LAND USE ORDINANCE

FRYEBURG, MAINE

ADOPTED AT TOWN MEETING
MARCH 21, 1998

WITH AMENDMENTS
THROUGH JUNE 2025

TABLE OF CONTENTS

SECTION 1 GENERAL PROVISIONS (Rev. June 2009, 2010, 2015, 2024)

A. Repeal of Former Ordinances……..…..… 1-1
B. Short Title……..…..… 1-1
C. Authority……..…….. 1-1
D. Purposes……..…….. 1-1
E. Jurisdiction……..…….. 1-2
F. Rules of Construction……..……..… 1-2
G. Conflict with Other Provisions……...……... 1-2
H. Separability……..…….. 1-2
I. No Retroactive Effect……...…….. 1-2
J. Amendment, Repeal or Replacement……...……...… 1-2
K. Repetitive Petitions……...……..... 1-4
L. Effective Date……...……..... 1-4

SECTION 2 ADMINISTRATION, ENFORCEMENT, AND PENALTIES (Rev. June 2012, 2015,2024)

A. Code Enforcement Officer……...…….. 2-1
B. Land Use Authorization……..…… 2-1
C. Building Permit Required……..…… 2-1
D. Land Use Application/Authorization……..…… 2-2
E. Land Use Authorization Review Procedure by the CEO……...…… 2-3
F. Land Use Authorization Review Procedure by the Planning Board……..…… 2-3
G. Burden of Proof……...……. 2-5
H. Expiration of Authorization……...…… 2-5
I. Certificate of Completion……..……. 2-6
J. Legal Action and Violations……...…… 2-6
K. Fines……...…….. 2-6
L. Performance Guarantees……..……. 2-6
M. Fees……..…… 2-7

SECTION 3 OFFICIAL ZONING MAP

A. Zoning Map a Part of the Ordinance…….……. 3-1
B. Zoning Districts……..…… 3-1
C. Certification of Zoning Map……..…… 3-1
D. Changes in the Official Zoning Map……...…… 3-1
E. Replacement of the Official Zoning Map……...……. 3-1
F. Uncertainty of Boundary Location……..…… 3-2
G. Division of Lots by District Boundaries……..…… 3-2

SECTION 4 NON-CONFORMING SITUATIONS (Rev. June 2009, June 2010, June 2014, June 2015, June 2016, June 2024)

A. Purpose……...…….. 4-1
B. Land Use Requirements……...…….. 4-1
C. Non-conformance……...…….. 4-1
D. Vested Rights……...……. 4-10

TABLE OF CONTENTS

E. Non-conforming as to Performance Standards……..…… 4-10

SECTION 5 USES (Rev. June 2015, 2018, 2019, 2023, 2024)

A. Basic Requirement……...…….. 5-1
B. District Regulations……...…… 5-1
C. Exceptions to the Land Use Table……..…… 5-6
D. Similar Uses…….……...…… 5-7
E. Discontinuance of a Conforming Use…… 5-7

SECTION 6 VILLAGE RESIDENTIAL DISTRICT (Rev. June 2016)

A. Purpose……..…….. 6-1
B. Location……...……. 6-1
C. Dimensional Requirements……...…… 6-1
D. Permitted Uses……...……. 6-1

SECTION 7 VILLAGE COMMERCIAL DISTRICT (Rev. June 2016, 2024)

A. Purpose……...…….. 7-1
B. Location……...……. 7-1
C. Dimensional Requirements……...…… 7-1
D. Permitted Uses……...……. 7-1

SECTION 8 OUTLYING VILLAGE RESIDENTIAL DISTRICT (Rev. June 2016)

A. Purpose……...…….. 8-1
B. Location……...……. 8-1
C. Dimensional Requirements……...…… 8-1
D. Permitted Uses……...……. 8-1

SECTION 9 RESIDENTIAL-COMMERCIAL DISTRICT (Rev. June 2016)

A. Purpose……...…….. 9-1
B. Location……...……. 9-1
C. Dimensional Requirements……...…… 9-1
D. Permitted Uses……...……. 9-2

SECTION 10 OUTLYING RESIDENTIAL-COMMERICAL DISTRICT (Rev. June 2016)

A. Purpose……...…….. 10-1
B. Location……...……. 10-1
C. Dimensional Requirements……...…… 10-1
D. Permitted Uses……...……. 10-2

SECTION 11 GENERAL COMMERCIAL DISTRICT (Rev. June 2015, June 2016)

A. Purpose……...…….. 11-1
B. Location……...……. 11-1
C. Dimensional Requirements……...…… 11-1
D. Permitted Uses……...……. 11-2

TABLE OF CONTENTS

SECTION 12 INDUSTRIAL DISTRICT (Rev. June 2016)

A. Purpose……..…….. 12-1
B. Location……...……. 12-1
C. Dimensional Requirements……..…… 12-1
D. Permitted Uses……..……. 12-2

SECTION 13 MOBILE HOME PARK OVERLAY DISTRICT

A. Purpose……..…….. 13-1
B. Location……...……. 13-1
C. Dimensional Requirements……..…… 13-1
D. Permitted Uses……..……. 13-2

SECTION 14 RURAL RESIDENTIAL DISTRICT (Rev. June 2016)

A. Purpose……..…….. 14-1
B. Location……...……. 14-1
C. Dimensional Requirements……..…… 14-1
D. Permitted Uses……..……. 14-2

SECTION 15 WELLHEAD PROTECTION OVERLAY DISTRICT

A. Purpose……..…….. 15-1
B. Authority…….. 15-1
C. Location……...……. 15-1
D. Establishment of Districts…… 15-1
E. Annual Review…..…… 15-1
F. Land Uses…….. 15-2
G. Best Management Practices for Wellhead Protection Overlay District…… 15-3

SECTION 16 PERFORMANCE STANDARDS - GENERAL REQUIREMENTS (Rev. June 2009, October 2012, June 2015, June 2024)

A. Applicability and Purpose…….. 16-1
B. Access Control and Traffic Impacts…… 16-1
C. Access to Lots…….. 16-3
D. Building and Site Review ….....……. 16-4
E. Dust, Fumes, Vapors, and Gases…… 16-6
F. Explosive Materials……..……. 16-6
G. Glare & Lighting…… 16-6
H. Noise……... 16-8
I. Off-Street Parking and Loading Requirements…….. 16-8
J. Landscaping and Screening…… 16-11
K. Refuse Disposal…….…… 16-11
L. Sanitary Standards……. 16-12
M. Signs……. 16-12
N. Erosion Control……. 16-16
O. Storm Water Run-off……. 16-17
P. Water Quality Protection…… 16-17

TABLE OF CONTENTS

Q. Aquifer Protection…….. 16-18
R. Other Regulations Apply…… 16-18
S. Density & Dimensional Requirements…… 16-18
T. Water Supply…… 16-18
U. Building Height…… 16-18
V. Historical & Archeological…… 16-19
W. Sanitation & Potable Water Stadnards Applicable to Dwelling Units…..... 16-19

SECTION 17 PERFORMANCE STANDARDS SPECIFIC ACTIVITES AND LAND USES (Rev. June 2009, 2010, 2015, 2018, 2019, 2023, 2024, 2025)

A. Accessory Dwelling Unit…… 17-1
B. Adult Businesses…… 17-2
C. Animal Husbandry…… 17-3
D. Automobile Graveyards and Junkyards…… 17-3
E. Campgrounds…… 17-4
F. Farmers Market…… 17-4
G. Garage and Yard Sales…… 17-5
H. Ground Water and/or Spring Water Extraction and/or Storage…… 17-5
I. Hazardous Waste Facilities…… 17-6
J. Home Occupations…… 17-7
K. Lodging……..…… 17-9
L. Individual Private Campsites…… 17-9
M. Kennels & Veterinary Hospitals…… 17-9
N. Livestock Keeping…… 17-10
O. Manufactured Housing and Mobile Homes…… 17-10
P. Earthmoving……..…… 17-11
Q. Mobile Home Parks…… 17-12
R. Multi-family Dwelling Units…… 17-15
S. Food & Alcohol Service……...…… 17-15
T. Sawmills……..…… 17-15
U. Temporary Dwellings Used in Connection with the Construction of a Permanent Building or for some Non-recurring Purpose…… 17-16
V. Professional Offices…… 17-16
W. Towers…… 17-16
X. Portable Storage Containers…… 17-20
Y. Adult Use Cannabis Operations…… 17-20
Z. Medical Use Cannabis Operations…… 17-25
A.A. Solar Energy Systems…..... 17-29
B.B Afordable Housing Development…..... 17-35

SECTION 18 BOARD OF APPEALS (Rev. June 2010, June 2015, June 2017)

