34.5kV and lower)	CEO	CEO	YES
	B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	CEO	CEO	CEO
	C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB	PB	CEO
	D. Other Essential Services	PB	PB	PB
20.	Service drops to allowed uses	YES	YES	YES
21.	Public and private recreational uses involving minimal structural development	PB	PB	CEO
22.	Individual private campsites	CEO	CEO	CEO/LPI
23	Campgrounds	NO	NO[6]	PB
24.	Road construction	CEO	NO/PB[8]	YES
25.	Parking facilities	NO	NO[7]	CEO/PB
26.	Marinas	PB	NO	PB
27.	Filling and earth moving of less than ten (10) cubic yards	CEO	CEO	YES
28.	Filling and earth moving of more than ten (10) cubic yards	CEO	CEO	CEO
29.	Signs	CEO	CEO	CEO
30.	Uses similar to allowed uses	CEO	CEO	CEO
31.	Uses similar to uses requiring a CEO permit	CEO	CEO	CEO
32.	Uses similar to uses requiring PB approval	PB	PB	PB

NOTE: This Table is for General Guidance Only. Applicants for any activity should consult specific requirements for that activity within this Ordinance as they affect any site.

Table 1414 has been approved by the State of Maine as guidance for the Town of Rockport in Shoreland Zoning matters. In any conflict between Table 1414 and the requirements of Chapter 1400 of the Rockport Land Use Ordinance, the text of the Shoreland Zoning Overlay District is controlling.

1. In RP not allowed within 75 feet horizontal distance of the normal high-water line of great ponds, except to remove safety hazards.

2. Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

3. In RP not allowed in areas so designated because of wildlife value.

4. Provided that a variance from the setback requirement is obtained from the Board of Appeals.

5. See further restrictions in Section 1415.12.

6. Except when area is zoned for resource protection due to flood plain criteria in which case approval is required from the PB.

7. Except as provided in Section 1415.9.b.

8. Single family residential structures may be allowed by conditional use only according to the provisions of Section 1416.5.

9. Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

10. Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

11. Governmental and institutional uses are permitted in RP if located in the Section 913 Downtown District.

1415. Land Use Standards

All land use activities within the Shoreland Overlay Area, which includes "Stream and Resource Protection District", shall conform to the standards of the underlying District where the land is located.

1. Minimum Shore Frontage and Lot Size Standards

a. Residential shore frontage per dwelling unit:

i. Adjacent to Tidal Areas ..... 150 ft.

ii. Adjacent to Non-Tidal Areas ..... 200 ft.

b. Governmental, Institutional, Commercial or Industrial shore frontage per principal structure:

i. Adjacent to Tidal Areas, exclusive of those areas within District 913..... 200 ft.

ii. Adjacent to Tidal Areas within Rockport Downtown District 913..... NONE

iii. Adjacent to Non-Tidal Areas ..... 300 ft.

c. Public and Private Recreational Facilities:

i. Adjacent to Tidal and Non-Tidal Areas ..... 200 ft.

d. Minimum Shore Frontage Lot Size Standards: All new residential lots shall have a minimum lot size per dwelling unit in the Rockport Village District 901 of 15,000 square feet, in the Rockport Downtown District 913 of 12,000 square feet , and in all other Districts all new residential lots shall have a minimum lot size per dwelling unit of 30,000 square feet adjacent to tidal waters and coastal wetlands, and 40,000 square feet adjacent to great ponds, freshwater wetlands, and streams. Commercial lots shall have a minimum lot area of 40,000 square feet on inland waters and 60,000

square feet on tidal waters for each principal structure. In all districts, the minimum lot width within 100 feet of water bodies and wetlands shall be no less than the shore frontage standard.

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

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

g. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

h. If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

2. Principal and Accessory Structures

a. All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

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

ii. All principal structures along Significant River Segments as listed in 38 M.R.S.A. section 437 shall be set back a minimum of one hundred and twenty-five (125) feet, horizontal distance, from the normal high-water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.

iii. For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.

iv. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

b. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Other Shoreland, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

c. The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

d. Non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

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

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

i. The site has been previously altered and an effective vegetated buffer does not exist;

ii. The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;

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

iv. The total height of the wall(s), in the aggregate, are no more than 24 inches;

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

Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

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

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

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

2) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;

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

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

5) A footpath not to exceed the standards in Section 1415(16)(b)(i), may traverse the buffer;

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

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

a. No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 1415(1), a second structure may be allowed and may remain as long as the lot is not further divided.

