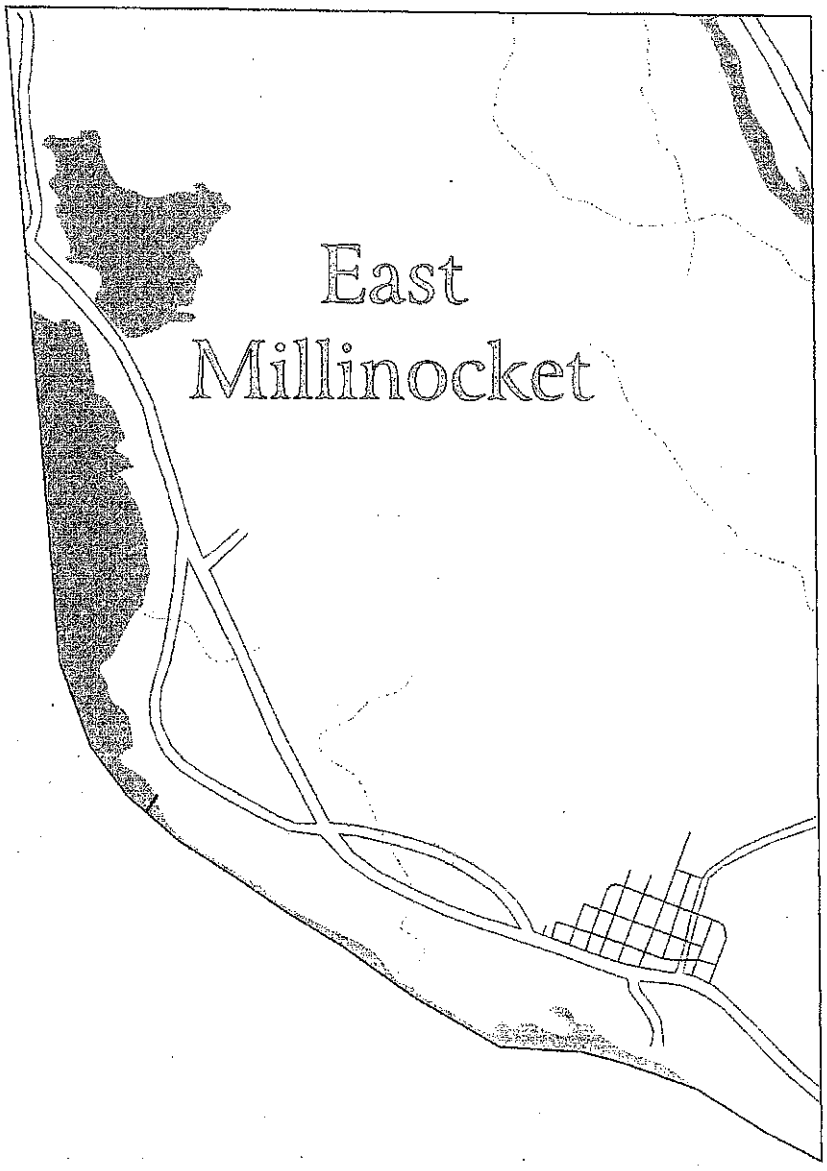
East Millinocket Land Use Ordinance



Prepared by
Penobscot Valley Council of Governments

TOWN OF EAST MILLINOCKET
LAND USE ORDINANCE

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TOWN OF EAST MILLINOCKET
LAND USE ORDINANCE

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METES AND BOUNDS DESCRIPTIONS OF LAND USE DISTRICTS

OFFICIAL ZONING MAP OF THE TOWN OF EAST MILLINOCKET

SECTION I: GENERAL PROVISIONS

A. TITLE

This Ordinance shall be known as and may be cited as the "Land Use Ordinance of the Town of East Millinocket. Maine", and will be referred to herein as the "Ordinance".

B. AUTHORITY

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

C. PURPOSES

The purposes of the Ordinance are as follows:

1. COMPREHENSIVE PLAN IMPLEMENTATION: To implement the policies and recommendations of the East Millinocket Comprehensive Plan;

2. PROTECTION OF THE GENERAL WELFARE: To assure the comfort, convenience, safety, health, and welfare of the present and future inhabitants of the Town of East Millinocket;

3. PRESERVATION OF THE TOWN CHARACTER: To preserve and protect the character of East Millinocket by dividing the Town into districts according to the use of land and buildings and the intensity of such uses;

4. PROTECTION OF THE ENVIRONMENT: To protect and enhance the natural, cultural, and historic resources of the Town from unacceptable adverse impacts and to integrate new development harmoniously into the Town's natural environment;

5. PROMOTION OF COMMUNITY DEVELOPMENT: To promote the development of an economically sound and stable community;

6. REDUCTION OF TRAFFIC CONGESTION: To lessen the danger and congestion of traffic on roads and highways, limit excessive numbers of intersections, driveways, and other friction points, minimize hazards, and ensure the continued usefulness of all elements of the existing transportation systems for their planned function;

SECTION I: GENERAL PROVISIONS (Continued)

C. PURPOSES (Continued)

7. BALANCING OF PROPERTY RIGHTS: To protect property rights and values by balancing the rights of landowners to use their land with the corresponding rights of abutting and neighboring landowners to enjoy their property without undue disturbance from abutting or neighboring uses;

8. REDUCTION OF FISCAL IMPACT: To provide a means of evaluating development proposals to determine their fiscal impacts on the municipality's ability to provide and improve necessary public facilities and services; and

9. ESTABLISHMENT OF PROCEDURES/STANDARDS: To establish procedures whereby the Town Officials may review the developments regulated by this Ordinance by providing fair and reasonable standards for evaluating such developments; to provide a public hearing process through which interested persons may raise questions and receive answers regarding how such developments may affect them; and to provide procedures whereby aggrieved parties may appeal decisions made under this Ordinance.

D. APPLICABILITY

This Ordinance shall apply to all land areas within the Town of East Millinocket. All buildings or structures thereafter constructed, reconstructed, altered, enlarged, or moved, and the uses of buildings and land, including the division of land, shall be in conformity with the provisions of the Ordinance. No existing or future building, structure, or land area shall be used for any purpose or in any manner except as provided for in this Ordinance.

E. CONFLICT WITH OTHER ORDINANCES

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

F. SEVERABILITY

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

SECTION I: GENERAL PROVISIONS (Continued)

G. AMENDMENTS TO ORDINANCE AND OFFICIAL ZONING MAP

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

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

   a. The Planning Board, by majority vote;

   b. The Town Selectpersons, through a request to the Planning Board; and by

   c. The Public, through written petition to the Planning Board, who shall meet with the petitioners within 30 days to discuss and vote on the merits of said petition. Following a majority vote of the Planning Board, said amendment shall be initiated.

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

   a. Proposed amendments must first be submitted to the Planning Board for their consideration;

   b. The Planning Board shall, within thirty (30) days or receiving a proposed amendment, set a date to hold a public hearing on the proposed amendment. The public hearing on the proposed amendment must be held at least thirty (30) days prior to the regular or special town meeting;

   c. Notice of the public hearing shall be posted at least ten (10) days in advance of the hearing in three conspicuous places, one of which must be in a newspaper of general circulation in the area. Said notice shall include, but not be limited to the following information: (a) date, time and place of said hearing; (b) a summary or map (when indicated) of the proposed amendment; (c) a list (when indicated) of the proposed conditions or restrictions;

   d. The Planning Board shall make its official report at a Selectpersons (30) days prior to the regular or special town meeting;

   e. Enactment of a proposed amendment shall require a majority vote at an Annual or Special Town Meeting.

SECTION I: GENERAL PROVISIONS (Continued)

H. ANNUAL ADMINISTRATIVE REVIEW

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

1. Enhance their ability to more effectively meet their respective administrative responsibilities under this Ordinance; and

2. Enhance the implementation of the purposes of this Ordinance contained in Sub-Section C, paragraphs 1 through 9, above.

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

I. EFFECTIVE DATE

The effective date of this Ordinance or any amendments thereto shall be the thirtieth day following its/their adoption at a Town Meeting. A copy of the Ordinance, certified by the Town Clerk shall be on file at the Town Offices.

J. REPEAL OF PRIOR ORDINANCE

The existing Land Use Ordinance of the Town of East Millinocket, Maine, as amended, is repealed as of the effective date of this Ordinance. The adoption of this Ordinance, however, shall not affect nor prevent any pending or future prosecution of, or action to abate, any violation of the Ordinances repealed by this Section, if the violation is also a violation of this provisions of this Ordinance. It is further the intention and direction of this Section that if this Ordinance is, held to be invalid or void in its entirety, that the Ordinances repealed by this Section shall be automatically revived.

SECTION II: NON-CONFORMING STRUCTURES, USES AND LOTS

A. BURDEN OF PROOF

The burden of establishing that any non-conforming structure, use, or lot is a legal existing non-conforming use as defined in this Ordinance shall, in all instances, be upon the owner of such non-conforming structure, use or lot and not upon the Town of East Millinocket.

B. CONVERSION TO CONFORMANCE ENCOURAGED

Owners of all existing non-conforming structures and uses shall be encouraged to convert such existing non-conforming structures and uses to conformance wherever possible and shall be required to convert to conforming status as required by this Ordinance.

C. CONTINUANCE

The use of any building, structure, or land, which is made non-conforming by reason of the enactment of this Ordinance, or which shall be made non-conforming by reason of a subsequent amendment, may be continued, subject to the following provisions:

1. EXISTING NON-CONFORMING USES OF LAND

   Continuance of non-conforming uses of land shall be subject to the following provisions:

   a. No such existing non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than that occupied at the effective date of this Ordinance, or any amendment thereto;

   b. If any such existing non-conforming use of land ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of land shall conform to the regulations specified by this Ordinance for the district in which such land is located; and

   c. An existing non-conforming use may be moved within the boundaries of the lot provided that the Planning Board finds that the change in location on the lot is more appropriate as regards:

      1. Location and character;
      2. Fencing and screening;
      3. Landscaping, topography, and natural features;
      4. Traffic and access;
      5. Signs and lighting; and/or
      6. Potential nuisance.

SECTION II: NON-CONFORMING STRUCTURES USES AND LOTS (Continued)

C. CONTINUANCE (Continued)

2. EXISTING NON-CONFORMING STRUCTURES
Continuance of existing non-conforming structures shall be subject to the following provisions:

a. No such structure shall be enlarged or altered in any way that increases its non-conformity;

b. Should any structure, exclusive of the foundation, be destroyed or damaged by any means, exclusive of planned demolition, said structures may be rebuilt on the existing foundation to the dimensions of the structure which was destroyed provided rebuilding is begun within one year; and

c. An existing non-conforming structure may be moved within a lot in a manner which would decrease its non-conformity in terms of setback requirements, provided that the Planning Board finds that the change in location is more appropriate as regards to:

1. Location and character;
2. Fencing and screening;
3. Landscaping, topography, and natural features;
4. Traffic and access;
5. Signs and lighting; and/or
6. Potential nuisance.

3. EXISTING NON-CONFORMING USES OF STRUCTURES
Continuance of an existing non-conforming use of a structure shall be subject to the following provisions:

a. No existing structure devoted to a non-conforming use shall be enlarged or extended;

b. Any existing non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of the adoption or amendment of this Ordinance, but no such uses shall be extended to occupy any land outside such building;

SECTION II: NON-CONFORMING STRUCTURES, USES AND LOTS (Continued)

C. CONTINUANCE (Continued)

3. EXISTING NON-CONFORMING USES OF STRUCTURES (Continued)

c. Any existing non-conforming use of a structure or premises may be changed to another non-conforming use provided that the Planning Board shall find that the proposed use is more appropriate to the district than the existing non-conforming use;

d. If a non-conforming use of a structure or premises is superseded by a permitted use, the non-conforming use shall not thereafter be resumed;

e. If any such non-conforming use of a structure ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such structure shall conform to the regulations specified by this Ordinance for the district in which such structure is located; and

f. A structure housing an existing non-conforming use may be moved, within the lot, in a manner which would be a more appropriate location, provided that the Planning Board finds that the change in location is more appropriate as regards to:

1. Location and character;
2. Fencing and screening;
3. Landscaping, topography, and natural features;
4. Traffic and access;
5. Signs and lighting; and
6. Potential nuisance

4. CONSTRUCTION BEGUN PRIOR TO ORDINANCE

This Ordinance shall not require any change in the plans, construction, size, or designated use for any building, structure, or part thereof for which a completed application for a local permit has been made or a permit has been issued and upon which construction has been lawfully commenced prior to the adoption or amendment of the Ordinance. Such construction shall start within sixty (60) days after the issuance of such permit.

SECTION II: NON-CONFORMING STRUCTURES, USES AND LOTS (Continued)

D. NON-CONFORMING LOTS OF RECORD

A single parcel of land, the legal description of which or the dimensions of which are recorded on a document or map on file with the Registry of Deeds which at the effective date of adoption or subsequent amendments of this Ordinance, does not meet the lot area or width requirements or both, of the district in which it is located, may be built upon as an existing non-conforming lot of record. Lots existing that may be contiguous with any other lot in the same ownership, must be combined to meet the provisions of this Ordinance.