A. Establishment and Organization…… 18-1
B. Proceedings of the Board of Appeals…… 18-1

TABLE OF CONTENTS

C. Powers and Duties of the Board of Appeals…… 18-2
D. Variances…… 18-2
E. Disability Variance…… 18-3
F. Repealed…… 18-3
G. Administrative Appeal and Variance Procedure…… 18-3
H. Decisions of the Board of Appeals…… 18-5
I. Stay of Proceedings…… 18-6
J. Fees…… 18-6

SECTION 19 PLANNING BOARD(Rev. June 2024)

A. Establishment…… 19-1
B. Appointment…… 19-1
C. Organization and Rules…… 19-1
D. Duties and Powers…… 19-2

SECTION 20 SHORELAND ZONING (Rev. June 2009, June 2016)

A. Shoreland Overlay District…… 20-1
B. Resource Protection Overlay District…… 20-3
C. Performance Standards…… 20-7

SECTION 21 SUBDIVISION CONTROLS (Rev. June 2010, June 2017, June 2024)

Article I - Authority and Administration…… 21-1
A. Title 30-A M.R.S.A Sections 4401-4406…… 21-1
B. Administration…… 21-1
Article II- Pre-application/Sketch Plan…… 21-2
A. Submissions…… 21-2
Article III- Review and Approval of Minor Subdivision 21-2…… 21-2
A. General…… 21-2
B. Procedure…… 21-3
C. Submissions…… 21-4
Article IV- Preliminary Plan for Major Subdivision…… 21-5
A. Procedure…… 21-5
B. Submissions…… 21-6
Article V- Final Plan for Major Subdivision…… 21-9
A. Procedure…… 21-9
B. Submissions…… 21-11
C. Final Approval and Filing…… 21-12
D. Public Acceptance of Streets, Recreation Areas…… 21-12
Article VI- Review and Approval of Resubdivision or Revision to Approved Subdivision 21-13
A. Modification of Lot Line Configuration on Previously Approved Plans…… 21-13
B. Planning Board Review…… 21-13
Article VII- General Requirements…… 21-14
A. Title 30-A M.R.S.A Sections 4401-4406…… 21-14
B. Retention of Proposed Public Sites and Open Spaces…… 21-14
C. Preservation of Natural Features…… 21-14

TABLE OF CONTENTS

D. Historic Locations…… 21-15
E. Land Not Suitable for Development…… 21-15
F. Density and Size of Subdivisions…… 21-15
G. Liquidation Harvesting…… 21-16
H. Lots…… 21-16
I. Easements for Natural Drainage Ways…… 21-17
J. Utilities…… 21-17
K. Erosion and Sedimentation Control…… 21-17
L. Groundwater…… 21-17
M. Stormwater…… 21-18
N. Landscaping…… 21-18
O. Cluster Development…… 21-18
Article VIII- Design Standards…… 21-20
A. Monuments…… 21-20
B. Street Signs…… 21-20
C. Water Supply…… 21-21
D. Fire Suppression…… 21-21
E. Sewage Disposal…… 21-21
F. Road Design and Construction…… 21-21
Article IX- Improvement Guarantees…… 21-22
A. Improvement Guarantees…… 21-22
B. Types of Guarantees…… 21-22
C. Contents of Guarantees…… 21-23
D. Release of Guarantees…… 21-23
E. Reduction of Guarantees…… 21-23
F. Default…… 21-23
Article X- Time Limit…… 21-23
A. Completion Deadline…… 21-24
B. Extension…… 21-24
Article XI- Inspection and Certification…… 21-24
A. Notification of Construction…… 21-24
B. Independent Inspecting Agency…… 21-24
C. Noncompliance with Plan…… 21-24
D. Modification During Construction…… 21-24
E. Inspections Required…… 21-25
F. Certification…… 21-25
Article XII- Waivers…… 21-25
Article XIII- Appeals…… 21-26

SECTION 22 BUILDING REQUIREMENTS

A. Foundations…… 22-1
B. Exterior Finish…… 22-1
C. Roof Covering…… 22-1
D. Chimneys…… 22-1
E. Damaged Property…… 22-1

TABLE OF CONTENTS

SECTION 23 ROAD STANDARDS (Added August 2009, Rev. June 2016, 2018)

A. Purpose……. 23-1
B. Administration…… 23-1
C. Applicability……. 23-1
D. Street Construction Application Procedures…… 23-1
E. Street Design Standards…… 23-3
F. Street Construction Standards…… 23-7
G. Additional Improvements and Requirements…… 23-9
H. Performance Guarantees…… 23-9
I. Inspection……..…… 23-10
J. Waivers…….…… 23-11
K. Town Acceptance of Streets…… 23-11
L. Appeals…… 23-12

SECTION 24 FLOODPLAIN MANAGEMENT (Rev. June 2009, June 2010, 2013)

A. Purpose and Establishment…… 24-1
B. Permit Required……. 24-1
C. Application for Permit…… 24-2
D. Application Fee and Expert's Fee…… 24-4
E. Review of Flood Hazard Development Permit Application…… 24-4
F. Development Standards……. 24-6
G. Certificate of Compliance…… 24-11
H. Review of Subdivision and Development Proposals…… 24-11
I. Appeals and Variances…… 24-12
J. Enforcement and Penalties…… 24-14
K. Validity and Severability…… 24-15
L. Conflict with Other Provisions…… 24-15
M. Definitions for Section 24…… 24-15
N. Abrogation…… 24-20

SECTION 25 DEFINITIONS AND WORD USAGE (Rev. June 2009, June 2010, October 201, June 2013, June 2015, June 2016, 2019, 2023, 2024, 2025)

A. Construction of Terms…… 25-1
B. Definitions…… 25-1

SECTION 1
GENERAL PROVISIONS

A. Repeal of Former Ordinances

The provisions of this Ordinance, upon its adoption, serve to repeal, supersede, and replace the Ordinance previously adopted by the Town, known as the "Town of Fryeburg, Maine, Planning Ordinance". However, permits and approvals issued under former Ordinances remain valid until expiration, if any, in accordance with their original issuance.

B. Short Title

This Ordinance and the accompanying official zoning map or maps are to be known as, and may be cited as, the "Town of Fryeburg, Maine, Land Use Ordinance."

C. Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII-A of the Maine Constitution, the provisions of Title 30-A M.R.S.A. Section 3001 (Home Rule), Title 38 M.R.S.A. sections 435-449, and Title 30-A M.R.S.A. Section 4311 *et seq.*, and also pursuant to the Comprehensive Plan of the Town of Fryeburg.

D. Purposes

1. The purposes of this Ordinance are to:
    a. Protect the public's health, safety, and general welfare;
    b. Further the maintenance of safe and healthful conditions and the general welfare within the town of Fryeburg;
    c. Help conserve the value of property;
    d. Foster the development of an economically sound and stable community;
    e. Prevent overcrowding;
    f. Prevent and control water pollution;
    g. Conserve spawning grounds and fish, aquatic life, bird and other wildlife habitat;
    h. Conserve buildings and land from flooding and accelerated erosion;
    i. Conserve archaeological and historical resources;
    j. Protect wetlands;
    k Conserve shore cover, visual as well as actual points of access to water bodies and natural beauty, and open space;
    l. Anticipate and respond to the impact of development;
    m. Secure adequate provision for transportation, sewerage, water, parks and other public needs;
    n. Implement portions of the Town's Comprehensive Plan; and

o. Provide uniform standards and procedures for accomplishing these goals.

p. Affirmatively further the purposes of the Federal Fair Housing Act, 42 U.S.C. ch. 45, as amended, and the Maine Human Rights Act to achieve the applicable statewide or regional housing production goal established by the Maine Department of Economic and Community Development.

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

E. Jurisdiction

All buildings and structures hereinafter erected, reconstructed, altered, enlarged, or moved, and all new uses of premises in the Town of Fryeburg must be done in conformity with the provisions of this Ordinance.

F. Rules of Construction

Captions and headings within this Ordinance are an integral part of the Ordinance and are intended to be utilized in determining the meaning and applicability of the sections they identify.

G. Conflict with Other Provisions

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other Ordinance, regulation, or statute administered by the municipality, the provision imposing the greater restriction upon the use of land, buildings, or structures controls.

H. Separability

If any section or part of a section or any provision of this Ordinance is declared by the courts to be unconstitutional or invalid, such declaration does not affect the validity of the Ordinance as a whole or any part other than the part declared to be unconstitutional or invalid.

I. No Retroactive Effect

This Ordinance does not render illegal any building, structure, or use which legally existed or was under construction when this Ordinance became effective. Permits issued prior to the adoption of this Ordinance are valid for up to two years from the date of their issuance.