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

c. The location shall not interfere with existing developed or natural beach areas.

d. The facility shall be located so as to minimize adverse effects on fisheries.

e. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier,

dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.

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

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

h. 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.

i. Access from the shore shall be subject to approval of the Planning Board under Site Plan review. Soils shall be deemed appropriate for such use and constructed to control erosion.

j. Vegetation may be removed in excess of the standards in Section 1415(16) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.

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

   ii. Revegetation must occur in accordance with Section 1415(19).

k. A deck over a river may be exempted from the shoreland setback requirements if it is part of a downtown revitalization project that is defined in a project plan approved by the legislative body of the municipality, and may include the revitalization of structures formerly used as mills that do not meet the structure setback requirements, if the deck meets the following requirements:

   i. The total deck area attached to the structure does not exceed 700 square feet;

   ii. The deck is cantilevered over a segment of a river that is located within the boundaries of the downtown revitalization project;

   iii. The deck is attached to or accessory to an allowed commercial use in a structure that was constructed prior to 1971 and is located within the downtown revitalization project;

   iv. The construction of the deck complies with all other applicable standards, except the shoreline setback requirements in Section 1415(2); and

   v. The construction of the deck complies with all other state and federal laws.

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

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

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

5. **Individual Private Campsites.** Individual private campsites not associated with campgrounds are allowed 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 area within the shoreland zone, whichever is less, may be permitted.

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

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

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

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

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

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

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

   a. Auto washing facilities

   b. Auto or other vehicle service and/or repair operations, including body shops

   c. Chemical and bacteriological laboratories

   d. Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms

   e. Commercial painting, wood preserving, and furniture stripping

   f. Dry cleaning establishments

   g. Electronic circuit assembly

   h. Laundromats, unless connected to a sanitary sewer

   i. Metal plating, finishing, or polishing

   j. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas

   k. Photographic processing

   l. Printing

7. **Parking Areas**

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

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

   c. In determining the appropriate size of proposed parking facilities, the following shall apply:

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

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

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

   a. Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal

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

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

Section 1415(8)(a) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 1415(8)(a) except for that portion of the road or driveway necessary for direct access to the structure.

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

c. New permanent roads are not allowed within the shoreland zone along Significant River Segments except:

   i. To provide access to structures or facilities within the zone; or

   ii. When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

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

e. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 1415(20).

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

g. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland

edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

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

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

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

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

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

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

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

9. Signs. The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, and all other shoreland districts

a. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises.

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

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

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

e. Signs relating to public safety shall be allowed without restriction.

f. No sign shall extend higher than twenty (20) feet above the ground.

g. Signs may be illuminated only by shielded, non-flashing lights.

10. Storm Water Runoff

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

b. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

11. Septic Waste Disposal

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

12. Essential Services

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

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

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

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

Mineral extraction may be permitted under the following conditions:

a. A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 1415(13)(d) below.

b. No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal

distance, of any property line without written permission of the owner of such adjacent property.

c. Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing vegetation.

d. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

   i. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

   ii. The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.

   iii. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

e. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

14. Agriculture

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

b. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

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

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

e. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the planning board.

15. Timber Harvesting:

Title 38 M.R.S.A. section 438-A provides that, notwithstanding other provisions of the *Mandatory Shoreland Zoning Act*, the regulation of timber harvesting and timber harvesting activities in shoreland areas must be in accordance with section 438-B and rules adopted by the Maine Forest Bureau pursuant to Title 12, section 8867-B. Section 438-B establishes three options from which each municipality may choose as the State implements a set of statewide timber harvesting standards in shoreland areas.