E. TRANSFER OF OWNERSHIP

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

SECTION III: ESTABLISHMENT OF DISTRICTS

A. DISTRICTS ESTABLISHED

For the purposes of this Ordinance, the Town of East Millinocket is hereby divided into the following Districts:

1. Residential Development District (RD)
2. Commercial District (C)
3. Industrial District (ID)
4. Industrial Park District (IPD)
5. Aquifer Protection District (AP)
6. Rural District (R)

B. STANDARDS ESTABLISHING DISTRICTS

1. RESIDENTIAL DEVELOPMENT DISTRICT (RD)

   a. The purpose of the Residential Development District (RD) is to stabilize and protect the essential characteristics of a variety of housing types and housing opportunities. The District will provide for medium density residential growth in such a manner and at such locations as are compatible with existing development and the ability of the community to provide essential services and utilities.

   b. Areas designated as being the Residential Development District are illustrated on the Official Zoning Map of East Millinocket and described in the metes and bounds description in Appendix A of this Ordinance.

2. COMMERCIAL DISTRICT (C)

   a. The purpose of the Commercial District (C) is to accommodate the daily or frequent shopping needs of the citizens of East Millinocket. The District will preserve the character of the existing downtown area as the focal point of business and service activities within the service area of existing public sewer and water utilities.

   b. Areas designated as being the Commercial District are illustrated on the Official Zoning Map of East Millinocket and described in the metes and bounds description in Appendix A of this Ordinance.

SECTION III: ESTABLISHMENT OF DISTRICTS (Continued)

B. STANDARDS ESTABLISHING DISTRICTS (Continued)

3. INDUSTRIAL DISTRICT (ID)

a. The purpose of the Industrial District (ID) is to accommodate all industrial and large scale commercial development. This District will provide for existing industrial development and provide for a diversification from traditional industrial uses.

b. Areas designated as being the Industrial District are illustrated on the Official Zoning Map of East Millinocket and described in the metes and bounds description in Appendix A of this Ordinance.

4. INDUSTRIAL PARK DISTRICT (IPD)

a. The purpose of the Industrial Park District (IPD) is to identify an appropriate parcel of land which was created to provide for the development of an industrial park. The District is intended to provide an area for commercial and industrial development.

b. Areas designated as being the Industrial Park District are illustrated on the Official Zoning Map of East Millinocket and described in the metes and bounds description in Appendix A of this Ordinance.

5. AQUIFER PROTECTION DISTRICT (AP)

a. The purpose of the Aquifer Protection District (AP) is to protect East Millinocket's sand and gravel aquifer. This District is intended to limit development within the identified area which will ensure the protection and preservation East Millinocket's drinking water supply.

b. Areas designated as being the Aquifer Protection District are illustrated on the Official Zoning Map of East Millinocket and described in the metes and bounds description in Appendix A of this Ordinance.

SECTION III: ESTABLISHMENT OF DISTRICTS (Continued)

B. STANDARDS ESTABLISHING DISTRICTS (Continued)

6. RURAL DISTRICT (R)

a. The purpose of the Rural District is to protect those areas of the community which are not appropriate for development due to their location and distance from municipal facilities and services.

b. Areas designated as being the Rural District are illustrated on the Official Zoning Map of East Millinocket and described in the metes and bounds description in Appendix A of this Ordinance.

C. OFFICIAL ZONING MAP

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

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

D. INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to boundary lines of Districts as shown on the "Official Zoning Map of East Millinocket, Maine" or as described in the metes and bounds description, the following rules of interpretation shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, public utilities or right-of-ways shall be construed as following such center lines;

2. Boundaries indicated as approximately following property lines shall be construed as following property lines;

3. Boundaries indicated as being the extension or center lines of streets shall be construed to be the extension of such center lines;

4. Boundaries indicated as being the extension of property lines shall be construed as extensions of such property lines;

SECTION III: ESTABLISHMENT OF DISTRICTS (Continued)

D. INTERPRETATION OF DISTRICT BOUNDARIES (Continued)

5. Boundaries indicated as being parallel to or extension of features listed above shall be so construed. Distances not specifically indicated on the official map shall be determined by the metes and bounds description.

6. Where physical or cultural features existing on the ground are at variance with those shown on the official map or described in the metes and bounds description, or in other circumstances where uncertainty exists with respect to the location of a boundary, the Planning Board shall interpret the district boundaries.

SECTION IV: SCHEDULE OF USES

A. ACTIVITIES DESCRIBED

A matrix listing the uses permitted in the various Districts, under this Ordinance begins on page 15.

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

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

B. SYMBOLS USED IN SCHEDULE OF USES

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

1. DISTRICT SYMBOLS

SYMBOL	DESCRIPTION
RD	**Residential Development District**
C	**Commercial District**
ID	**Industrial District**
IPD	**Industrial Park District**
AP	**Aquifer Protection District**
R	**Rural District**

2. PERMIT SYMBOLS

SYMBOL	DESCRIPTION
Y	**Uses Allowed Without a Permit**
N	**Uses Prohibited Within District**
C	**Use Requires a Code Enforcement Permit**
P	**Use Requires a Planning Board Permit**

SECTION IV: SCHEDULE OF USES (Continued)

C. USES SUBSTANTIALLY SIMILAR TO PERMITTED USES MAY BE PERMITTED

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

2. USES REQUIRING A CODE ENFORCEMENT OFFICER PERMIT: Uses substantially similar to those requiring a Code Enforcement Officer Permit, but which are not listed in the Schedule of Uses, may be permitted by the Code Enforcement Officer.

3. USES REQUIRING A PLANNING BOARD PERMIT: Uses substantially similar to those requiring a Planning Board Permit, but which are not listed in the Schedule of Uses, may be permitted by the Planning Board.

D. USES SUBSTANTIALLY SIMILAR TO PROHIBITED USES ARE PROHIBITED
Uses substantially similar to any uses listed as a Prohibited Use in the Schedule of Uses, shall be prohibited.

E. COMPLIANCE WITH PERFORMANCE STANDARDS REQUIRED
All uses permitted must occur and be maintained in compliance with the applicable requirements and performance standards contained in Section V.

SECTION IV: SCHEDULE OF USES (Continued)

F. SCHEDULE OF USES

Activities/Districts		RD	C	ID	IPD	AP	R
1.	**NON-COMMERCIAL RECREATIONAL ACTIVITIES**						
a)	Primitive recreational uses, including fishing, hunting, hiking, snowshoeing, cross country skiing, photography, and wildlife study;	Y	Y	Y	Y	Y	Y
b)	Public parks and recreation facilities;	C	C	C	C	C	C
c)	Trails, provided they are constructed and maintained so as to avoid sedimentation of water bodies;	Y	Y	Y	Y	Y	Y
d)	Motorized vehicular traffic on roads and trails, and snowmobiling;	Y	Y	Y	Y	Y	Y
e)	Accessory uses and structures that are essential for the exercise of use listed above;	Y	Y	Y	Y	Y	Y

SECTION IV: SCHEDULE OF USES (Continued)

Activities/Districts		RD	C	ID	IPD	AP	R
2.	**RESOURCE MANAGEMENT ACTIVITIES**						
a)	Wildlife/fishery management practices;	Y	Y	Y	Y	Y	Y
b)	Emergency operations conducted for the public health, safety , or general welfare, such as resource protection, law enforcement, and search and rescue operations;	Y	Y	Y	Y	Y	Y
c)	Surveying and other resource analysis;	Y	Y	Y	Y	Y	Y
d)	Forest management activities, not including timber harvesting, pesticide and fertilizer application;	Y	Y	Y	Y	Y	Y
e)	Agricultural management activities, not including pesticide and fertilizer application;	Y	Y	Y	Y	Y	Y
f)	Mineral exploration to discover or verify the existence of mineral deposits, including the removal of specimens or trace quantities, provided such exploration is accomplished by methods of hand sampling, including panning, hand test boring, diggings, and other non-mechanized methods which create minimal disturbance and take reasonable measures to restore the disturbed area to its original condition;	Y	Y	Y	Y	Y	Y
g)	Non-commercial structures for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected by the district in which it is located;	Y	Y	Y	Y	Y	Y
h)	Accessory uses and structures;	Y	Y	Y	Y	Y	Y

SECTION IV: SCHEDULE OF USES (Continued)

Activities/Districts		RD	C	ID	IPD	AP	R
3.	**RESOURCE EXTRACTION ACTIVITIES**						
a)	Commercial timber harvesting;	N	P	P	N	N	P
b)	Production of commercial agricultural products;	N	P	P	P	N	P
c)	Mineral extraction for road purposes only, affecting an area of less than 2 acres in size;	P	P	P	N	N	P
d)	Mineral extraction operations for any purpose affecting an area 2 acres or greater in size;	P	P	P	N	N	P
e)	Filling, grading, draining, dredging or alteration of water table or water level, not including individual wells;	P	P	P	P	N	P
f)	Accessory use and structures that are essential for the exercise of uses listed above;	P	P	P	P	N	P

SECTION IV: SCHEDULE OF USES (Continued)

F. SCHEDULE OF USES

Activities/Districts		RD	C	ID	IPD	AP	R
4.	**RESIDENTIAL ACTIVITIES**						
a)	Single- Family Detached Dwelling;	C	C	N	N	N	N
b)	Single-Family Mobile Homes;	C	C	N	N	N	N
c)	Multi-Family Dwelling: Duplexes;	C	C	N	N	N	N
d)	Multi-Family Dwelling: 3 or more families, including apartments;	C	C	N	N	N	N
e)	Mobile Home Park;	P	P	N	N	N	N
f)	Nursing Home/Boarding Care Facility;	C	C	N	N	N	N
g)	Home Occupations;	C	C	N	N	N	N
h)	Accessory uses or structures that are essential for the exercise of uses listed above;	C	C	N	N	N	N

SECTION IV: SCHEDULE OF USES (Continued)

F. SCHEDULE OF USES

Activities/Districts		RD	C	ID	IPD	AP	R
5.	**INSTITUTIONAL ACTIVITIES**						
a)	Hospital and Medical Clinic;	C	C	N	N	N	N
b)	Government Facilities and Services;	C	C	N	N	N	N
c)	Public Schools;	C	C	N	N	N	N
d)	Private Schools (under 15 students);	C	C	N	N	N	N
e)	Day Care Centers;	C	C	N	N	N	N
f)	Churches;	C	C	N	N	N	N
g)	Cemetery;	C	C	N	N	N	N
h)	Fraternal Orders and Service Clubs;	C	C	N	N	N	N
i)	Post Secondary Education Facility;	C	C	N	P	N	N
j)	Accessory use and structures that are essential for the exercise of uses listed above;	C	C	N	N	N	N

SECTION IV: SCHEDULE OF USES (Continued)

F. SCHEDULE OF USES

Activities/Districts		RD	C	ID	IPD	AP	R
6.	**COMMERCIAL ACTIVITIES**						
a)	Automobile Supplies;	N	C	N	C	N	N
b)	Automobile Body Repair;	N	C	N	C	N	N
c)	Automobile Repair/Service;	N	C	N	C	N	N
d)	Banks/Credit Unions;	N	C	N	N	N	N
e)	Beauty Shops;	N	C	N	N	N	N
f)	Burglar/Fire Alarm Sales;	N	C	N	C	N	N
g)	Sporting Camps;	N	C	N	N	N	N
h)	Clothing Shops;	N	C	N	N	N	N
i)	Craft Shops;	N	C	N	C	N	N
j)	Florist/Greenhouse;	N	C	N	C	N	N
k)	Fuel Oil Sales;	N	C	N	C	N	N
l)	Funeral Homes;	N	C	N	N	N	N
m)	Grocery Stores;	N	C	N	N	N	N
n)	Gun Shops;	N	C	N	N	N	N
o)	Hardware Stores;	N	C	N	C	N	N
p)	Insurance Office;	N	C	N	N	N	N
q)	Professional Office/s;	N	C	N	C	N	N
r)	Pharmacy;	N	C	N	N	N	N
s)	Restaurant;	N	C	N	C	N	N
t)	Animal Hospital/Clinic;	N	C	N	C	N	N
u)	Storage Building/Area;	N	C	N	C	N	N
v)	Bed and Breakfasts;	N	C	N	N	N	N

SECTION IV: SCHEDULE OF USES (Continued)

F. SCHEDULE OF USES

Activities/Districts		RD	C	ID	IPD	AP	R
6.	**COMMERCIAL ACTIVITIES** (Continued)						
w)	Motels, Hotels and Inns Maximum 10 Rooms, No meals Served;	P	C	N	N	N	N
x)	Motel, Hotels and Inns Maximum 25 Rooms, No meals Served;	N	P	N	N	N	N
y)	Motels, Hotels and Inns 25 or more Rooms, Serving meals to guests only;	N	P	N	N	N	N
z)	Campgrounds;	N	P	N	N	N	P
aa)	Retail Establishments of more Than 2,500 square feet, not listed Above;	N	P	N	N	N	N
bb)	Retail Establishments of less Than 2,500 square feet, not listed above;	N	C	N	N	N	N
cc)	Accessory uses and structures that are essential for the exercise of uses listed above.	P	C	N	N	N	N

SECTION IV: SCHEDULE OF USES (Continued)

F. SCHEDULE OF USES

Activities/Districts		RD	C	ID	IPD	AP	R
7.	**INDUSTRIAL ACTIVITIES**						
a)	Pulp Mill;	N	N	P	P	N	N
b)	Transportation Facility and Terminal Yard;	N	P	P	P	N	N
c)	Bulk Oil and Fuel Tank Storage in excess of 50 gallons except for on-site heating and cooking purposes;	N	P	P	P	N	N
d)	Automobile Junk Yard;	N	N	P	P	N	N
e)	Wholesale Business Facility;	N	P	P	P	N	N
f)	Light Manufacturing Assembly Plant;	N	P	P	P	N	N
g)	Disposal of Solid Waste;	N	P	P	P	N	N
h)	Disposal of Hazardous/Leachable Materials;	N	N	P	P	N	N
i)	Sewage Treatment Facility;	N	N	P	P	N	N
j)	Concrete Plant;	N	P	N	N	N	N
k)	Accessory uses and structures that are essential for the exercise of uses listed above;	N	C	P	P	N	N

SECTION IV: SCHEDULE OF USES (Continued)

F. SCHEDULE OF USES

Activities/Districts		RD	C	ID	IPD	AP	R
8.	**TRANSPORTATION AND UTILITIES**						
a)	Land management roads and water crossings of minor flowing waters;	P	P	P	P	P	P
b)	Land management roads and water crossings of standing waters and of major flowing waters;	P	P	P	P	P	P
c)	Road construction projects, other than land management roads, and not part of a project requiring a Planning Board permit;	C	P	P	P	P	P
d)	Road construction projects, other than land management roads, which are part of projects requiring Planning Board review;	P	P	P	P	P	P
e)	Minor utility facilities, including service drops;	C	C	C	P	P	P
f)	Major utility facilities, such as transmission lines, waters supply and sewage treatment facilities, but not including service drops;	C	C	C	P	P	P
g)	Airport terminal building and airport uses;	N	N	N	N	N	N
h)	Accessory uses and structures that are essential for the exercise of uses listed above;	C	C	C	C	C	C

SECTION V: LAND USE STANDARDS

SECTION USERS GUIDE: This section contains general performance standards with which all development proposals submitted for approval pursuant to this Ordinance must comply.