J. Amendment, Repeal or Replacement

1. A proposal to amend, repeal, or replace this Ordinance may only be initiated by:

   a. The Planning Board, by majority vote of the Board;

   b. The Board of Selectmen, in conjunction with the Planning Board;

   c. An individual, through a request to the Planning Board, who then may initiate only by a majority vote; or

d. A written petition of a number of voters equal to at least 10% of the vote cast in the last gubernatorial election.

2. Procedure.

a. Any proposal to amend, repeal, or replace this Ordinance must be made to the Planning Board in writing stating the specific changes requested. When a change in zoning boundaries is proposed, the application must state the nature, extent, and location of the boundary change proposal, and the proposal must be accompanied by a scale drawing showing the areas to be changed, with dimensions or metes and bounds description.

b. Within 35 days of receiving the request the Planning Board must hold a public hearing on the proposal, and unless the proposal has been submitted by the Board of Selectmen or by a petition, the Planning Board must vote whether to forward the amendment to the Board of Selectmen for inclusion on the next regular or special town meeting warrant. The Planning Board must make a written recommendation regarding passage to the Board of Selectmen and the town meeting prior to any action on the request by the Board of Selectmen.

c. Notice of the hearing must be posted in the municipal office at least 14 days before the hearing.

d. Notice of the hearing must also be advertised at least two times in a newspaper that complies with Title 1 M.R.S.A. Section 601 and that has a general circulation in Fryeburg. The date of the first advertising must be at least 14 days before the hearing and the date of the second publication must be at least seven days before the hearing. Notice must be in plain English, understandable to the average citizen.

e. The notice must contain the time, date, and place of hearing, and sufficient detail about the proposed changes as to give adequate notice of their content. If the proposed changes are extensive, a brief summary of the changes, together with an indication that a full text is available at the town clerk's office, is adequate notice. If the proposal includes a change in zoning district boundaries a map of the change must be included in the notice.

f. If a proposed amendment constitutes a change in zoning district boundaries or other amendment which would permit commercial, industrial, or retail uses where previously prohibited, or prohibits all such uses where previously permitted, notice of the hearing must also be mailed to the owners of all property that is within or abutting an area affected by the proposed amendment. The Planning Board or designee must maintain a list of the names and addresses of the persons to whom notice was sent. Notice is not required under this paragraph for enactment of amendments intended to bring this Ordinance into compliance with the Comprehensive Plan prepared according to the Maine Comprehensive Planning and Land Use Regulation Act, or if the amendments are intended only to bring this

Ordinance into compliance with the Mandatory Shoreland Zoning Law (Title 38 M.R.S.A. Section 347, *et seq*.)

3. Adoption.

   A request to amend, repeal, or replace this Ordinance may be adopted only by:

   a. A majority vote at a special or regular town meeting if the proposal is recommended by the Planning Board; or

   b. A two-thirds majority vote at a special or regular town meeting if the proposal is not.

K. Repetitive Petitions

No proposal to amend, repeal, or replace this Ordinance, which has been unfavorably acted upon by any town meeting, may be considered by any town meeting within two years after the date of such unfavorable action unless the adoption of the proposal is recommended by unanimous vote of the Planning Board members present and voting.

L. Effective Date

1. Other than changes which affect the Shoreland Zone, an adoption, amendment, repeal, or replacement of this Ordinance takes effect and is in force from the date of its passage by town meeting. Notwithstanding this Section 1.L and 1 M.R.S.A. § 302, the date of applicability of amendments to this Ordinance adopted and effective by vote of the Town meeting on June 13, 2024, shall be July 1, 2024.

2. Copies of changes which affect the Shoreland Zone, attested and signed by the Town Clerk, must be submitted to the Department of Environmental Protection (DEP) following adoption by the town meeting and are not effective unless approved by the DEP. If the DEP fails to act on any change within 45 days of their receipt of the change, the change is automatically approved. Any application for a permit submitted to the town within the 45 day period is governed by the terms of the change, if such change is approved by the DEP.

3. Repeal of Municipal Timber Harvesting Regulation: The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A section 438-B(5), the following provisions of this Ordinance are repealed:

   a. Section 20.B.4.a.(3), Forest Management Activities except for timber harvesting, and 20.B.4.b.(1), Timber harvesting;

   b. Section 20.C.7 in its entirety; and

   c. Section 25.B. Definitions, the definitions of "forest management activities" and "residual basal area".

SECTION 2
ADMINISTRATION, ENFORCEMENT, AND PENALTIES

A. Code Enforcement Officer

1. The Board of Selectmen must yearly appoint a Code Enforcement Officer (CEO).

2. It is the duty of the CEO to enforce the provisions of this Ordinance, the applicable sections and provisions of the Fryeburg Subdivision Section of this Ordinance, any other local land use Ordinances, and State statutes over which the Town has enforcement responsibility. If the CEO finds that any provision which is the duty of the CEO to enforce is being violated, the CEO must notify, in writing, the person responsible for such violations, indicating the nature of the violations and ordering the action necessary to correct it. The CEO must order the removal of illegal buildings, structures, additions, or work being done, or must take any other action authorized by this Ordinance to insure compliance with, or to prevent violation of, its provisions.

3. The CEO is, by this Ordinance, given authority to conduct on-site inspections to ensure compliance with all applicable laws, regulations, and standards the CEO is authorized to enforce. The CEO may enter any property at reasonable hours and enter any structure with the consent of the property owner, occupant, or agent, to inspect the property or structure for compliance with all the regulations the CEO is authorized to enforce. If consent is denied the CEO must obtain an administrative warrant before entering the property. The CEO may revoke a permit after proper notification if it was issued in error or if based on erroneous information.

B. Land Use Authorization

Any use other than those allowed by the designation "A" in the Land Use Tables in Section Five require Land Use Authorization, however allowed uses must meet the dimensional requirements of this Ordinance and may need a permit as required in Section 2.C. The reviewing authority for a Building Permit or Land Use Authorization to construct a dwelling unit, including an accessory dwelling unit and dwelling units within an affordable housing development, may condition its approval upon evidence of compliance with Section 16.W.

C. Building Permit Required

A Building Permit is required from the Town of Fryeburg prior to constructing, erecting, placing, moving, or altering a structure when the value is in excess of $1,000. The approval of all Building Permit applications for one or more dwelling units, including accessory dwelling units and units within an affordable housing development, shall be subject to evidence of compliance with Section 16.W. The Town may condition approval of a Building Permit on such evidence of compliance.

D. Land Use Application/Authorization

1. Every applicant for Land Use Authorization must submit 10 written applications, on forms provided by the CEO. Supplemental information in narrative, report, and/or development plan form, as appropriate, must also be submitted to the CEO, and must include the following information, if applicable:

   a. The name and address of the property owner.

   b. A copy of the right, title, and interest to the property.

   c. The name, address, and telephone number of the person or firm involved in the construction or land use on the property.

   d. The value of the proposed construction.

   e. A statement of the proposed use for any new or moved structure or altered portion of an existing structure.

   f. Any other information, in narrative, report, or development plan form, as appropriate, which is necessary to clearly indicate that the proposed land use or activity will conform to all applicable provisions of this Ordinance, other applicable codes or Ordinances of the Town, and State statutes over which the Town has enforcement responsibilities.

   g. A valid sub-surface waste water permit application, including site evaluation approved by the Plumbing Inspector. In addition, every applicant seeking Land Use Authorization to construct one or more dwelling units shall be subject to the requirements of Section 16.W.

   h. For structures proposed to be erected, structures to be moved, structural modifications to the interior of existing structures, and exterior additions to existing structures:

      (1) The shape, size, and location of the lot on which the structure is, or is proposed to be, located.

      (2) The shape, size, and location on the lot of the structure or additions, precisely located and noted as to distances and dimensions.

      (3) The shape, size, and location of any other existing structures on the lot.

      (4) A proposed exterior lighting plan.

   i. A certification that the information in the application is complete and correct to the best of the applicant's knowledge and belief.

   j. The signature of the owner of the property or the person authorizing the work, and the date of the application.

   k. The Town of Fryeburg Assessor’s tax map and lot number.

   l. For any land use activity required to be permitted under 38 M.R.S.A. Chapter 3 Section 480 (Natural Resources Protection Act), submit a copy of

all applications and supporting documents as submitted to Maine Department of Environmental Protection.

m. If the proposed use will be served by a public water supply, submit a written statement from the supplier confirming that the project will not result in an undue burden on the source or distribution system. In addition, every applicant seeking Land Use Authorization to construct one or more dwelling units shall be subject to the requirements of Section 16.W.

2. Upon receipt of an application for Land Use Authorization the CEO must note on the application the date which it was received and must:

a. Determine whether the land use or activity is allowed by this Ordinance in the district where it is proposed. If the use or activity applied for is not allowed the CEO must deny the application.

b. Determine whether the CEO or the Planning Board is the Reviewing Authority of the land use or activity contained in the application. If the land use or activity contained in the application is one over which the Planning Board has review authority, a copy of the application must be forwarded to the Planning Board and the applicant so notified within ten days of receipt of the application.