The Town of Rockport has selected Option 1 which is the complete repeal of timber harvesting provisions from the shoreland zoning ordinance. The Bureau of Forestry will administer the regulation of all forestry activities within the municipality. The effective date of repeal shall be June 10, 2020.

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

a. In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees as described in Section 1415(17).

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

b. Except in areas as described in Section 1415(16)(a), above, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, or within a strip extending 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:

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

   ii. Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 1415(16)(b)(i) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

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

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

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

(4x1)+(2x2) + (3x4) + (2x8) = 36 points

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

The following shall govern in applying this point system:

1) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

2) Each successive plot must be adjacent to, but not overlap a previous plot;

3) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;

4) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;

5) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 1415(16)(b)(i) “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

iii. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 1415(16) paragraphs (b) and (b)(i) above.

iv. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

v. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section 1415(17), below, unless existing new tree growth is present.

vi. In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 1415(16)(b).

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

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

d. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

e. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 1415(16).

17. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

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

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

ii. Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

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

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

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

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

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

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

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

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

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

ii. Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

18. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 1415(16), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

a. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 1415(16) apply;

b. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of Section 1415(2) are not applicable;

c. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

d. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of Section 1415(14) are complied with;

e. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:

   i. A coastal wetland; or

   ii. A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.

f. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

   i. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;

   ii. Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and

   iii. If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

g. The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

19. Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section 1415(16), to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegation must comply with the following requirements.

a. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

b. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:

c. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

d. Revegetation activities must meet the following requirements for trees and saplings:

   i. All trees and saplings removed must be replaced with native noninvasive species;

   ii. Replacement vegetation must at a minimum consist of saplings;

   iii. If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;

   iv. No one species shall make up 50% or more of the number of trees and saplings planted;

   v. If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and

   vi. A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.

e. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:

   i. All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;

   ii. Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

iii. If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;

iv. No one species shall make up 50% or more of the number of planted woody vegetation plants; and

v. Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years

f. Revegetation activities must meet the following requirements for ground vegetation and ground cover:

i. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

ii. Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and

iii. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

20. Erosion and Sedimentation Control

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

i. Mulching and revegetation of disturbed soil.

ii. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

iii. Permanent stabilization structures such as retaining walls or rip-rap.

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

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

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

   i. 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.

   ii. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

   iii. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

e. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

21. Soils

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

22. Water Quality

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

23. Archaeological Site

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

1416. Administration

1. Administering Bodies and Agents

a. Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.

b. Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.

c. Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

2. Permits Required.

After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

a. A permit is not required for the replacement of an existing road culvert as long as:

   i. The replacement culvert is not more than 25% longer than the culvert being replaced;

   ii. The replacement culvert is not longer than 75 feet; and

   iii. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

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

c. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

3. Permit Application

a. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Chapter 1400.

b. All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

c. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.

d. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

e. When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

4. Procedure for Administering Permits.

Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Chapter 1400, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

a. Will maintain safe and healthful conditions;

b. Will not result in water pollution, erosion, or sedimentation to surface waters;

c. Will adequately provide for the disposal of all wastewater;

d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

e. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;

f. Will protect archaeological and historic resources as designated in the comprehensive plan;

g. Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;

h. Will avoid problems associated with floodplain development and use; and

i. Is in conformance with the provisions of Section 1415, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the municipality.

5. Conditional Uses.

In addition to the criteria specified in Section 1416(4) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

a. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.

b. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.

c. All proposed buildings, sewage disposal systems and other improvements are:

i. Located on natural ground slopes of less than 20%; and

ii. Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

d. The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.

e. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

6. Expiration of Permit.

Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

7. Installation of Public Utility Service.

A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

8. Appeals

a. Powers and Duties of the Zoning Board of Appeals: The Zoning Board of Appeals shall have the powers and duties set forth in Chapter 700 of this Ordinance.

b. Process and Procedure: The Zoning Board of Appeals shall follow the process and procedures set forth in Chapter 700 of this Ordinance.

c. Variances: In addition to the variance requirements of Chapter 700, a copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the Planning Office to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

9. Enforcement

a. Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.

b. Code Enforcement Officer

i. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

ii. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

iii. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

c. Legal Actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

d. Fines. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.