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

This regulatory approach has been termed "performance zoning" because it permits a use to be developed on a particular parcel only if the use on that parcel meets "performance" standards which have been enacted to insure against the use causing (or having the potential to cause) adverse impacts.

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

In reviewing applications submitted pursuant to this Ordinance, the Code Enforcement Officer or the Planning Board shall consider the following performance standards and make written findings that each applicable standard has been met prior to issuing final approval. In all instances the burden of proof shall be upon the applicant.

A. GENERAL STANDARDS

1. ACCESSORY USES
   An accessory use shall not include any use injurious or offensive to the neighborhood as initially determined by the Code Enforcement Officer.

2. ACCESS REQUIREMENTS
   All road entrances, curb cuts, and driveways shall be designed, considering land topography, street design, and existing and expected traffic patterns, so as to promote to the greatest extent possible, safe pedestrian and vehicular traffic and to protect public safety. Driveways and roads in multi-family housing projects shall be designed and laid out to provide for adequate traffic circulation and for access for emergency service vehicles to every housing unit on the premises.

SECTION V: LAND USE STANDARDS (Continued)

3. AGRICULTURAL MANAGEMENT ACTIVITIES
Agricultural practices shall be conducted in such a manner to prevent soil erosion, sedimentation, and contamination or nutrient enrichment of surface waters.

4. AIR POLLUTION
Air pollution control and abatement shall comply with applicable minimum Federal and State requirements.

5. BUFFERS
Buffer strips may be required for the following areas and/or purposes:

a. Along the property line where the reviewing authority (Code Enforcement Officer or Planning Board) determines it desirable and necessary to:

1. Shield incompatible uses from one another;
2. Block prevailing winds to stop wind borne debris;
3. Prevent lighting from interfering with residential properties or with safe driving.

b. Along any property line, where the reviewing authority determines it desirable and necessary, of all exposed storage areas, sand and gravel extraction operations, utility buildings and structures, automobile salvage and junkyards, parking areas, garbage collection areas, and loading and unloading areas, to minimize their visual impact on adjoining traveled ways and properties.

6. CAMPGROUNDS
All campgrounds shall conform to the following provisions:

a. Recreational vehicle and tenting areas containing approved water-carried sewage facilities shall meet the following criteria:

1. Each recreational vehicle, tent, or shelter site shall contain a minimum of 5,000 square feet, not including roads and driveways;

2. A minimum of 200 square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site.

SECTION V: LAND USE STANDARDS (Continued)

6. CAMPGROUNDS (cont.)

3. Each recreational vehicle, tent, or shelter site shall be provided with suitable means of trash disposal.

b. Wilderness recreational areas without water-carried sewage facilities shall contain a minimum of 20,000 square feet, not including roads and driveways, for each recreation vehicle, tent or shelter site.

c. The area intended for placement for the recreational vehicle, tent, or shelter shall be setback a minimum of 75 feet from the exterior lot lines of the camping area.

d. All campgrounds shall be screened from adjacent land areas by a continuous landscaped areas not less than 25 feet in width containing evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier of not less than six (6) feet in height.

7. CONFORMANCE WITH COMPREHENSIVE PLAN
All proposed developments shall be in conformity with the Comprehensive Plan and Policy Statements of the Town and with the provisions of all pertinent local ordinances and regulations, State and Federal laws and regulations.

8. CONSTRUCTION IN FLOOD HAZARD AREAS
When any part of a development is located in a Flood Hazard Area as identified by the Federal Emergency Management Agency, and locally adopted Floodplain Management Ordinance, the plan shall indicate that all principal structures on lots in the development shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood evaluation.

9. CONVERSIONS
Conversions of existing structures into multi-family units, in Districts permitting multi-family dwellings, may be permitted provided that:

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

b. Approval of conversion plans by the fire, electrical, and plumbing inspector(s) is required prior to issuance of a land use permit;

SECTION V: LAND USE STANDARDS (Continued)

9. CONVERSIONS (cont.)

   c. Each dwelling unit shall be at least three hundred (350) square feet in area for one (1) bedroom units plus one-hundred and fifty (150) square feet for each additional bedroom; and

   d. Each dwelling unit shall have its own toilet and kitchen facilities and no dwelling unit will share these facilities with any other dwelling unit.

10. DUST, FUMES, VAPORS, GASES, ODORS, GLARE, AND EXPLOSIVE MATERIALS

   a. Emission of odors, dust, dirt, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation, or property must comply with State and Federal standards.

   b. No land use or establishment shall be permitted to produce a strong, dazzling light or reflection of that light beyond it lot lines into neighboring properties or onto any town way so as to impair the vision of the driver of any vehicle upon that town way; and

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

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

   a. The procedures outlined in the erosion and sedimentation control plan, prepared and submitted by the applicant, shall be implemented during the site preparation, construction, and clean-up stages; and

   b. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following best management practices:

      (1) Stripping of vegetation, soil removal and re-grading or other development shall be done in such a way as to minimize erosion;

SECTION V: LAND USE STANDARDS (Continued)

11. EROSION AND SEDIMENTATION CONTROLS (cont.)

(2) Development shall preserve outstanding natural features, keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff;

(3) The development shall not unreasonably increase the rate or volume of surface water runoff from the proposed site;

(4) Whenever feasible, natural vegetation shall be retained, protected and supplemented;

(5) The disturbed area and the duration of exposure shall be kept to a practical minimum;

(6) Disturbed soils shall be stabilized as quickly as practicable;

(7) Temporary vegetation or mulching shall be used to protect disturbed areas during development;

(8) Permanent (final) vegetation and mechanical erosion control measures in accordance with the Department of Environmental Protection's Best Management Practices or the Maine Soil and Water Conservation Commission shall be installed as soon as practicable after construction ends;

(9) Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods;

(10) The top of the cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjacent property, unless otherwise specified by the Planning Board. Extraction operations (gravel pits, etc.) shall not be permitted within one hundred (100) feet of any property lines.

(11) During grading operations, methods of dust control shall be employed wherever practicable.

SECTION V: LAND USE STANDARDS (Continued)

11. EROSION AND SEDIMENTATION CONTROLS (cont.)

(12) Whenever sedimentation is caused by stripping vegetation, re-regrading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible;

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

12. HOME OCCUPATIONS

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

b. Any home occupation or profession which is accessory to and compatible with a residential use may be permitted if:

(1) It is carried out in a dwelling unit or in a structure customarily accessory to a dwelling unit;

(2) It is conducted by a member or members of the family residing in the dwelling unit; and

(3) It does not materially injure the usefulness of the dwelling unit or accessory structure for normal residential purposes.

c. All home occupations shall conform with the following conditions:

(1) The home occupation shall be carried on wholly within the dwelling or accessory structure;

(2) The home occupation shall be conducted by a member or members of the family residing in the dwelling unit;

SECTION V: LAND USE STANDARDS (Continued)

12. HOME OCCUPATIONS (cont.)

(3) There shall be no exterior display, no exterior signs other than those permitted in Section V, no exterior storage of materials, and no other exterior indication of the home occupation or variation from the residential character of the principal building;

(4) Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare, or activity at unreasonable hours, shall not be permitted;

(5) The traffic generated by such home occupation shall not increase the volume of traffic so as to create a traffic hazard or disturb the residential character of the immediate neighborhood;

(6) 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 the maximum number of users the home occupation may attract during peak operating hours;

(7) The home occupation may utilize:

a. Not more than twenty (20%) percent of the dwelling unit floor area, provided that for the purpose of this calculation, unfinished basement and attic spaces are not included;

b. Unfinished attic and basement spaces; and

c. One accessory structure. The floor area utilized in the accessory structure shall not exceed fifty percent (50%) of the total floor area of the dwelling unit.

(8) The Code Enforcement Officer shall refer any inquiries for a land use permit for a home occupation to the Board of Appeals if, in his opinion, there is any doubt as to whether the proposed use fails to meet any of the requirements; and

(9) Home occupations which involve use or storage of hazardous or leachable materials in excess of normal residential use are not permitted.

(10) Home occupations which are pre-existing this ordinance and are non-conforming by definition above, may not physically expand and may not be altered. from one type of occupation, profession,

SECTION V: LAND USE STANDARDS (Continued)

12. HOME OCCUPATIONS (cont.)

or business to another unless it subsequently conforms to the above requirements.

13. INDUSTRIAL PERFORMANCE STANDARDS
The following provisions shall apply to all permitted industrial uses:

a. Danger
No material which is dangerous due to explosion, extreme fire hazard, chemical hazard or radioactivity shall be used, stored, manufactured, processed or assembled except in accordance with applicable State and Federal codes and regulations.

b. Vibration
With the exception of vibration necessarily involved in the construction or demolition of buildings, no vibration shall be transmitted outside the lot where it originates.

c. Wastes
No offensive wastes shall be discharged or dumped into any river, stream, watercourse, storm drain, pond, lake, or swamp. Industrial waste water may be discharged to municipal sewers only and in such quantities and quality as to be compatible with commonly accepted municipal sewage treatment operations subject to the approval of the appropriate entity. The disposal of industrial waste waters by means other than the municipal sewage system must comply with the laws of the State of Maine; and

d. Those standards of Subsection 9 of this Section regarding Dust, Fumes, Vapors, Gases, Odors, Glare and Explosive Materials.

14. JUNKYARDS
No junkyard as defined in this Ordinance shall be established, operated or maintained without first obtaining a non-transferable land use permit issued in accordance with State licensing and local requirements, and the following provisions:

a. Junkyards shall be located a minimum of two hundred (200) feet from the edge of the right-of-ways; and shall be setback one hundred (100) feet from all side and rear lot lines;

b. Junkyards shall be located a minimum of three hundred (300) feet from any public park, facility, or grounds; and

SECTION V: LAND USE STANDARDS (Continued)

14. JUNKYARDS (cont.)

c. Junkyards shall be entirely screened from view by earth berms or fences which shall be well constructed and properly maintained at a minimum height of six (6) feet and sufficient to accomplish the complete screening from ordinary view.

In addition, the following provisions apply to the operation of junkyards, as defined, in the Town of East Millinocket.

d. Upon arrival at the junkyard, all petroleum and other hazardous fluids shall be drained from all vehicles, and appropriate safety precautions, such as the removal of door and trunk locks, shall be taken to avoid injury and accidents;

e. Tires shall be removed and disposed of within 60 days at a duly licensed disposal or transfer facility. Proof of disposal shall be provided to the Code Enforcement Officer upon request.

f. The complete processing of vehicles into salvage materials shall be accomplished within six (6) months;

g. All junk and salvage materials shall be stored within the screened/fenced areas and the operation shall be conducted in such a manner as to prevent unsightliness to the adjacent area;

h. No open burning of salvage materials or junk shall be permitted on the premises. Waste fluids and unusable materials shall be disposed of in a duly licensed disposal facility.

i. The Planning Board and/or Code Enforcement Officer may recommend the application of more stringent restrictions and/or limitations, and stipulate reasonable conditions which shall be attached to the permit covering the operation and use of the junkyard prior to the Selectpersons issuance of the permit.

15. LIGHTING DESIGN STANDARDS
All exterior lighting shall be designed to minimize adverse impact on neighboring properties.