E. Land Use Authorization Review Procedure by the CEO

1. Within seven days of receipt of the application the CEO must determine whether the application is complete. If the application is not complete the CEO must notify the applicant in writing that it is not complete and must indicate what information is missing.

2. Once the CEO has determined that the application is complete, the CEO must determine whether the application is satisfactory.

3. An application is satisfactory if it clearly indicates that the proposed land use or activity will conform to all applicable provisions of this Ordinance, and other applicable codes or Ordinances of the Town, and is accompanied by the required fee.

4. If the application is satisfactory, the CEO must, within 14 days of its receipt, issue a Findings of Fact, give a copy of the Findings of Fact to the applicant, and file a copy of the Findings of Fact along with any related material.

5. If the application is not satisfactory, the CEO must, within 14 days of determining that it is a complete application, deny the Authorization and state in writing the reasons for the denial.

6. The CEO must deny any Land Use Authorization if the CEO has knowledge that the proposed land use or activity would be in violation of this Ordinance, or any other local Ordinance or code.

F. Land Use Authorization Review Procedure by the Planning Board

1. Once the Planning Board has received the application from the CEO they must schedule review of the application on the next available Planning Board

meeting. The next available meeting could be the next meeting or it could be a later meeting, depending on the length of the Planning Board review waiting list. However, the Planning Board must schedule review of the application within 31 days of receipt of the application.

2. (deleted)

3. No application may be reviewed for completeness at a Planning Board meeting if it has not been received by the Planning Board at least fourteen days prior to that meeting.

4. The Planning Board has 31 days from receipt of the application from the CEO to determine if the application is complete. This time period may be extended by unanimous vote of the Planning Board, or by mutual agreement of a majority of the Planning Board and the applicant.

5. If the application is not complete the Planning Board may not review the application to determine if it is satisfactory and must notify the applicant in writing of the information that is missing.

6. If the Planning Board determines that the application is complete it may, in its discretion, determine the application satisfactory at the same meeting or, in the alternative, the Planning Board may schedule a meeting at which it will begin review to determine if the application is satisfactory. The application is satisfactory if it clearly indicates that the proposed land use or activity will conform to the provisions of this Ordinance, and other applicable codes or Ordinances of the Town, and is accompanied by the required fee.

   The Planning Board shall vote as to whether a public hearing is warranted. If the majority so votes, there will be a public hearing. The Planning Board shall post and publish notice of the public hearing.

   a. Notice must be posted in the municipal office at least 14 days before the public hearing;

   b. Notice of the hearing must also be advertised at least two times in a newspaper that complies with Title 1 M.R.S.A. Section 601 and that has a general circulation in the Town of Fryeburg.

7. Ten days prior to the public hearing the applicant must give written notice, either personally which is dated and signed by recipient or by certified mail, return receipt requested, to:

   a. All property owners of record, as reflected by the municipal tax records, whose properties lie within 200 feet of the property in the Village Residential and Village Commercial Districts, and 500 feet of the property boundary in other districts.

8. The Planning Board must use the following procedure when reviewing the application to determine whether it is satisfactory:

   a. The applicant presents the application and explains how the proposed land use or activity will conform to all applicable provisions of this Ordinance,

and other applicable codes or Ordinances of the Town. The applicant may present oral and written documentation.

b. Questions from those present, including Planning Board members, may be asked through the Planning Board chair.

c. The applicant or any other party may be represented by an agent.

d. The Planning Board is to review the information presented and determine if the proposed land use or activity will conform to all applicable provisions of this Ordinance, and other applicable codes or Ordinances of the Town. If the Planning Board determines that the application is satisfactory, the Planning Board must make findings of fact and conclusions and authorize the CEO to issue the Land Use Authorization. If the Planning Board determines that the application is not satisfactory the Planning Board must deny the permit and state in writing the reasons for the denial, including findings of fact.

e. If the Planning Board needs more time to review the application and the information presented, or if the applicant needs more time to present additional information to show that the application is satisfactory, the Planning Board may vote to continue review of the application to another Planning Board meeting which is to be held within 60 days. This time period may be longer by mutual agreement of the applicant and the Planning Board. The motion to continue must state the reason for the continuation and the date, time, and location of the meeting to which it is continued.

9. If the Planning Board can not judge that the proposed land use or activity will conform to all applicable provisions of this Ordinance, and other applicable codes or Ordinances of the Town, the Planning Board may, after notification to, and at the expense of, the applicant, employ one or more independent consultants to ensure compliance with all requirements of this Ordinance. The estimated costs of such studies must be deposited with the Town Treasurer prior to their undertaking. Any money not spent must be reimbursed to the applicant.

10. The Planning Board must deny any Land Use Authorization if it has knowledge that the proposed land use or activity would be in violation of this Ordinance or any local Ordinance or code.

11. The Planning Board must notify in writing the CEO and the applicant of its decision within ten days of making that decision.

G. Burden of Proof

The applicant has the burden of proving to the Review Authority that the application is satisfactory.

H. Expiration of Authorization

Following the issuance of Land Use Authorization, if no substantial start is made in construction or in use of the property within two years of the date of the Authorization, the Authorization is deemed to have lapsed and is void. Tree clearing and landscaping shall not count towards substantial start.

I. Certificate of Completion

The Certificate of Completion is required by the Town of Fryeburg, Maine prior to the use or occupancy of any new structure. Written verification that a dwelling unit complies with Section 16.W is required prior to the issuance of a Certificate of Completion.

J. Legal Action and Violations

1. Violations of this Ordinance include, but are not limited to:
   a. Engaging in a land use or activity without obtaining prior approval as required from the CEO.
   b. Occupying a new building without first obtaining a Certificate of Completion as required.
   c. Failing to maintain all of the improvements proposed in the narrative, report, and development plan portions of the approved application.
2. When any violation of any provision of this Ordinance is found to exist, the CEO is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town.

K. Fines

Any person, firm, or corporation being the owner, contractor, or any other entity having control or use of any structure or premises who violates any of the provisions of this Ordinance must upon conviction be fined in accordance with provisions of Title 30-A M.R.S.A. section 4452. Each day such a violation is permitted to exist after notification constitutes a separate offense. Fines are payable to the Town.

L. Performance Guarantees

1. The purpose of a performance guarantee is to assure that the land use or activity proposed by the applicant and approved by the Planning Board, including all of the improvements proposed in the application whether in narrative, report, or development plan form, are completed as proposed.
2. At the time of approval of an application for Land Use Authorization, the Planning Board may require the applicant to give to the Town a performance guarantee. If circumstances such as weather conditions do not permit the completion of all improvements proposed by the applicant, occupancy may take place but only after a performance guarantee has been given to the Town covering the full cost to the Town of their completion.
3. The performance guarantee may be either a certified check payable to the Town of Fryeburg, an irrevocable letter of credit from a lending institution, or a performance bond payable to the Town of Fryeburg issued by a surety company. The performance guarantee must be in an amount adequate to cover the total costs of all required improvements, taking into account the time-span of the guarantee and the effects of inflation upon costs. The conditions and

amount of the performance guarantee must be determined by the Planning Board after discussion with the Board of Selectmen.

4. Prior to the release of any part of or the entire performance guarantee, the Planning Board must determine to its satisfaction that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested. Any interest accumulated on an escrow account must be returned with any money owed by the town to the developer after it has been determined that the proposed improvements meet all design and construction requirements.

5. If the Planning Board finds, upon inspection of the improvements performed before release of the guarantee, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the applicant, the Planning Board must so report to the Board of Selectmen. The Town must then notify the applicant, and, if necessary, the bonding company or lending institution, and take all necessary steps to preserve the Town's rights under the guarantee.

6. There is no Performance Guarantee requirement for land uses or activities for which the Review Authority is the CEO.

M. Fees

1. The Board of Selectman must annually set the amount of all fees required by this Ordinance. If they fail to set the fees, those established for the prior year continue in effect.

2. The applicant may pay into a special account the cost to the Town of hiring independent consulting services. This cost is to be determined after the Planning Board has secured an estimate of the cost of the services and the applicant has seen the estimate. If the balance in the special account is anticipated to be exhausted, the Planning Board may notify the applicant and require an additional amount. Any balance in the account remaining after a final decision on the application must be returned to the applicant.

SECTION 3
OFFICIAL ZONING MAP

A. Zoning Map a Part of the Ordinance

Districts are located and bounded as shown on the Official Zoning Map, which is made a part of this Ordinance. The Official Zoning Map is to be kept on file in the office of the Town Clerk.