16. LOT SIZE, SETBACK AND COVERAGE REQUIREMENTS
See B. Dimensional Requirements in this Section

17. MANUFACTURED HOUSING

a. Intent: It is the intent of this Ordinance to provide a variety of housing alternatives to all economic levels within the community, while continuing to insure the minimum standards of health, safety and welfare of the community. To this end, this ordinance allows the siting of all types of manufactured housing within designated areas of the Town regardless of their construction date or compliance with all the standards of the Manufactured Home and Construction Safety Standards of the Department of Housing and Urban Development, adopted in 1975. The Town does hereby require however, that all manufactured housing sited within the Town of East Millinocket meet certain minimum safety and design criteria:

b. Minimum Safety Standards: All manufactured housing as defined in this ordinance, regardless of date of manufacture, and sited within the Town of East Millinocket after the effective date of this ordinance, shall meet or exceed the following minimum standards before a "Certificate of Occupancy" shall be issued by the Code Enforcement Officer in conformance with Section VI. H of this Ordinance.

c. HUD Approval Sufficient: All manufactured houses constructed after 1975 and bearing the seal of the Department of Housing and Urban Development which certifies the Manufactured Home was built pursuant to the provisions of the Manufactured Homes Construction and Safety Standards as revised shall be deemed to have fulfilled the requirements of this section.

d. Minimum Electrical Safety Standards: All manufactured housing shall meet the following minimum safety requirements for electrical installation and maintenance as provided for by the National Electrical Code as said code pertains to the following:

(1) 100 Ampere Entrance required;
(2) Copper wiring required;
(3) Two means of grounding required;
(4) Ground faulting receptacles required.

In addition, all electrical installation or modifications to existing manufactured housing shall be inspected by and certified by an electrician licensed by the State of Maine or the Municipal Code Enforcement Officer if duly appointed as electrical inspector.

e. Minimum Fire Prevention Standards: All manufactured housing shall meet the following minimum fire safety requirements as provided for by

SECTION V: LAND USE STANDARDS (Continued)

the National Electrical Code and the Manufactured Housing Construction Standards of 1975 established by the Department of Housing and Urban Development (HUD).

17. MANUFACTURED HOUSING (cont.)

(1) All homes shall contain at least one operable fire extinguisher which is readily accessible at all times;

(2) All homes shall have at least one operable AC smoke detector centrally located within the home and one operable smoke detector in each of the bedrooms;

(3) The installation and maintenance of all heating systems including vents, chimneys, and encompassing secondary and tertiary as well as primary heating sources, shall meet the standards of NFPA 211. In addition, no wood stove shall be used for heating purposes in a manufactured home in the Town of East Millinocket without first being inspected and approved by the East Millinocket Fire Department for safe installation;

(4) All automatic dryers, whether electric or gas, must meet the venting requirements of the Manufactured Home Construction Standards of 1975 as established by HUD; and;

(5) All manufactured homes must meet the egress requirements of the Manufactured Home Construction Standards of HUD, to wit, all manufactured homes shall provide for at least two means of egress from each bedroom, one of which must be directly to the outside of the home and may be accomplished by way of a window of suitable size which can be opened easily without tools, and two doors exiting directly to the outside of the home separated by distances as established by the standards.

f. Minimum Plumbing Standards: All manufactured housing shall meet the minimum standards of the Maine Plumbing Code as amended.

g. Minimum Design Standards: All manufactured housing will be sited and maintained in such a manner as to blend harmoniously with other residential structures in close proximity, to this end all manufactured housing located within the Town of East Millinocket after the effective date of this ordinance shall:

SECTION V: LAND USE STANDARDS (Continued)

17. MANUFACTURED HOUSING (cont.)

(1) Have and maintain external siding which is residential in appearance for the manufactured home as well as any additions thereto or accessory structures located on the same lot;

(2) Be located on a permanent foundation.;

(3) Provide a safe means of egress and ingress to and from the manufactured home including stairs with handrails when applicable.

18. MINERAL EXPLORATION AND EXTRACTION

The following requirements for mineral exploration and extraction activities shall apply in all Districts:

(1) All exploration/extraction activities, including test pits and holes, shall be promptly capped, refilled, or secured by other equally effective measures so as to reasonably restore disturbed areas and to protect the public health and safety;

(2) No portion of any ground area disturbed by the extraction activity shall be closer than 25 feet from an public roadway or 75 feet from any property line in the absence of the prior written agreement of the owner of such adjoining property;

(3) Within 250 feet of any water body the extraction areas shall be protected from soil erosion by ditches, sedimentation basins, dikes, dams or such other control devices which are effective in preventing sediments from being eroded or deposited into such water body.

(4) A natural vegetative screen of not less than 50 feet in width shall be retained from any facility intended primarily for public use, excluding privately owned roads; and

(5) If any mineral extraction operation located within 75 feet of any property line or public roadway or facility intended primarily for public use, excluding privately owned roads, is to be terminated or suspended for a period of one year or more, the site shall be rehabilitated by grading the soil to a slope of 2 horizontal to 1 vertical, or flatter.

SECTION V: LAND USE STANDARDS (Continued)

19. MOBILE HOME PARK STANDARDS

Notwithstanding other provisions of this Ordinance relating to bulk, and use, the Planning Board in reviewing submitted plans for proposed mobile home parks, may modify said provisions related to space, bulk and use to permit innovative approaches to environmental design in accordance with the following standards;

a. There shall be compliance with all State and local codes and ordinances;

b. All utilities shall be installed underground wherever possible. All transformer boxes, substations, pumping stations, and meters as well as fixtures and other devices used in the transmission of voice, data and broadcast signals, shall be located and designed so as not to be unsightly or hazardous to the public;

c. No mobile home shall be located closer than twenty (20) feet to a street or adjacent mobile home;

d. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot, such access shall have a minimum of fifty (50) foot right-of-way and a twenty (20) feet road width. All park streets shall be well drained, maintained in good condition, and adequately lighted at night;

e. Dead end streets shall be limited in length to one thousand (1000) feet and at the closed end shall be provided with a turn around having a minimum radius of sixty (60) feet;

f. Walkways not less than two (2) feet in width shall connect each mobile home stand to a street or to a driveway connecting to a street;

g. Off-street parking in all mobile home parks shall be furnished at the rate of at least two (2) car spaces for each mobile home. Parking spaces shall be properly graveled and shall be located at a distance not to exceed two-hundred feet from the mobile home that it is intended to serve;

h. Mobile home stands shall provide an adequate foundation for the placement of a mobile home; such foundation shall meet the requirements of the duly adopted Building Code of East Millinocket; and

i. All individual mobile homes shall be equipped with skirting or other type of enclosure.

SECTION V: LAND USE STANDARDS (Continued)

20. NOISE

Land use activities shall meet the following provisions:

a. Maximum Levels

The maximum permissible sound pressure level of any continuous, regular or frequent or intermittent source of sound produced by any activity shall be limited by the time period and land use which it abuts listed below. Sound levels shall be measured at least 4 feet above ground at the property boundary of the source.

Sound Pressure Level Limits
Using the Sound Equivalent
Level of One Minute (leq 1)
Measured in dB (a) Scale)

District	7:a.m. - 10:p.m.	10:p.m. - 7:a.m.
Residential	55	45
Commercial	65	55
Industrial	70	60

b. Meters

Noise shall be measured by a meter set on the A-weighted response scale, fast response. The meter shall meet the American National Standards Institute (ANSI S1 4-1961) "American Standard Specification for General Purpose Sound Level Meters".

c. Construction

No person shall engage in construction activities, on a site abutting any residential use between the hours of 10 p.m. and 7 a.m.. Otherwise, the following activities shall be exempt from these regulations.

1) Sounds emanating from construction and maintenance activities conducted between 7 a.m. - 10 p.m..

2) Sounds emanating from safety signals, warning devices, emergency pressure relief valves and other emergency activities.

SECTION V: LAND USE STANDARDS (Continued)

21. OFF-STREET PARKING (cont.)

(7) Restaurants, eating and drinking establishments -- 1 parking space for every 4 seats, plus 1 space for every 2 employees, unless public parking is provided;

(8) Professional Offices and public buildings -- 1 parking space for every 200 square feet of gross leasable area, exclusive of cellar and bulk storage areas, unless public parking is provided;

(9) Marinas -- Minimum of 1 parking space for each docking and mooring space;

(10) Other Commercial Recreation Establishments (mini golf courses, etc.) -- The number of spaces deemed appropriate by the Planning Board; and

(11) Industrial -- 1 parking space for each 1.5 employees, based on the highest expected average employee occupancy, plus visitor and customer parking to meet the needs of specific operations.

22. OFF-STREET LOADING

In any District where permitted or allowed, commercial or industrial uses shall provide, as necessary, off-street parking as set forth in the above provision. Off-street loading facilities shall be located entirely on the same lot as the building or use to be served so that trucks, trailers and containers shall not be located for loading or storage upon any public way. Off-street loading shall meet the following provisions:

a. All loading spaces shall be designed so that all vehicles using them shall park or stand completely off the street;

b. Joint use of loading spaces by two or more users in a Commercial or Industrial District may be authorized by the Planning Board upon review;

c. All off-street loading spaces shall be on the same or adjacent lot which is being served.

d. Required loading spaces shall in no case be part of the area used to satisfy the off-street parking requirements of this Ordinance.

SECTION V: LAND USE STANDARDS (Continued)

21. OFF-STREET PARKING

a. Off-street parking, either by means of open air spaces or by garage space, in addition to being a permitted use, shall be considered as an accessory use when required or provided to serve conforming uses located in any District;

b. Required off-street parking spaces shall be provided;

c. The following minimum off-street parking requirements shall be provided and maintained in case of new construction, alterations and changes of use;

(1) Dwellings - Two (2) parking spaces for each dwelling unit;

(2) Transient Accommodations:

(a) Bed and Breakfast accommodations and motels, hotels, boarding houses, and inns with 10 rooms or less -- Two (2) parking spaces plus one space for each guest room; and

(b) Motels, hotels, boarding houses, and inns with more than 10 rooms -- One (1) parking space for each guest plus one (1) space for each 3 employees;

(3) Schools -- Five (5) parking spaces for each room plus 1 space for every 4 employees;

(4) Health Institutions (bed facilities only) -- 1 parking space for every 3 beds, plus 1 for each employee based on the expected average employee occupancy;

(5) Theaters, churches, and other public assembly places -- 1 parking space for every 4 seats or for every 100 square feet or major fraction thereof of assemblage space if no fixed seats;

(6) Retail Stores -- 1 parking space for every 200 square feet of retail area, plus one space for every two employees, unless public parking is provided;

SECTION V: LAND USE STANDARDS (Continued)

23. OIL AND CHEMICAL STORAGE

a. All storage of petroleum or liquid petroleum products shall be in conformance with the provisions of Title 38 MRSA, Section 560 et seq., which among other things establishes a ten-year compliance schedule for the discontinuance and removal of non-conforming underground oil storage facilities and requires qualified personnel to oversee the removal of certain underground facilities; and

b. When applicable, the applicant shall have the burden of proof to assure the Planning Board or Code Enforcement Officer that all provisions of the above statutes have been met before the issuance of any permits may take place.

24. PESTICIDE APPLICATION

Pesticide application in any of the Districts shall not require a permit provided such application is in conformance with applicable State and Federal statutes and regulations.

25. POLLUTION LEVELS

Any pollutant introduced into soil on the site shall not exceed a concentration in the ground water that is greater than the guideline established for it in the Safe Drinking Water Standard, EPA Health Advisory, or NAS Health Advisory. Any violation of this standard shall be cause to order the immediate stop of the use or activity responsible for the contamination. The land owner shall be responsible for the cost of all remedial actions.

26. REFUSE DISPOSAL

The applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. The impact of particular industrial or chemical wastes or by-products upon the sanitary facilities (in terms of volume, flammability or toxicity) shall be considered and the applicant may be required to dispose of such wastes elsewhere, in conformance with all applicable state and federal regulations. The applicant may be required to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

SECTION V: LAND USE STANDARDS (Continued)

27. SEWAGE DISPOSAL

a. Subsurface Sewage Disposal
No permit shall be issued for a project with subsurface sewage disposal unless:

(1) There is an area of suitable soils according to the Subsurface Waste Water Disposal rules of sufficient size to accommodate the proposed system

(2) An acceptable plan to construct the absorption area is prepared in accordance with the Subsurface Waste Water Disposal Rules; and

(3) In lieu of (1) and/or (2) above, the applicant demonstrates that any deficiencies of the soil for purposes of sewage disposal can and will be overcome by a suitable engineering solution; No development shall be permitted which utilizes, for on-site subsurface sewage disposal purposes, any soil listed in the Soil Suitability Guide as having a very poor rating for the proposed use, unless the proposed sewage disposal system is approved under the Subsurface Waste Water Disposal Rules.

b. Sewage Sludge Disposal
The following requirements shall apply to sewage sludge disposal wherever allowed: All septic sludge disposal shall conform with the "Maine Guidelines for Septic Tank Sludge Disposal on the Land" published by the University of Maine at Orono and the Maine Soil and Water Conservation Commission in April, 1974.

28. SIGNS

a. Conformance of Signs
No sign shall hereafter erected, altered or maintained within the limits of the Town of East Millinocket except in conformance with the provisions of this section.

b. Signs Prohibited
No sign, whether new or existing, shall be permitted within the Town of East Millinocket which causes a sight, traffic, health or welfare hazard, or results in a nuisance, due to illumination, placement, display, or obstruction of existing signs.

SECTION V: LAND USE STANDARDS (Continued)

28. SIGNS (cont.)

c. On Premise Signs

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

(1) The maximum size for each individual sign in a Residential Development District shall not exceed four (4) square feet;

(2) The maximum size for each individual sign located in a District other than a Residential Development District unless otherwise limited or prohibited shall not exceed forth (40) square feet;

(3) On-premise signs, other than wall or projecting signs, shall not extend more than 20 feet above ground level, and shall not have a supporting structure which extends more than two (2) feet above such sign;

(4) The maximum aggregate area of signs for an individual use in a Residential Development District shall not exceed six (6) square feet;

(5) No sign shall be permitted which is erected or maintained on any tree or painted or drawn upon any rock or other natural feature or any utility pole;

(6) One sign identifying the name, address and profession or occupation of a permitted home occupation or a lawfully existing non-conforming home occupation is permitted provided that such sign does not exceed four (4) square feet in area and is not internally illuminated; and

(7) Directional signs solely indicating ingress and egress placed at driveway locations, containing no advertising material or display area, not exceeding two (2) square feet, and not extending higher than four (4) feet above ground level are permitted.

SECTION V: LAND USE STANDARDS (Continued)

28. SIGNS (cont.)

d. Temporary Signs

The following temporary signs are permitted provided said signs conform to all standards of this section and all other municipal, federal and state ordinances, statutes and/or regulations:

(1) Temporary Signs Giving Notice

Signs of a temporary nature, such as political posters, advertisements or charitable functions, notices of meetings, other non-commercial signs of a similar nature, are permitted for a period not to exceed thirty (30) days, provided that the persons who posted the signs shall be responsible for their removal.

(2) Temporary Yard Sale Signs

Temporary yard sale signs are permitted provided they do not exceed the size standards of Subsection e and provided they are removed within 24 hours of the completion of the sale. Yard sales which extend for more than four (4) consecutive days are considered commercial use.

e. Sign Requirements

All signs within the limits of the Town of East Millinocket shall meet the following requirements:

(1) No sign shall project over a walkway or interfere in any way with the normal flow of foot or vehicular traffic. All free standing signs shall be set back a minimum of five (5) feet from property lines in all Districts;

(2) No sign shall contain, include, or be illuminated by flashing, blinking, intermittent, or moving lights;

(3) Signs may be illuminated only by shielded non-flashing lights so as to effectively prevent beams or rays of light from being directed at neighboring residential properties or any portion of the main traveled way of a roadway, or is of such low intensity or brilliance as not to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with the operation thereof.

SECTION V: LAND USE STANDARDS (Continued)

29. SIGNS (cont.)

f. Exempt Signs
The following signs are exempt from the provisions of this section except as otherwise provided for herein:

(1) Signs erected by a government body; and

(2 Traffic control signs, signals, and/or devices.

29. SITE CONDITIONS

a. During construction, the site shall be maintained and left each day in a safe and sanitary manner, and any condition which could lead to personal injury or property damage shall be immediately corrected by the developer upon order by the Code Enforcement Officer or other authorized personnel. The developer shall make provision for disposal of oil and grease from equipment and the site area should be regular treated to control dust from construction activity.

b. Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris, and excess or scrap building materials shall be removed or destroyed immediately upon the request of and to the satisfaction of the Code Enforcement Officer prior to issuing an occupancy permit; and

c. No changes shall be made in the elevation or contour of the lot or site by the removal of earth to another lot or site other than as shown on an approved site plan. Minimal changes in elevations or contours necessitated by field conditions may be made only after approval by the Code Enforcement Officer/Planning Board and as duly noted on the site plan.

30. 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, and water pollution, whether during or after construction.

SECTION V: LAND USE STANDARDS (Continued)

31. TEMPORARY STORAGE

Portable or mobile trailers, vans and similar vehicles or temporary buildings may be used for storage, only upon approval of the Code Enforcement Officer and only for a temporary period not to exceed six (6) months. Such approval may be granted by the Code Enforcement Officer and may be extended for successive periods of six (6) months each, if a finding can be made that the use:

a. Does not diminish area requirements as set forth for the District in which it is located;

b. There is a valid temporary need which cannot be met within the principal structure and that adequate economic hardship can be shown;

c. The initial approval, or any renewal, of the use will not in any way be detrimental to the neighboring properties including aesthetic appearance;

d. The use is not intended as a permanent or long term use;

e. The use is not intended to circumvent building area limitations for the District in which it is located or prolong the use of facilities which have been outgrown;

f. Will be adequately screened from neighborhood properties and the street;

g. Will not be used as or intended for advertising for on or off premises purposes;

h. Is not intended for retail sales.

The above provisions do not prohibit the use of such temporary facilities as construction or job site office or equipment storage facilities during construction provided that no advertising other than the contractor's name shall be permitted and that such signs meet the sign requirements of this Ordinance.

32. TOPSOIL AND VEGETATION REMOVAL

a. Topsoil shall be considered part of the development and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations;

SECTION V: LAND USE STANDARDS (Continued)

32. TOPSOIL AND VEGETATION REMOVAL (cont.)

b. Except for normal thinning, landscaping, cutting or trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion. The Planning Board shall require a developer to take measures to correct and prevent soil erosion in the proposed development.

33. TRANSIENT ACCOMMODATIONS: "BED AND BREAKFAST"
"Bed and Breakfast" accommodations shall be permitted in the private, year-round residence of the host family who live on the premises provided that:

a. The maximum number of guests at any time is ten (10) persons. Children under 12 are exempt from this provision;

b. The maximum number of guest rooms is five (5);

c. Breakfast is the only meal provided by the host family;

d. One (1) sign not to exceed four (4) square feet is permitted on the premises; and

e. The "Bed and Breakfast" operation shall not have any adverse effect on neighbors.

34. TRANSIENT ACCOMMODATIONS: "RENTAL CABINS AND COTTAGES"
To insure the health, safety, and welfare of guests and the occupants of neighboring properties, the following requirements shall be met:

a Each cabin or cottage site shall meet the minimum lot size requirements of a single family detached dwelling in the applicable District;

b. A minimum of two hundred (200) square feet of off-street parking plus maneuvering space shall be provided for each cabin or cottage;

c. Each cabin or cottage shall be set back a minimum of fifty (50) feet from the exterior lot lines;

d. Each cabin or cottage shall be provided with a safe and adequate means of sewage, garbage and rubbish disposal, water supply and fire protection;

e. Adequate storm water drainage shall be provided for each cabin or cottage site; and

f. Each cabin or cottage site shall be appropriately landscaped.

SECTION V: LAND USE STANDARDS

B. DIMENSIONAL REQUIREMENTS

All structures and uses shall meet or exceed the following dimensional requirements:

District Dimensional Requirements	(RD) Residential Development District
Minimum Lot Size	
Municipal Sewer	10,000 Square Feet
Subsurface Disposal	20,000 Square Feet
Minimum Lot Area Per Family	5,000 Square Feet
Minimum Road Frontage	100 Feet
Minimum Lot Width	100 Feet
Minimum Lot Depth	100 Feet
Minimum Front Yard Setback	35 Feet
From Edge of Traveled Way (Corner Lot)	20 Feet
Minimum Side Yard Setback	Frontage - Setback > 100' - 10 Feet < 100' - 5 Feet
Minimum Rear Yard Setback	Frontage - Setback > 100' - 10 Feet < 100' - 5 Feet
Maximum Building Height	30 Feet
Maximum Lot Coverage	30%

SECTION V: LAND USE STANDARDS

B. DIMENSIONAL REQUIREMENTS (cont.)

District Dimensional Requirements	(C) Commercial District
Minimum Lot Size	
Municipal Sewer	10,000 Square Feet
Subsurface Disposal	20,000 Square Feet
Minimum Lot Area per Family	5,000 Square Feet
Minimum Road Frontage	60 Feet
Minimum Lot Width	60 Feet
Minimum Lot Depth	75 Feet
Minimum Front Yard Setback From Edge of Traveled Way	20 Feet
Minimum Side Yard Setback	8 Feet
Minimum Rear Yard Setback	24 Feet
Maximum Building Height	30 Feet
Maximum Lot Coverage	

SECTION V: LAND USE STANDARDS

B. DIMENSIONAL REQUIREMENTS (cont.)

District Dimensional Requirements	(ID) Industrial District
Minimum Lot Size	10,000 Square Feet
Minimum Road Frontage	100 Feet
Minimum Lot Width	100 Feet
Minimum Lot Depth	100 Feet
Minimum Front Yard Setback	50 Feet
Minimum Side Yard Setback	50 Feet
Minimum Rear Yard Setback	50 Feet
Maximum Building Height	45 Feet*
Maximum Lot Coverage	50%

* No building shall be exceed three stories or 45 feet in height without approval of the East Millinocket Planning Board. Features of buildings or structures, such as chimneys, tower, ventilators, and spires, may exceed 45 feet in height, but shall be set back from the nearest lot line a distance of not less than the height of such feature or structure, unless a greater set back is required by other provisions of this Ordinance.

SECTION V: LAND USE ORDINANCE

B. DIMENSIONAL REQUIREMENTS

District Dimensional Requirements	(IPD) Industrial Park District
Minimum Lot Size	10,000 Square Feet
Minimum Road Frontage	100 Feet
Minimum Lot Width	100 Feet
Minimum Front Yard Setback	50 Feet
Minimum Side Yard Setback	50 Feet
Minimum Rear Yard Setback	50 Feet
Maximum Lot Coverage	50 %
Maximum Building Height	45 Feet*

* No building shall exceed three stories or 45 feet in height, except without approval of the East Millinocket Planning Board. Features of buildings and structures, such as chimneys, tower, ventilators, and spires, may exceed 45 feet in height, but shall be set back from the nearest lot line a distance of not less than the height of such feature or structure, unless a greater set back is required by other provisions of this Ordinance.

SECTION V: LAND USE STANDARDS

B. DIMENSIONAL REQUIREMENTS (cont.)

District Dimensional Requirements	(AP) Aquifer Protection District
Minimum Lot Size	NA
Minimum Road Frontage	NA
Minimum Setbacks	NA

District Dimensional Requirements	(R) Rural District
Minimum Lot Size	
Municipal Sewer	10,000 Square Feet
Subsurface Wastewater Disposal	20,000 Square Feet
Minimum Lot Size per Dwelling	NA
Minimum Frontage and Setbacks	NA
Maximum Building Height	30 Feet

SECTION VI: ADMINISTRATION AND ENFORCEMENT

Section Uses Guide: This section contains provisions for the administration of this Ordinance including specific provisions for certificates of compliance, conditions of approval, and public hearings.

A. CREATION OF ADMINISTERING BODIES AND AGENTS

1. CODE ENFORCEMENT OFFICER

The office of Code Enforcement is hereby established. The Code Enforcement Officer shall be appointed by the Selectpersons of the Town of East Millinocket.

The Code Enforcement Officer shall approve or deny those applications on which he/she is employed to act as provided in this Ordinance. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance.

2. PLANNING BOARD

The Planning Board of the Town of East Millinocket is hereby designated as the Planning Board heretofore, established in accordance with Article VIII, Pt 2, Section 1 of the Maine Constitution and Title 30-A MRSA, Section 3001. The Planning Board shall be appointed by the Selectpersons of the Town of East Millinocket.

The Planning Board shall approve, approve with conditions, or deny those applications on which it is empowered to act as stated in this Ordinance. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance.

3. BOARD OF APPEALS

The Board of Appeals for the Town of East Millinocket is hereby designated as the Board of Appeals heretofore, established in accordance with Article VIII, Pt. 2, Section 1 of the Maine Constitution and with Title 30-A MRSA, Section 3001. The Board of Appeals shall be appointed by the Selectpersons of the Town of East Millinocket.

B. APPROVAL REQUIRED

After the effective date of this Ordinance, no person shall engage in any activity requiring a permit under this Ordinance without first obtaining the approval of the Planning Board or Code Enforcement Officer, as provided herein.

SECTION VI: ADMINISTRATION AND ENFORCEMENT (Continued)

C. APPLICATION REQUIRED

Applications for approval shall be submitted in writing, on forms provided, to the Code Enforcement Officer who shall oversee the permitting process and record keeping. The Code Enforcement Officer may require the submission of additional information deemed necessary to determine conformance with the provisions of this Ordinance.

D. OTHER PERMITS REQUIRED BEFORE APPROVAL

Applications for approval under this Ordinance will not be considered complete for processing until all other required local, state, and federal permits have been secured and evidence that they have been secured has been provided unless state or federal regulations require local approval first.

E. POSITIVE FINDINGS REQUIRED

Approval shall be granted by the Code Enforcement Officer or Planning Board, after receipt of a complete application, only upon a positive finding by the Code Enforcement Officer or Planning Board that the proposed use:

a. Is a permitted use in the district/zone in which it is proposed to be located;

b. Is in conformance with the applicable performance standards of Section V of this Ordinance;

c. Will not result in unsafe or unhealthful conditions;

d. Will not result in undue land, water, or air pollution;

e. Will not result in undue erosion or sedimentation;

f. Will avoid problems associated with development in flood hazard areas;

g. Will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;

h. Will conserve significant natural, archaeological and historical resources;

i. Will minimize traffic congestion and provide for orderly traffic flow.

SECTION VI: ADMINISTRATION AND ENFORCEMENT (Continued)

F. VIOLATIONS

Violation of the terms and conditions of this Ordinance shall be corrected within 30 days of receipt of Notice of Violation, unless an extension of time is granted by the Code Enforcement Officer or Planning Board, said violation may void all permits. In the situation of public endangerment, the Code Enforcement Officer may order the immediate correction and abatement of violation.