B. Zoning Districts

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

1. Village Residential District
2. Village Commercial District
3. Outlying Village Residential District
4. Residential-Commercial District
5. Outlying Residential-Commercial District
6. General Commercial District
7. Industrial District
8. Mobile Home Park Overlay District
9. Rural Residential District
10. Shoreland Overlay District
11. Resource Protection Overlay District
12. Wellhead Protection Overlay District

C. Certification of Zoning Map

The Official Zoning Map is to be signed by the Town Clerk certifying the date of adoption or amendment. Copies of this map may be seen in the Town Office.

D. Changes in the Official Zoning Map

If changes are made in the zoning district boundaries by the action of Town Meeting, such changes must be made on the Official Zoning Map within 14 days after the amendment has been adopted. The change on the Official Zoning Map must include an entry on the map as follows:

> "On _____(insert date) by action of the Town Meeting Warrant Article _____(insert number), the following change(s) was (were) made: (insert description of the change)."

The Town Clerk must sign the map immediately beneath that entry.

E. Replacement of the Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Town Meeting may adopt a new Official Zoning Map or any number of pages thereof, which supersede the prior map. The new map may correct drafting or other errors or omissions in the prior map but this procedure may not be used to amend the Official Zoning Map. (The Official Zoning Map is only amended by the procedure in

Section One.) The replacement map created by the procedure herein must be certified as the replacement of the Official Zoning Map by the Town Clerk. The prior Official Zoning Map must be retained on file in the office of the Town Clerk.

F. Uncertainty of Boundary Location

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

1. Boundaries indicated as approximately following the center lines of streets, lot lines, municipal limits, or railroad lines are to be construed as following such center lines, lot lines, municipal limits, or railroad lines;
2. Boundaries indicated as following shorelines are to be construed as following such shorelines, and in the event of natural change in the shoreline are to be construed as moving with the actual shoreline; boundaries indicated as approximately following the center line of streams, rivers, lakes, or other bodies of water are to be construed as following such center lines;
3. Boundaries indicated as being parallel to, or extensions of, features indicated above are to be so construed. Distances not specifically indicated on the Official Zoning Map are to be determined by the scale of the Map; and
4. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by 1 through 3, above, it is the duty of the Board of Appeals to interpret the district boundaries. The Board of Appeals may employ appropriate consultants, in accordance with employment and/or purchasing policy of the Town of Fryeburg, to assist it in its interpretation.

G. Division of Lots by District Boundaries

When a lot is divided by a zoning district boundary, other than the boundary of the Shoreland or Resource Protection districts, the following rules apply.

1. On lots two acres or less in area, the lot may be used as if the entire lot were in the district which comprises the larger portion.
2. On lots larger than two acres, the district regulations must be followed in each portion.
3. Upon application by a property owner, the Board of Appeals may allow the district boundary to be altered to conform to property lines, but not moved more than 200 feet, when the Board of Appeals finds the following conditions are met:
    a. The spirit and intent of this Ordinance are met.
    b. Other property in the district will not be adversely affected.
    c. A refusal of the request would result in injustice.

The procedures for a hearing under a variance request are to be followed.

SECTION 4
NON-CONFORMING SITUATIONS

A. Purpose

It is the intent of this Section to promote conformity with this Ordinance, except that non-conforming conditions that legally existed before the effective date of this Ordinance, or any amendment thereto are allowed to continue, subject to the requirements set forth in Section 4. except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. Land Use Requirements

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, moved or altered and no new lot shall be created unless in conformity with all of the regulation herein specified for the district in which it is located, unless a variance is granted.

C. Non-Conformance

1. General

   a. Continuance, enlargement, reconstruction: Any non-conforming use or non-conforming structure may continue to exist but may not be extended, reconstructed, enlarged, or structurally altered except as specified below.

   b. Transfer of ownership: Non-conforming structures, non-conforming lots of record, and non-conforming uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

   c. Nonconformity resulting from governmental action or eminent domain: No non-conforming structure or aspect of such structure, and no non-conforming lot or aspect of such lot, shall be deemed to be more nonconforming as a result of any taking of a portion of that structure or lot by eminent domain or by action of governmental authority which occurred after the enactment of this ordinance. Any such non-conforming structure, non-conforming lot, and non-conforming use which was lawfully in existence on the date of acquisition by eminent domain or by action of governmental authority shall be deemed to be continued in lawful existence subject to the requirements set forth in this section as

though such acquisition by eminent domain or by action of governmental authority has not occurred.

No structure, lot, or use of lot which conformed with the provisions of this ordinance prior to the acquisition by eminent domain or by action of governmental authority shall be considered non-conforming or in violation of this ordinance solely as a result of such acquisition by eminent domain or by other governmental action. Such structure, lot, or use shall be deemed to continue to be a conforming structure, lot, or use after the acquisition by eminent domain or other governmental action as though such taking or acquisition by governmental authority had not occurred. For purpose of this ordinance lot area, setback, coverage, and any other dimensional requirements under this ordinance shall be measured or determined as though no such acquisition by eminent domain or other governmental action had occurred.

d. Restoration or replacement: This Ordinance allows the normal upkeep and maintenance of non-conforming uses and structures, and repairs, renovations, enlargements, modernization of non-conforming uses and structure, and such other changes in the non-conforming use or structure as Federal, State, and local building and safety codes may require. Any non-conforming structure which is hereinafter removed, damaged or destroyed, regardless of the cause (including demolition incidental to renovation) by more than 50% of the market value of the structure before such damage, destruction, or removal may be replaced, repaired, restored or reconstructed, provided a permit is obtained within eighteen (18) months of the date of said damage or destruction or demolition, provided that:

(1) Such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee;

(2) If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 4.C.3 below, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order

to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 4.C.3.b.4.f, relocation below.

2. Non-conforming use

   a. Resumption Prohibited: A building, lot or structure in or on which a non-conforming use is discontinued for a period exceeding two years, or which is superseded by a conforming use, may not again be devoted to a non-conforming use, even if the owner has not intended to abandon the use.

   b. A Structure Non-conforming as to Use: Except for single family dwellings, a building or structure, non-conforming as to use, shall not be enlarged unless the non-conforming use is terminated. Except in a Resource Protection District, single family dwellings, which are non-conforming uses, may be enlarged as long as the dimensional requirements of the district in which they are located are met. A non-conforming use or part of a building or structure shall not extended throughout other parts of the building or structure unless those parts of the building or structure were manifestly enlarged or designed for such use prior to the adoption of this Ordinance, or of any amendment making such use non-conforming.

   c. An existing non-conforming use or an agricultural produce processing facility existing on the effective date of this Ordinance whether or not non-conforming may be changed to another non-conforming use provided that the proposed use is equally or more appropriate to the district than the existing non-conforming or agricultural produce processing use, and the impact on adjacent properties and resources, is less adverse than heard as an administrative appeal. The determination of appropriateness shall require written documentation for the applicant regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management and archaeological and historic resources.

   d. Use of Land: A non-conforming use of land which is accessory to a non-conforming use of a building shall be discontinued at the same time the non-conforming use of the building is discontinued. In case of earth removal operations, the removal of earth may not be extended as a non-conforming use beyond the required setback

line of the specific parcel upon which such operations were in progress when such use became non-conforming as required by the performance standards for extractive industries. Adjacent parcels in the same or different ownership shall not be eligible for exemption under the non-conforming use provisions unless earth removal operations were in progress on these parcels before these provisions were enacted.

e. Not withstanding the provisions of paragraphs C.2.b., C.2.c, and C.2.d above a structure non-conforming as to use, or a non-conforming use of land, may be enlarged, extended or expanded provided that the applicant shows that the soils, location and lot are suitable for the proposed use and will not unreasonably interfere with the use and enjoyment of their property by adjacent landowners. The enlargement, extension or expansion will conform to all other requirements of the district involved including dimensional standards and the performance standards of Sections Sixteen and Seventeen of this Ordinance. In order to be eligible for an enlargement, extension or expansion under this subsection, the non-conforming use must be lawfully non-conforming at the time of adoption of this Ordinance. The enlargement, extension, or expansion shall be heard as an administrative appeal to the Board of Appeals.

The provisions of required off-street parking for an existing non-conforming use shall not be considered the expansion of the use.

3. Non-conforming Structure: (Pertaining to dimensional requirements. Applications regarding non-conforming use shall be reviewed under the provisions above).

a. Non-Shoreland Zone Enlargements Controlled: A structure non-conforming to the dimensional requirements of this Ordinance may be added to or enlarged when the proposed addition or enlargement will conform to all the regulations of the district in which it is located; or when the proposed addition or enlargement does not increase the non-conforming aspects of the existing structure; or by variance, pursuant to the provisions of this Ordinance. In addition, state laws must be adhered to.