G. COMMENCEMENT AND COMPLETION OF WORK

Construction and alteration activities for which approval has been granted under this Ordinance shall commence within six (6) months of the date of permit issuance and shall be substantially completed within twenty-four (24) months of the date of permit issuance.

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

Activities may be extended in (1) year increments by the Code Enforcement Officer or Planning Board if application is submitted not later than thirty (30) days prior to expiration.

H. CERTIFICATE OF OCCUPANCY REQUIRED

After a building, structure, or part thereof has been erected, altered, enlarged, or moved, pursuant to approval under this Ordinance, a Certificate of Occupancy shall be obtained from the Code Enforcement Officer for the proposed use before the same may be occupied or used. A Certificate of Occupancy is required for all activities granted approval under the terms of this Ordinance.

I. PUBLIC HEARINGS

Following the filing of an application, and before taking action on any application, the Planning Board may hold a public hearing on the application within 30 days of receipt of completed application. In scheduling public hearings under this Ordinance, the Planning Board shall notify the Selectpersons in advance of the date, time and place of the hearing. The Town Clerk shall publish notice of the hearing at least seven (7) days in advance in a newspaper of general circulation in the area at least one (1) time and shall post such notice in at least two (2) conspicuous public places at least seven (7) days in advance of the hearing.

SECTION VI: ADMINISTRATION AND ENFORCEMENT (Continued)

I. PUBLIC HEARINGS (Continued)

At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause. The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairperson of the Planning Board or designated hearing officer.

Within thirty-five (35) days of the public hearing, the Planning Board shall reach a decision on the proposed development plan and shall inform the applicant and the Selectpersons in writing within seven (7) days of its decision stating its reasons. The Planning Board shall prepare detailed, written findings of fact, based on sufficient evidence presented at the public hearing, as well as its conclusions and the reasons or basis thereof. These findings shall not be based on feelings or unsubstantiated allegations, but upon the evidence contained in the record of the hearing.

J. ENFORCEMENT

1. NUISANCES

Any violation of this Ordinance shall be deemed to be a nuisance.

2. CODE ENFORCEMENT OFFICER

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/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct the violation, including discontinuance of illegal use of land, buildings, structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.

3. LEGAL ACTIONS

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Selectpersons, upon notice from the Code Enforcement Officer, are hereby authorized and 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 the Ordinance in the name of the municipality.

4. FINES
Any person who continues to violate any provisions of this Ordinance after receiving notice of such violation shall be guilty of a misdemeanor subject to a fine of a minimum of $100.00 - $2,500.00 for each violation.

5. CONTRACTOR LIABILITY
Any contractor involved in any activity regulated by the provisions of this Ordinance may be held liable for violating this Ordinance if the necessary permits for said activity have not been obtained.

K. APPEALS

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

2. VARIANCES
The Board of Appeals shall authorize variances upon appeal, within the limitations set forth in this Ordinance.

a. Dimensional variances may be granted only from dimensional requirements including frontage, lot area, lot width, height, and setback requirements.

b. Variances shall not be granted for establishment of any use otherwise prohibited by this Ordinance.

c. The Board shall not grant a variance unless it finds that:

1. The proposed structure or use would meet the performance standards of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought: and

2. The strict application of the terms of this Ordinance would result in an undue hardship The term "undue hardship" shall mean all of the following:

SECTION VI: ADMINISTRATION AND ENFORCEMENT (Continued)

2. VARIANCES (cont.)

a. 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 circumstances of the property and not to the general condition in the neighborhood;

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

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

d. The Board may grant a variance to a property owner for the purpose of making the property accessible to a person with a disability who is living or regularly visits the property. The Board shall restrict any variance granted under this Sub-Section solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability.

e. The Board may grant a variance to a property owner from a setback requirement only when strict application of the zoning ordinance to a petitioner and the petitioners property would cause undue hardship. A variance under this section may not exceed 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 (if applicable). If the petitioner has obtained the written consent of an affected abutting landowner, the 20% limitation may be extended. The term "undue hardship" for this section means:

1. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

2. he granting of a variance will not alter the essential character of the locality;

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

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

SECTION VI: ADMINISTRATION AND ENFORCEMENT (Continued)

2. VARIANCES (cont.)

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

3. APPEAL TO SUPERIOR COURT

An appeal may be taken within thirty (30) days after any decision is rendered by the Board of Appeals, by any party to Superior Court in accordance with State Law.

L. VARIANCE RECORDED

If the board grants a variance under this section, 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. The certificate must be recorded in the local registry of deeds within 90 days of the date of the final written approval of the variance or the variance is void. The date of the final written approval shall be the date stated on the written approval.

M. FEE SCHEDULE

All applications for permits shall be in accordance with the fee schedule as established by the Selectpersons of the Town of East Millinocket. Fees shall be for the cost of processing the various permits and shall not be refundable regardless of the final decision to issue or deny a permit.

SECTION VII: DEFINITIONS

A. CONSTRUCTION OF LANGUAGE

1. In this Ordinance, certain terms or words should be interpreted as follows:

   a. The word "person" includes a firm;, association, organization, partnership, trust, company, or corporation, as well as individual;

   b. The present tense includes the future tense, the singular number includes the plural and plural includes the singular;

   c. The word "shall" is mandatory;

   d. The word "may" is permitted;

   e. The words "used" or "occupied" includes the words "intended", "designed", or "arranged to be used or occupied"; and

   f. The word "dwelling" includes the word "residence".

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

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

B. DEFINITIONS

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

ABUTTING: Having a common border with, or being separated from such common border by an alley or easement.

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

ACCESSORY STRUCTURE: See Structural Terms

ACRE: A measure of land containing forty-three thousand, five hundred and sixty (43,560) square feet.

AGGRIEVED PERSON: A person whose interests are damaged or adversely affected by a decision, an action, or the failure to act by the Planning Board or Code Enforcement Officer.

SECTION VII: DEFINITIONS (Continued)

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

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

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

AUTOMOBILE SALES: A lot arranged, designed, or used for the storage and display for sale of any motor vehicle and where no repair work is done except minor incidental repair of automobiles or trailers displayed and sold on the premises.

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

BED AND BREAKFAST: Accommodations provided for compensation as a business in the private year-round residence of the host family, consisting of a maximum of five guest rooms and 10 guests at any one time, not including children under 12 years of age. Breakfast is the only meal, if any, to be provided for compensation.

BUFFERS: Units of land, together with specified types and amounts of planting thereon and any structures which may be required between land uses to eliminate or minimize conflicts between them.

BUILDING: A roofed structure. See Structural Terms

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

CAMPGROUND: Any premises established for overnight use for the purpose of temporary camping and for which a fee is charged directly or indirectly.

CERTIFICATE OF OCCUPANCY: Official certification that a premises conforms to provisions of the Land Use Ordinance (and building code, electrical code, plumbing code, and life safety code) and may be used or occupied. Such a certificate is granted for new construction or for alteration or additions to existing structures. Unless such a certificate is issued, a structure cannot be lawfully occupied.

SECTION VII: DEFINITIONS (Continued)

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

CODE ENFORCEMENT OFFICER: A person appointed by the Board of Selectpersons to administer this Ordinance.

DAY CARE CENTER: As defined in Title 22, MRSA, Section 1673, as a house or other place in which a person or combination of persons maintains or otherwise carries out a regular program, for consideration, for any part of a day, providing care and protection for 3 or more children under the age of 16 unrelated to the operator, not to include nursery schools, summer camps, formal public or private schools, and further defined by the Department of Human Services as follows:

> Day Care Center: A Day Care Facility as defined in State Statutes for 13 or more children on a regular basis; and
>
> Day Care Home: A Day Care Facility as defined in State Statutes for 3 to 12 children on a regular basis.

DEVELOPER: The legal or beneficial owner(s) of a lot or parcel of any land proposed for inclusion in a development, including the holder of an option or contract to purchase.

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

EASEMENT: Legally binding authorization by a property owner of the use by another and for a specified purpose of any designated part of his property.

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

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

SECTION VII: DEFINITIONS (Continued)

ESSENTIAL SERVICES: The construction, alteration, maintenance of gas, electrical, communication facilities, steam, fuel or water transmission or distribution systems, collection supply or disposal systems. Such systems include tower, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories. These systems are exempt from the definition of a structure.

EXTENSION OR TO EXTEND: An increase in the amount of floor area used for an existing use within an existing building. To "extend" is to make an extension.

FAMILY: Two (2) or more persons related by blood, marriage or adoption or guardianship, or not more than five (5) persons not so related occupying a dwelling unit and living as a single housekeeping unit; such a group to be distinguished from a group occupying a boarding house, lodging house, club, or fraternity, or hotel.

FOREST MANAGEMENT TERMS:

> Forest Management Activities: Timber harvesting and other forest resources evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting and other similar associated activities but not the construction or creation of roads.
>
> Timber Harvesting: The cutting and removal of trees from their growing site, and the attendant operation of harvesting machinery, but not the construction of roads. Timber harvesting does not include the clearing of land for approved construction.

GARAGE, RESIDENTIAL: An accessory building for parking or temporary storage of automobiles of residential occupants of the premises, or a part of the residence usually occupying the ground floor area of principal one-or-two family dwellings, not more than one (1) space may regularly be used by the private passenger automobile or a person not residing on the premises.

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

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

HOME OCCUPATION: A business, profession, occupation, or trade conducted for gain or support and located entirely within a residential building or a structural accessory thereto, which use is accessory, incidental and secondary to the use of the building for dwelling purposes, and does not change the residential character or appearance of such building.

SECTION VII: DEFINITIONS (Continued)

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

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

IN-LAW APARTMENTS: See Structural Terms

JUNKYARDS:

Automobile Graveyards: A yard, field or other area used as a place of storage for three (3) or more unserviceable, discarded, worn-out or junked automobiles.

Junkyard: A yard, field or other area used as a place of storage for discarded worn-out or junked plumbing, heating supplies, household appliances, furniture, scrap lumber, old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and scrap iron, steel and other ferrous and non-ferrous material including garbage dumps, waste dumps and sanitary landfills.

Auto Recycling Business: An automobile recycling business is a business which purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts, rebuilding or repairing salvage vehicles for resale.

LAND USE PERMIT: A permit for proposed land use activity as defined in this Ordinance and issued by the Planning Board or Code Enforcement Officer in accordance with the provisions of this Ordinance.

LIGHT MANUFACTURING: The fabrication or processing of materials into a finished product. Fabrication relates to the stamping, cutting or otherwise shaping the processed material into useful products/objects.

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

SECTION VII: DEFINITIONS (Continued)

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

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

LOT COVERAGE: The percentage of the lot covered by impervious surfaces.

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

LOT FRONTAGE: Lot width measured at the street lot line. When a lot has more than one street lot line, lot width shall be measured, and the minimum lot width required by the Ordinance shall be provided, on at least one street.

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

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

LOT OF RECORD: Any validly recorded lot which at the time of its recordation complied with all applicable laws, ordinances, and regulations.

SECTION VII: DEFINITIONS (Continued)

LOT STANDARDS: The combination of controls which establishes the maximum size of a building and its location on the lot. Components of lot standards, also known as "space and bulk" regulations in size and height of building; location or exterior walls at all levels with respect to lot line, streets, and other buildings; building coverage; gross floor area of buildings in relation to lot area; open space (yard) requirements; and amount of lot area provided per dwelling unit.

MANUFACTURED HOUSING: A structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or places on an independent chassis, to a building site.

For the purposes of this Ordinance, three (3) types of manufactured housing will be referred to:

1. NEWER MOBILE HOME: Those units constructed after June 15, 1976, which the manufacturer certifies are constructed in compliance with the United States Department of housing and Urban Development standards and complies with the Manufactured Housing Construction and Safety Standards of 1974, et. seq., which in the traveling mode are 14 body feet or more in width and area 750 or more square feet and area constructed on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation;

2. OLDER MOBILE HOMES: Those units constructed before June 15, 1976, and not in compliance with the Manufactured Housing Construction and Safety Standards Act of 1974, which are constructed on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation , but does not include those smaller units commonly called "travel trailers"; and

3. MODULAR HOMES: Those units which the manufacturer certifies are constructed in compliance with the State's Manufactured Housing Act and regulations, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained herein.

MEDICAL CLINIC: An office building used by members of the medical profession for the diagnosis and out-patient treatment of human ailments.

SECTION VII: DEFINITIONS (Continued)

MINERAL EXTRACTION: The removal of sand, gravel, bedrock or soil from its natural site of geologic deposition or formation; the screening, sorting, crushing or other processing of any part of the geologic material so removed; the storage of sand, gravel, crushed stone, or soil in stock piles or other forms.

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

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

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

MUNICIPAL FACILITIES: Buildings or land which is owned by the Town of East Millinocket and operated under it supervision.

NON-CONFORMING USE: See USE TERMS

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

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

PARCEL: The entire area of a tract of land before being divided by a development.

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

PARKING SPACE: A surfaced area, enclosed or unenclosed, sufficient in size to store one automobile together with a driveway connecting the parking space with a street, road or alley and permitting ingress and egress of that automobile without the necessity of moving any other automobile.

PERFORMANCE STANDARD: A criterion established to control the use of land and structures. The purpose of performance standards is to provide detailed regulations and

SECTION VII: DEFINITIONS (Continued)

PERFORMANCE STANDARD (cont.)
restrictions by means of minimum criteria which must be met by uses in order to protect neighbors from adverse impacts of adjoining land uses and to protect the general health, safety and welfare of citizens of East Millinocket.

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

1. Customers normally provided with an individual menu, are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed; or

2. A cafeteria type operation where food and beverages generally are consumed within the restaurant building.

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

ROAD: A thoroughfare or way consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

Private Road: A thoroughfare or way designated for private use and maintained by a property owner or group of property owners.

Public Road: A public thoroughfare, way, or easement permanently established for passage of persons or vehicles.

SETBACK: The minimum distance from the edge of the traveled way or lot line to the nearest part of a structure.

SIGN ITEMS: Devise, model, banner, pennant, insignia, flag, or other representation which is used as, or in the nature of an advertisement, announcement or direction.

Billboards: Anything designed, intended or used for advertising a product, property, business, entertainment, service, amusement or the like, and not located where the matter advertised is available or occurs.

Free Standing: A sign supported by one or more uprights or braces permanently affixed into the ground.

SECTION VII: DEFINITIONS (Continued)

SIGN ITEMS (cont.)

Portable: A sign not designed or intended to be permanently affixed into the ground or to a structure.

Roof: A sign which is attached to a building and is displayed above the eaves of such building.

Temporary: A sign of a temporary nature, erected less than ninety (90) days, exemplified by the following: political poster, charitable signs, construction signs, carnival signs, garage sale signs, lawn sale signs, rummage sale signs, and all signs advertising sales of personal property, and for rent signs.

Wall: Any sign painted on, or attached to, the wall surface of a building and projecting therefrom not more than six (6) inches.

Window: Any on-premise, non-temporary sign visible from the exterior of the building or structure which is permanently painted, attached, glued, or otherwise affixed to a window.

Sign Area: The exposed surface of the sign including all ornamentation, embellishment, background, and symbols, but excluding the structure which does not form a part of the message of the sign measured in square feet.

STRUCTURAL TERMS:

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

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

SECTION VII: DEFINITIONS (Continued)

STRUCTURAL TERMS (cont.)

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

Dwelling: A building or portion thereof, used exclusively for residential occupancy, including single-family, two family and multiple family dwellings.

Dwelling Unit/Apartment: A room or group or rooms designed and equipped exclusively for use as living quarters for only one (1) family, including provisions for living, sleeping, cooking and eating.

Dwelling Unit/Single Family Dwelling: A dwelling designed for and occupied by not more than (1) family and having no roof, wall or floor in common with any other dwelling unit. The term shall include manufactured and prefabricated homes.

Dwelling, Two Family: A detached or semi-detached building used for residential occupancy by two (2) families living independently of each other.

In-Law Apartments: A separate dwelling unit which is located within and subordinate to a single family detached dwelling and which is occupied by a person or persons related to the owner and principal occupant of the dwelling unit by blood, marriage or adoption, whether or not said person or persons pay rent or share expenses with the owner thereof.

Structure: Anything constructed or erected, the use of which requires permanent location on, above or below the surface of the land, including a patio or deck.

TRANSIENT: A non-resident person residing within the Town of East Millinocket less than thirty (30) days.

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

Accessory Use: A use subordinate to a permitted use located on the same lot, and customarily incidental to the permitted use.

Principal Use: The specific primary purpose for which land is used.

SECTION VII: DEFINITIONS (Continued)

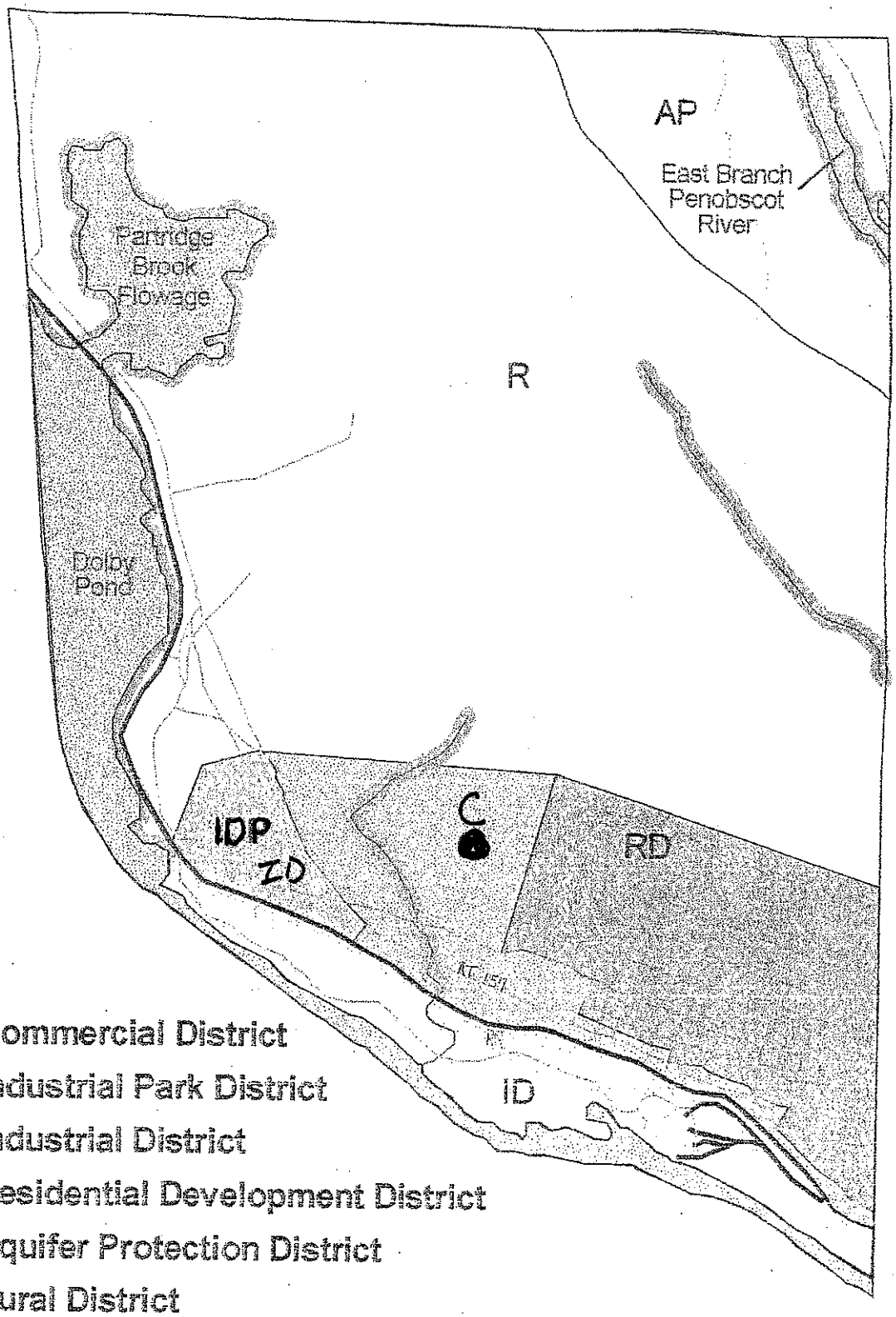
Conforming Use: A use which may be lawfully established in a particular district, provided it conforms with all the requirements, standards and regulations of such district.

Non-Conforming Use: A use which does not conform to the provisions of this Ordinance.

Open Space Use: A use which does not disturb the existing state of the land except to restore this land to a natural condition.

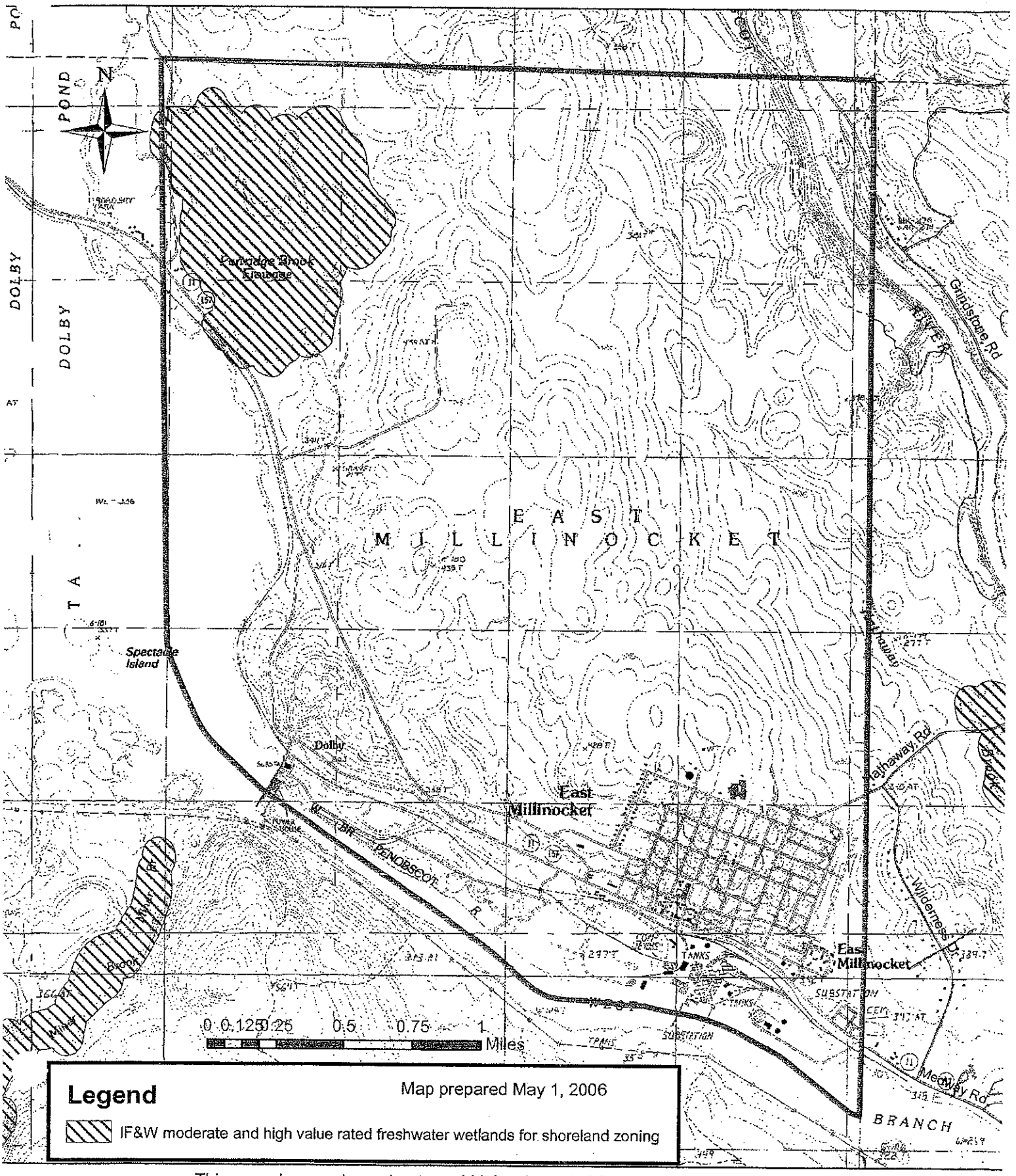
VARIANCE: A relaxation of the terms of this Ordinance where such a variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue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

Official Zoning Map of the Town of East Millinocket



- Commercial District
- IPD Industrial Park District
- ID Industrial District
- RD Residential Development District
- AP Aquifer Protection District
- R Rural District
- SP Shoreland Protection Districts
- Railroad

Town of East Millinocket Moderate & High Value Freshwater Wetlands



Legend

Map prepared May 1, 2006

IF&W moderate and high value rated freshwater wetlands for shoreland zoning

This map shows only moderate and high value rated freshwater wetlands.
Please note that low value and non-rated freshwater wetlands are still required to be zoned, as they have been since 1989.

APPENDIX A

METES AND BOUNDS DESCRIPTIONS
OF LAND USE DISTRICTS

Residential Development District

Residential District begins where the westerly line of land now or formerly owned by Christara Associates intersects with Church Street; thence, northerly along the westerly bound of Christara Associates and continuing in the same direction along an extension of the same line to a Point marking the extension of a line formed by a transmission line owned by Bangor Hydro Electric Company as said line runs in a generally east-west direction and parallel to North Street; thence easterly along said extension and the centerline of the Bangor Hydro Electric Company transmission line, continuing in the same direction to the easterly bound of the town; thence southerly along the easterly bound of the town to the intersection of the easterly bound of the town with Rt. 157; thence generally westerly along Rt. 157 to the intersection of Rt. 157 and Oak Street; thence in a northerly direction along the centerline of Oak Street to the intersection of the centerline of Oak Street with centerline of Main street, thence, continuing along the centerline of Main Street in a westerly direction to the intersection of Main Street and Maple street; thence continuing in a northerly direction along the centerline of Maple Street to the intersection of Maple Street with Main Street Alley, so called; thence in a westerly direction along Main Street Alley including land abutting the northerly bounds of Main Street Alley to the intersection of Main Street Alley and Cedar Street; thence continuing westerly to the northeast corner of Lot 6 in Block 11 and the Southeast corner Of Lot 7 in Block 11 as laid out on Great Northern Paper Company Site Plan of the Town of East Millinocket; thence continuing along the southerly bounds of Lots 7 and 12 in Block 11 to Western Avenue; thence along a continuation of the same line to the southeast corner of Lot 6 in Block 10 and the northeast corner of Lot 5 in Block 10 on said Plan; thence along the south bound of lots 6 and 11 in Block 10 and a continuation of said line to the center line of Cone St.; thence, northerly along the centerline of Cone Street to the intersection of Cone Street and Church Street; thence along the centerline of Church Street in a westerly direction to the westerly line of land now or formerly of Christara Associates and the point of beginning.