The addition of an open patio with no structures elevated above the ground shall not constitute the expansion of a non-conforming structure. The addition of steps shall not constitute the expansion of a non-conforming structure. The enclosure of an existing deck shall not constitute the expansion of a non-conforming structure. In all districts, the addition of a deck shall constitute the expansion

of a non-conforming structure and shall comply with the requirements of this Ordinance.

b. Shoreland Zone Enlargements Controlled: All new principal and accessory structures, excluding functionally water-dependent uses, must meet the dimensional requirements of this ordinance including the water body, tributary stream, or wetland setback requirements contained in Section 20. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs 1) and 2) below:

(1) Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.

(2) Notwithstanding paragraph 1), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 4.C.3.b.

i. The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.

(3) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is

not prohibited by Section 4.C.3.b. or Section 4.C.3.b.1., above.

i. For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.

ii. For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 4.C.3.b.1.i. and Section 4.C.3.b.2.i. above.

iii. In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the

footprint and height limits in Section 4.C.3.b.1.i and Section 4.C.3.b.2.i above.

(4) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.

c. Foundations: The placing of a foundation below a lawfully existing or lawfully expanded non-conforming structure shall not constitute the expansion of the structure so long as the first floor of the structure is not increased and the foundation does not extend beyond the exterior dimensions of the structure. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed to conform to the shoreline setback to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 4.C.3.f Relocation below.

d. Discontinuance: Discontinuance of the use of a legally existing non-conforming structure shall not constitute abandonment of the structure. Conforming use of the structure may be commenced at any time.

e. Lack of Required Parking or Loading Space: A building or structure which is non-conforming as to the requirements for off-street and/or loading space shall not be enlarged, added to or altered unless off-street parking and/or loading space is provided to bring parking and/or loading space into conformance with the requirements of this Ordinance for both the addition or alteration and for the original building or structure, or a variance is obtained.

f. Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can

be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 20.C.11. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

(1) Trees removed in order to relocate a structure must be replanted with as least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be re-established within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

(2) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

4. Non-conforming Lots of Record

a. Vacant Lots: A vacant non-conforming lot may be built upon provided that such lot is in separate ownership and not contiguous

with any other vacant lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width, frontage and shore frontage can be met. Variance of setback or other requirements not involving lot area, lot width, frontage, or shore frontage shall be obtained only by action of the Board of Appeals.

b. Built Lots: A non-conforming lot that was built upon prior to the enactment or subsequent amendment of this Ordinance is subject to the following restrictions: The structure(s) may be repaired, maintained, or improved and may be enlarged in conformity with all dimensional requirements of this Ordinance except lot area, lot width, or lot frontage. If the proposed enlargement of the structure(s) cannot meet the dimensional requirements of this Ordinance a variance shall be obtained from the Board of Appeals.

c. Contiguous Built Lots: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if all or part of these lots do not meet the dimensional requirements of this Ordinance or subsequent amendments, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with. This provision does not apply to subdivisions which have been approved by the Fryeburg Planning Board since January 1, 1974.

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

d. Contiguous Lots- Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principle structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

5. Construction of An Accessory Dwelling Unit on a Non-Conforming Lot and within a Non-Conforming Structure: Notwithstanding the other provisions of Section 4.C, the construction of an accessory dwelling unit in accordance with Section 17.A is allowed on a non-conforming lot and

within a non-conforming structure provided that the construction of the accessory dwelling unit does not further increase the conditions creating the non-conformity, excluding lot area.

D. Vested Rights

Non-conforming use rights cannot arise by the mere filing of a notice of intent to build, an application for building permits, or an application for required state permits and approvals. Such rights arise when substantial construction of structures has begun and/or development infrastructure improvements for town approved subdivisions began prior to or within 24 months of the adoption of this Ordinance, or in the case of pending applications, when the review process on an application commences. Such construction must be legal at the time it commences and the owner must be in possession of and in compliance with all validly issued permits, both state and local.

E. Non-conforming as to Performance Standards

A use non-conforming as to General Performance Standards in Section Sixteen, Specific Performance Standards in Section Seventeen, or any other site development requirement including, but not limited to, parking spaces, access control, loading spaces, screening, erosion and sedimentation control, lighting, hours of operation, and noise, may continue but may not be expanded, the structure may not be enlarged, and the structure may not be altered to expand the use, unless all non-conforming performance standards and the site development are brought into conformance with this Ordinance.

SECTION 5
USES

A. Basic Requirement

Uses in all Districts must conform to all applicable specifications and requirements. A Plumbing Permit and Building Permit are required for all construction except as exempted herein. A Certificate of Completion will be issued by the Code Enforcement Officer upon completion of structure(s).

B. District Regulations

Land uses permitted in each district in conformance with the General Performance Standards in Section Sixteen and, where appropriate, the Specific Performance Standards of Section Seventeen are shown in the following table.

LAND USE TABLE

Key and Notes:

"A" means the use is allowed without authorization.
"C" means the use requires authorization by the Code Enforcement Officer.
"P" means the use requires authorization by the Planning Board.
"N" means the use is not allowed. It is prohibited.
"Na" means not applicable.

Village Residential District is abbreviated VR
Village Commercial District is abbreviated VC
Outlying Village Residential District is abbreviated OVR
Residential-Commercial District is abbreviated RC
Outlying Residential-Commercial District is abbreviated ORC
General Commercial District is abbreviated GC
Industrial District is abbreviated I
Rural Residential District is abbreviated RR

LAND USE TABLE

C. Exceptions to the Land Use Table

1. The change of an existing non-conforming use to another non-conforming use in accordance with the provisions in Section Four of this Ordinance is permitted without an action by the Planning Board.
2. When a principle use or structure requires authorization by the Planning Board or CEO, then an accessory use, structure, or addition/expansion, shall require authorization by the permitting authority required to issue the original approval. Marijuana operations may not be considered accessory uses and must be separately authorized per the Land Use Table.
3. Special events, as defined, are governed by the Mass Gathering Ordinance.
4. Camping and open air markets are allowed at the Fryeburg Fairgrounds.
5. Off-Street, incidental parking during the Fryeburg Fair is permitted.

D. Similar Uses

For uses which are not listed in the Land Use Table- Section 5.B, the Planning Board or Code Enforcement Officer shall determine if such use is similar to a permitted use and can be categorized as a permitted use. A proposed use found to be similar to a permitted use shall be authorized so long as it meets all requirements and standards that are required of the permitted use under this ordinance.

E. Discontinuance of a conforming use

A conforming use which is discontinued for a period of 2 or more years may not be resumed without approval from the appropriate permitting authority shown in Section 5.B.

	LAND USE CATEGORY	VR	VC	OVR	RC	ORC	GC	I	RR
	1. RESIDENTIAL								
1.1	Single -family residence	A	A	A	A	A	A	A	A
1.2	Accessory Dwelling Unit	A	A	A	A	A	A	A	A
1.3	Mobile Home Park	N	N	N	N	N	N	N	P
1.4	Mobile Home Park- where currently located	A	A	A	A	A	A	A	A
1.5	Cluster Development	P	P	P	P	P	P	P	P
1.6	Two-family dwelling	C	C	C	C	C	C	C	C
1.7	Multi-family dwelling	P	P	P	P	P	P	P	P
1.8	Boarding House	P	P	P	P	P	P	P	P
1.9	Home Occupation - Major	P	P	P	P	P	P	P	P
1.10	Home Occupation - Minor	C	C	C	C	C	C	C	C
1.11	Garage and Yards Sales	A	A	A	A	A	A	A	A
1.12	Affordable Housing Development	P	P	P	P	P	P	P	P
	2. SALES OR RENTAL OF GOODS, MERCHANDISE OR EQUIPMENT EXCEPT MOTOR VEHICLE								
2.1	With less than 2,500 square feet of gross floor area	N	P	N	P	P	P	P	N
2.2	With 2,500 square feet or more of gross floor area	N	P	N	N	N	P	P	N
2.3	With non-bulk outdoor storage or display	N	P	N	P	P	P	P	N
2.4	With bulk outdoor storage or display	N	N	N	N	N	P	P	N
2.5	Adult businesses	N	N	N	N	N	P	N	N
2.6	Uses which by their nature of their operation require a shorefront location	N	N	N	N	N	N	N	P
2.7	Farmers Market	N	P	N	P	P	P	N	N
2.8	Farm Stand - Major	N	P	N	P	P	P	P	P
2.9	Farm Stand - Minor	A	A	A	A	A	A	A	A
	3. OFFICE, CLERICAL, RESEARCH, OR SERVICES NOT PRIMARILY RELATED TO THE SALES OR RENTALS OF GOODS OR MERCHANDISE								
3.1	With less than 2,500 square feet of gross floor area	N	A	N	P	P	P	P	P
3.2	With 2,500 square feet or more of gross floor area	N	P	N	N	N	P	P	N
3.3	Operations with facilities to allow businesses to be conducted outside fully enclosed business with drive-thru operations	N	P	N	N	P	P	P	N
3.4	Professional Office; conversion of existing property (See Section 17)	P	Na	P	Na	Na	Na	Na	P
	4. MANUFACTURING, PROCESSING, CREATING, REPAIRING,RENOVATING, PAINTING, CLEANING ASSEMBLING, OR TESTING OF GOODS MERCHANDISE, OR EQUIPMENT								
4.1	With less than 5,000 square feet of gross floor area	N	N	N	N	P	P	P	N
4.2	With 5,000 square feet or more gross floor area but less than 10,000 square feet	N	N	N	N	N	P	P	N
4.3	With 10,000 square feet or more of gross floor area	N	N	N	N	N	N	P	N
4.4	Primary operation conducted outside fully enclosed building	N	N	N	N	N	P	P	N
4.5	Recycling or waste transfer station	N	N	N	N	N	P	P	N
4.6	Redemption center	N	P	N	P	P	P	P	N
	5. EDUCATIONAL, CULTURAL, RELIGIOUS, PHILANTHROPIC, SOCIAL, AND FRATERNAL USE								

5.1	School, including public or private nursery, elementary, secondary, or post-secondary schools	P	P	P	P	P	P	P	P
5.2	Special purpose school	P	P	P	P	P	P	P	P
5.3	Horseback riding school	N	N	N	A	P	N	P	A
	LAND USE CATEGORY	**VR**	**VC**	**OVR**	**RC**	**ORC**	**GC**	**I**	**RR**
	5. EDUCATIONAL, CULTURAL, RELIGIOUS, PHILANTHROPIC, SOCIAL, AND FRATERNAL USE- Continued								
5.4	Places of worship including residences of religious	P	A	A	A	A	A	A	P
5.5	Libraries, museums, art galleries, and art centers; including associates educational and instructional activities	P	P	P	P	P	P	P	P
5.6	Social, fraternal clubs and lodges, and union halls; not licensed to serve alcohol	P	P	P	P	P	P	P	P
5.7	Community activity center	P	P	P	P	P	P	P	P
5.8	Function hall	P	P	P	P	P	P	P	P
	6. RECREATION, AMUSEMENT, ENTERTAINMENT								
6.1	Activities such as a skating rink, tennis court, playground and/or athletic and exercise facilities conducted within a structure, except for personal use	N	P	N	P	P	P	P	P
6.2	Movie theater, dance halls, pool halls, arcades, and bowling alleys	N	P	N	P	P	P	P	N
6.3	Live theater or entertainment establishment	N	P	N	P	P	P	P	P
6.4	Skating rinks, tennis clubs or courts, swimming pools, playgrounds, and athletic fields or courts, conducted primarily outside enclosed buildings, except for personal use.	N	P	N	P	P	P	P	P
6.5	Golf course	N	N	N	P	P	P	N	P
6.6	Miniature golf	N	N	N	N	N	P	N	N
6.7	Golf driving range	N	P	N	P	P	P	N	P
6.8	Mountain bike, alpine, or cross country ski facility	N	P	N	P	P	P	P	P
6.9	Canoe rental/Canoe livery	N	N	N	P	P	P	P	P
6.10	Horseback riding ring and/or stable operated as a business	N	N	N	P	P	P	P	P
6.11	Bicycle racing track	N	N	N	N	N	P	P	P
6.12	Water slide type facilities	N	N	N	N	N	N	P	N
6.13	Automobile or motorcycle race track	N	N	N	N	N	N	P	N
6.14	ATV and/or Snowmobile sales and rentals	N	N	N	N	P	P	P	N
6.15	Adventure park	N	N	N	N	N	P	P	N
	7. INSTITUTIONAL RESIDENCE, CARE, CONFINEMENT FACILITIES								
7.1	Hospital	N	N	N	N	P	P	P	P
7.2	Nursing home or child care facility	P	P	P	P	P	P	P	P
7.3	Residential care and assisted living facilities	P	P	P	P	P	P	P	P
7.4	Congregate care facility	P	P	P	P	P	P	P	P
7.5	Correctional facility	N	N	N	N	N	N	P	N
7.6	Community living facility	P	P	P	P	P	P	P	P
	8. FOOD AND ALCOHOL SERVICE								

8.1	General food service/table service, inside or outside, without service to customers remaining in vehicles.	N	P	N	P	P	P	P	P
8.2	General food service/table service, inside or outside, with service to customers remaining in vehicles.	N	N	N	N	N	P	P	N
8.3	Deli, bakery, café, ice cream parlor	N	P	N	P	P	P	P	N
8.4	Tavern, bar, pub, brew pub, cocktail lounge or similar establishment	N	P	N	N	N	P	P	N

LAND USE CATEGORY		VR	VC	OVR	RC	ORC	GC	I	RR
8. FOOD AND ALCOHOL SERVICE- Continued									
8.5	Take out food service, except as incidental to a convenience store, specialty food store, grocery store	N	P	N	N	N	P	P	N
8.6	Catering Service	C	C	C	C	C	C	C	C
8.7	Bottle Clubs	N	N	N	N	P	P	N	N
9. LODGING									
9.1	Hotel, Motel	N	P	N	N	P	P	P	N
9.2	Bed and Breakfast	P	P	P	P	P	P	P	P
9.3	Yurt, cabin, cottage, or similar, rental facility	N	N	N	N	N	P	P	P
10. MOTOR VEHICLE RELATED SALES & SERVICE OPERATIONS									
10.1	Motor vehicle, recreational vehicle, mobile home sales and/ or service, not including substantial body work or painting; no fuel sales	N	N	N	N	P	P	P	N
10.2	Motor vehicle painting and body work; no fuel sales	N	N	N	N	N	P	P	N
10.3	Motor vehicle fuel sales	N	N	N	N	P	P	P	N
10.4	Car wash	N	N	N	N	P	P	P	N
11. PARKING, TRANSPORTATION, DISTRIBUTION, STORAGE									
11.1	Automobile parking lots or garages, with more than 10 spaces, not located on a lot on which there is another principal use to which the parking is related	N	P	P	N	P	P	P	N
11.2	Automobile parking lots or garages, with 10 spaces, or fewer not located on a lot on which there is another principal use to which the parking is related	C	C	C	C	C	C	C	C
11.3	Commerical storage of goods and/or products not related to sale or use of those goods on the same lot where they are stored.	N	P	N	P	P	P	P	P
11.4	Automobile impound facility	N	N	N	N	N	P	P	N
11.5	Contractors storage yard	N	P	N	N	N	P	P	P
11.6	Self-storage facilities	N	N	N	N	N	P	P	N
11.7	Warehousing/distribution center	N	N	N	N	N	P	P	N
11.8	Trucking terminal	N	N	N	N	N	P	P	N
11.9	Passengar transit termial	N	P	N	N	N	P	P	N
11.10	Bulk fuel & chemical storage	N	N	N	N	N	P	P	N
11.11	Hazardous waste facility	N	N	N	N	N	P	P	N
12. SCRAP MATERIALS STORAGE, SALVAGE YARDS, JUNKYARDS, OR AUTOMOBILE									

12.1	Scrap materials storage, salvage yard, junkyard, automobile graveyard	N	N	N	N	N	N	P	N

13. SERVICES & ENTERPRISES RELATED TO ANIMALS									
13.1	Animal care facility	N	P	N	P	P	P	P	N
13.2	Kennel	N	N	N	N	N	P	P	P
13.3	Animal grooming	N	P	N	P	P	P	P	P
13.4	Animal boarding	N	P	P	P	P	P	P	P

LAND USE CATEGORY		VR	VC	OVR	RC	ORC	GC	I	RR
14. AGRICULTURE, FARMING, FORESTRY, MINING, AQUACULTURE									
14.1	Excluding livestock and/or poultry	A	A	A	A	A	A	A	A
14.2	Anmial husbandry	P	P	P	P	A	P	P	A
14.3	Livestock keeping for personal use	A	A	A	A	A	A	A	A
14.4	Forest management operations	A	A	A	A	A	A	A	A
14.5	Timber harvesting	A	A	A	A	A	A	A	A
14.6	Mineral extraction, with or without onsite sales of products	N	N	N	N	N	N	P	P
14.7	Minor earthmoving activities	A	A	A	A	A	A	A	A
14.8	Major earthmoving activities	P	P	P	P	P	P	P	P
14.9	Aquaculture	P	P	P	P	P	P	P	P
14.1	Temporary sawmill	N	N	C	C	C	C	C	C
14.11	Permanent sawmill	N	N	N	N	N	P	P	P
14.12	Commerical firewood processing	N	N	N	C	C	C	C	C
14.14	Log concentration yards	N	N	N	N	N	C	C	C