Aquifer Protection District

Beginning at a point where the westerly shore of the East Branch of the Penobscot River intersects the northerly line of the town; thence westerly along the northerly line of the town a distance of 2500 feet; thence generally southeasterly parallel with the westerly shore of the East Branch of the Penobscot River and at all times maintaining a distance of 2500 feet from the westerly shore of the East Branch of the Penobscot River to the easterly line of the town; thence northerly along the easterly line of the town to the westerly shore of the East Branch of the Penobscot River; thence northerly along the shore of the East Branch of the Penobscot River to the point of beginning.

Commercial District

Parcel one: A triangular parcel of land bounded on the east by the centerline of Oak Street, on the north by the centerline of Main Street, and on the south by the centerline of Rt. 157.

Parcel Two: Bounded on the east by the centerline of Maple Street, and an extension of said

centerline southerly to the B & A Railroad right of way, on the South by the B & A Railroad, on the north by the Residential District, and on the west by the centerline of Cone Street and an extension of the centerline of Cone Street southerly to the B & A Railroad right of way.

Parcel Three: Bounded on the east by the centerline of Cone Street, on the north by the centerline of Church Street Continuing along the centerline of Church Street as it becomes an extension of Old Rt. 157 continuing to the intersection of Old Rt. 157 with Rt. 157; bounded on the west by a line running from the intersection of Old Rt. 157 parallel with the east line of the town to the Bangor and Aroostook right of way; bounded on the south by the Bangor and Aroostook right of way.

Parcel Four: Beginning at the northwesterly corner of the Residential District; thence westerly along a continuation of the northerly line of the Residential District to the easterly line of Rt. 157; thence southerly along Rt. 157 to the intersection of discontinued old Rt. 157 and the north bound of Parcel Three; thence along the centerline of old Rt. 157 to Church St. and along the centerline of Church St. to the westerly line of the Residential District; thence northerly along the west bound of the Residential District to the point of beginning.

Industrial Park District

The Industrial Park District consists of the area laid out on the Subdivision Plan for East Millinocket Industrial Park prepared by James W. Sewall Company dated September 18, 1989 and recorded in the Penobscot County Registry of Deeds In Map File D151-90.

Industrial District

Beginning at a point where the easterly bank of Dolby Flowage intersects Dolby Dam; thence, following the shore of the West Branch of the Penobscot River to the point where the shore intersects the easterly line of the town; thence, along the easterly line of the town to the intersection of the easterly line of the town with Rt. 157; thence westerly along the centerline of Rt. 157 to the intersection of the centerline of Maple Street; thence, southerly along the centerline of Maple Street to the Bangor and Aroostook Rail Road right of way; thence westerly along the Bangor and Aroostook right of way to the intersection of the Bangor and Aroostook right of way with the road forming the western most entrance to the Great Northern Paper Company Mill complex, now used for the delivery of forest products; thence easterly along said entrance road to the intersection of Rt. 157; thence northerly along the centerline of Rt. 157 to a point where the Industrial Park District intersects Rt. 157- thence generally southerly and westerly along the easterly and southerly bound of the Industrial Park District to the discontinued access road leading to Dolby Dam; thence generally southerly along the centerline of said discontinued Dolby Dam access road to the point where Dolby Dam intersects the easterly shore of Dolby Flowage and the point of beginning.

Rural District

The Rural District consists of all remaining areas within the limits of the Town of East Millinocket not classified as lying within the Commercial District, Residential District, Industrial District, Aquifer Protection District, Shoreland Protection Districts or Industrial Park District.

ARTICLE 74

FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF EAST MILLINOCKET, MAINE

Annual T/M

ENACTED: 05/24/1994
Date

CERTIFIED BY: _____
Name

_____
Title

Affix Seal

60.3 (b)

STATEMENT OF PURPOSE AND INTENT

Certain areas of the Town of East Millinocket, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of Federally subsidized flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of East Millinocket, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in the attached Floodplain Management Ordinance.

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

This body has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to MRSA Title 30A, Sections 3001-3007, 4352 and 4401-4407.

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60.3(b) Rev. 10/93

FLOODPLAIN MANAGEMENT ORDINANCE

ARTICLE I - ESTABLISHMENT

The Town of East Millinocket, Maine elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of East Millinocket, Maine.

The areas of special flood hazard, identified by the Federal Emergency Management Agency in a map entitled "Flood Insurance Rate Map - Town of East Millinocket, Maine, Penobscot County," dated February 4, 1987, is hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Planning Board. This permit shall be in addition to any other building permits which may be required pursuant to the codes and ordinances of the Town of East Millinocket, Maine.

ARTICLE III - APPLICATION FOR PERMIT

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

A. The name and address of the applicant;

B. An address and a map indicating the location of the construction site;

C. A site plan showing location of existing and/or proposed structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;

D. A statement of the intended use of the structure;

E. A statement as to the type of sewage system proposed;

F. Specification of dimensions of the proposed structure;

G. The elevation in relation to the National Geodetic Vertical Datum (NGVD) or to a locally established datum, of the:

1. base flood at the proposed site of all new or substantially improved structures, which in Zone A is determined to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;

2. highest and lowest grades at the site adjacent to the walls of the proposed building;

3. lowest floor, including basement; and whether or not such structures contain a basement; and,

4. level, in the case of non-residential structures only, to which the structure will be floodproofed;

H. A description of a base flood elevation reference point established on the site of all new or substantially improved structures;

I. A written certification by a registered land surveyor that the elevations shown on the application are accurate;

J. Certification by a registered professional engineer or architect that floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.G.4; Article VI.G; and other applicable standards in Article VI.

K. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

L. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of $.01 per square foot shall be paid to the Town Treasurer and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to

the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision of the Code Enforcement Officer may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW OF FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer/Planning Board shall:

A. Review all applications for the Flood Hazard Development Permit to assure that proposed building sites are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have, or will be met;

B. Utilize, in the review of all Flood Hazard Development Permit applications, the base flood data contained in the "Flood Insurance Rate Map - Town of East Millinocket, Maine," as described in Article I. In special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer/Planning Board shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other sources, including information obtained pursuant to Articles III.G.1.b.; VI.I; and VIII.D, in order to administer Article VI of this Ordinance;

C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;

D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Office of Community Development prior to any alteration or relocation of a water course;

F. Issue a two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant

to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an application for Part II of the Flood Hazard Development Permit and shall include an Elevation Certificate completed by a registered Maine surveyor for compliance with the elevation requirements of Article VI, paragraphs F, G, H, and K. Following review of the application, which review shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; and,

G. Maintain, as a permanent record, copies of all Flood Hazard Development Permits issued and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates and Certificates of Compliance required under the provisions of Article VII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

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

A. New construction or substantial improvement of any structure shall:

1. be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. use construction materials that are resistant to flood damage;

3. use construction methods and practices that will minimize flood damage; and,

4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

B. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

C. All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

D. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

E. All development shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of any watercourse.

F. New construction or substantial improvement of any residential structure located within Zone A shall have the lowest floor (including basement) elevated to one foot above the base flood elevation utilizing information obtained pursuant to Article III, paragraph G.1.; Article V, paragraph B; or Article VIII, paragraph D.

G. New construction or substantial improvement of any non - residential structure located within Zone A shall have the lowest floor (including basement) elevated to one foot above the base flood elevation utilizing information obtained pursuant to Article III, paragraph G.1.; Article V, paragraph B; or Article VIII, paragraph D, or together with attendant utility and sanitary facilities shall:

1. be floodproofed to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III, paragraph G.1.; Article V, paragraph B; of Article VIII, paragraph D, so that below that elevation the structure is watertight with walls substantially impermeable to passage of water;

2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

3. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III, paragraph J and shall include a record of the elevation above mean sea level of the lowest floor including basement.

H. New or substantially improved manufactured homes shall:

1. be elevated on a permanent foundation such that the lowest floor is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III, paragraph G.1.; Article V, paragraph B; or Article VIII, paragraph D; and,

2. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:

   a. secure anchoring to an adequately anchored foundation system; or by,

   b. over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,

   c. frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

   d. All components of the anchoring system described in Article VI, paragraph H.1.b.(1)(2) shall be capable of carrying a force of 4800 pounds.

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

1. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,

2. is consistent with the technical criteria contained in Section 2-7 entitled "Hydraulic Analyses," Flood Insurance Study - Guidelines and Specifications for Study Contractors, (FEMA 37/September, 1985, as amended).

J. New construction or substantial improvement of any structure in Zones A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or has crawlspaces less than three feet in height may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Walls, with the exception of crawlspaces less than three feet in height, shall not be part of the structural support of the building; and,

2. Enclosed areas are not "basements" as defined in Article XIII; and,

3. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either:

   a. be certified by a registered professional engineer or architect; or,

   b. meet or exceed the following minimum criteria:

      (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

      (2) the bottom of all openings shall be no higher than one foot above the lowest grade; and,

      (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means; and,

4. The enclosed area shall not be used for human habitation; and,

5. The enclosed area may be used for building maintenance, access, parking vehicles, or storing of articles and equipment used for maintenance of the building.

ARTICLE VII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

A. The applicant shall submit an Elevation Certificate completed by:

   1. a registered Maine surveyor for compliance with Article VI, paragraphs F, G, or H; and,

   2. a registered professional engineer or architect, in the case of floodproofed non-residential structures, for compliance with Article VI. paragraph G.

B. The application for a Certificate of Compliance shall be submitted by the applicant in writing along with a completed Elevation Certificate to the Code Enforcement Officer.

C. The Code Enforcement Officer shall review the application within 10 working days of receipt of the application and shall issue a Certificate of Compliance, provided the building conforms with the provisions of this Ordinance.

ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

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

A. All such proposals are consistent with the need to minimize flood damage.

B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.

C. Adequate drainage is provided so as to reduce exposure to flood hazards.

D. All proposals include base flood elevation and, in a riverine floodplain, floodway data.

E. Any proposed development plan shall include a statement that the developer will require that structures on lots in the development be constructed in accordance with Article VI of

this ordinance and that such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE IX - APPEALS AND VARIANCES

The Board of Appeals of the Town of East Millinocket may, upon written application of an aggrieved party, hear and decide appeals from determinations of the Planning Board/Code Enforcement Officer in the administration of the provisions of this Ordinance. The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

B. Variances shall be granted only upon:

1. a showing of good and sufficient cause; and,

2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,

3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,

4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:

a. that the land in question cannot yield a reasonable return unless a variance is granted; and,

b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,

c. that the granting of a variance will not alter the essential character of the locality; and,

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

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. Variances may be issued by a community for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

1. other criteria of Article IX and Article VI-I are met; and,

2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued by a community for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places, without regard to the procedures set forth in Article IX, paragraphs A through D.

F. Any applicant who meets the criteria of Article IX, paragraphs A through E shall be notified by the Board of Appeals in writing that:

1. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as $25 Per $100 of insurance coverage;

2. such construction below the base flood level increases risks to life and property; and,

3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have

against the municipality that are related to the use of land located in a floodplain.

G. The Board of Appeals shall submit to the Planning Board/Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Planning Board/Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

ARTICLE X - ENFORCEMENT AND PENALTIES

A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to 30A MRSA § 4452.

B. The penalties contained in 30A MRSA § 4452 apply to any violation of this ordinance.

C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

2. a clear and unequivocal declaration that the property is in violation of a cited State or local law or ordinance;

3. a statement that the public body making the declaration has the authority to do so and a citation to that authority;

4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XI - VALIDITY AND SEVERABILITY

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

ARTICLE XII - CONFLICT WITH OTHER ORDINANCES

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

ARTICLE XIII - DEFINITIONS

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

Adjacent Grade - means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of a Shallow Flooding - means a designated AO and AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard - means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

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

Basement - means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway Wall - means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building - see Structure.

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

Code Enforcement Officer - any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

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

Elevated Building - means a non-basement building:

(i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, or AH, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and

(ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A1-30, AE, A, A99, AO, or AH, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls less than three feet in height with openings sufficient to facilitate the unimpeded movement of flood waters.

Elevation Certificate - An official form (FEMA Form 81-31, 05/90, as amended) that:

(i) is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and

(ii) is required for purchasing flood insurance.

Flood or Flooding - means:

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

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

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

Flood Insurance Study - see **Flood Elevation Study.**

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

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

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

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

Floodway - see **Regulatory Floodway.**

Floodway Encroachment Lines - mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard - means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such

as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

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

Historic Structure - means any structure that is:

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

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

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

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

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

Lowest Floor - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access

or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI of this ordinance.

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

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

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

New Construction - means structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

100-year flood - see **Base Flood.**

Regulatory Floodway -

(i) means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and

(ii) in riverine areas is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

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

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

Start of Construction - means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the

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

Structure - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structures's continued designation as a historic structure.

Variance - means a grant of relief by a community from the terms of a floodplain management regulation.

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

ARTICLE XIV - ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

60.3(b)