15. MISCELLANEOUS PUBLIC & SEMI-PUBLIC FACILITIES									
15.1	Airport	N	N	N	N	N	N	P	P
15.2	Public works facilities	N	N	N	N	N	P	P	P
15.3	Public safety facilities	N	P	N	P	P	P	P	P
15.4	Municipal owned facilities	P	P	P	P	P	P	P	P

16. DRY CLEANER & LAUNDROMAT									
16.1	Dry cleaner, laundromat	N	P	N	N	N	P	P	N

17. UTILITY FACILITIES									
17.1	Small scale utility facility	P	P	P	P	P	P	P	P
17.2	Meduim scale utility facility	P	P	P	P	P	P	P	P
17.3	Large scale utility facility	P	P	P	P	P	P	P	P

18. TOWERS									
18.1	Towers, telecommunications facilities, wind energy systems exceeding 70 feet in height, or exceeding 35 feet in the Shoreland Zone	P	P	P	P	P	P	P	P
18.2	Towers, telecommunications facilities, wind energy systems 70 feet in height or less, or 35 feet or less in the in the Shoreland Zone	A	A	A	A	A	A	A	A

19. FUNERAL HOME

19.1	Funeral home	P	P	P	P	P	P	P	P

20. DAY CARE FACILITIES									
20.1	Day care home	C	C	C	C	C	C	C	C
20.2	Day care center	C	C	C	C	C	C	C	C
21. COMMERCIAL GREENHOUSE OPERATIONS									
21.1	Without on-premise sales	N	P	P	P	P	P	P	P
21.2	With on-premise sales	N	P	P	P	P	P	P	P

22. CAMPING AREAS									
22.1	Campgrounds	N	N	N	N	N	P	P	P
22.2	Individual private campsites	C	C	C	C	C	C	C	C

LAND USE CATEGORY		**VR**	**VC**	**OVR**	**RC**	**ORC**	**GC**	**I**	**RR**
23. SIGNS									
23.1	Signs	C	C	C	C	C	C	C	C
24. GROUND WATER EXTRACTION									
24.1	Ground water extraction	N	N	N	N	N	N	P	N
25. AGRICULTURAL FAIRS									
25.1	Agricultural Fair	P	N	P	N	N	N	N	P
26. ADULT USE CANNABIS									
26.1	Cannabis Store	N	N	N	N	N	P	P	N
26.2	Cultivation Facility - Tier 1	N	N	N	P	P	P	P	P
26.3	Cultivation Facility - Tier 2	N	N	N	N	N	P	P	P
26.4	Cultivation Facility - Tier 3	N	N	N	N	N	P	P	P
26.5	Cultivation Facility - Tier 4	N	N	N	N	N	P	P	P
26.6	Cultivation Facility - Nursery	N	N	N	P	P	P	P	P
26.7	Cannabis Products Manufacturing Facility	N	N	N	N	N	P	P	N
26.8	Cannabis Testing Facility	N	N	N	N	N	P	P	N
26.9	Cannabis Social Club	N	N	N	N	N	N	N	N
26.1	Home Cultivation for Personal Adult Use	A	A	A	A	A	A	A	A
27. MEDICAL USE CANNABIS OPERATIONS									
27.1	Registered Caregiver Retail Cannabis Store	N	P	N	N	N	P	P	N
27.2	Registered Caregiver Cultivation Facility	N	A	A	A	A	A	A	A
27.3	Qualifying Patient Cultivation/Products Manufacturi	A	A	A	A	A	A	A	A
27.4	Registered Dispensary	N	N	N	N	N	N	N	N
27.5	Registered Testing Facility	N	P	N	N	N	P	P	N
27.6	Registered Caregiver Products Manufacturing Facilit	N	P	N	N	N	P	P	N

SECTION 6
VILLAGE RESIDENTIAL DISTRICT

A. Purpose

The purpose of the Village Residential District is to foster the viability of Fryeburg Village. The Village Residential District allows appropriate village-type single and multi-family residential uses, as well as certain commercial and mixed uses. The density will be such that people living in the Village Residential area will be able to walk to stores and to other businesses.

B. Location

The location and boundaries of the Village Residential District are established as shown on the Official Zoning Map and are a part of this Ordinance.

C. Dimensional Requirements

Except for legal non-conformity, buildings or land used or occupied, and buildings erected, constructed, reconstructed, moved, or structurally altered, whether requiring Land Use Authorization or not, must comply with the requirements of Sections Sixteen and Seventeen (General and Specific Performance Standards) of this Ordinance, the State Minimum Lot Size Law, Title 12 M.R.S.A. Section 4807, and the following dimensional requirements:

		Required Dimension
1	Minimum Lot Size	
	a. First use on a lot	20,000 square feet
	b. Multiple uses on a lot	The required minimum lot size in (a), above, for the first use plus 50% of that for each additional use.
2	Minimum Frontage per lot	100 feet
3	Minimum Setback Dimensions	
	a. Setback from street right-of-way or front lot line, whichever is greater.	35 feet
	b. Side setback	15 feet
	c. Rear setback	20 feet

D. Permitted Uses

The Permitted Uses are those indicated in Section Five of this Ordinance.

SECTION 7
VILLAGE COMMERCIAL DISTRICT

A. Purpose

The Village Commercial District is intended to preserve the country character of the villages. The Village Commercial District includes the existing commercial areas of Fryeburg Village. This area provides retail and office services within a convenient distance from the Village Residential and the Outlying Village Residential areas. Mixed or multiple uses are allowed provided they meet the standards of Sections Fifteen and Sixteen.

B. Location

The location and boundaries of the Village Commercial District are established as shown on the Official Zoning Map and are a part of this Ordinance.

C. Dimensional Requirements

Except for legal non-conformity, buildings or land used or occupied, and buildings erected, constructed, reconstructed, moved, or structurally altered, whether requiring Land Use Authorization or not, must comply with the requirements of Sections Sixteen and Seventeen (General and Specific Performance Standards) of this Ordinance, the State Minimum Lot Size Law, Title 12 M.R.S.A. Section 4807, and the following dimensional requirements:

	Required Dimension
1. Minimum Lot Size	
a. First use on a lot	20,000 square feet
b. Multiple uses on a lot	The required minimum lot size in (a), above, for the use plus 50% of that for each additional use, plus that required by the State Minimum Lot Size Law, Title 12 M.R.S.A. Section 4807
2. Minimum Frontage per lot	100 feet
3. Minimum Setback Dimensions	none

D. Permitted Uses

The Permitted Uses are those indicated in Section Five of this Ordinance.

SECTION 8
OUTLYING VILLAGE RESIDENTIAL DISTRICT

A. Purpose

The Outlying Village Residential District provides a transition from the Village Residential and Village Commercial Districts to the low density Rural Residential District. This district is on the "outskirts" of the village. It will encourage a village-type of growth by allowing a higher density for development which is served by a community water system than for development which is not.

B. Location

The location and boundaries of the Outlying Village Residential District are established as shown on the Official Zoning Map and are a part of this Ordinance.

C. Dimensional Requirements

Except for legal non-conformity, buildings or land used or occupied, and buildings erected, constructed, reconstructed, moved, or structurally altered, whether requiring Land Use Authorization or not, must comply with the requirements of Sections Sixteen and Seventeen (General and Specific Performance Standards) of this Ordinance, the State Minimum Lot Size Law, Title 12, M.R.S.A. Section 4807, and the following dimensional requirements:

		Required Dimension
1	Minimum Lot Size	
a.	Single family dwellings using a community water system	30,000 square feet
b.	Single family dwellings using on-site water system	40,000 square feet
c.	Two-family or multi-family dwelling	The required minimum lot size in (a) or (b), above, for the first dwelling unit, plus 50% of that for additional dwelling unit.
d.	Other allowable uses	The required minimum lot size in (a) or (b), above, per use for the first use, plus 50% of that minimum lot size for each additional use.
2	Minimum Frontage per lot	100 feet
3	Minimum Setback Dimensions	
a.	Setback from street right-of-way or front lot line, whichever is greater.	35 feet
b.	Side setback	20 feet
c.	Rear setback	20 feet

D. Permitted Uses

The Permitted Uses are those indicated in Section Five of this Ordinance.

SECTION 9
RESIDENTIAL-COMMERCIAL DISTRICT

A. Purpose

The purpose of the Residential-Commercial District is to establish an appropriate area where the residential land uses which are allowed in the Village Residential District as well as "low impact" commercial uses will be encouraged. This district forms a transition from the Village to areas where more general commercial uses are appropriate. The district will promote small, clustered commercial establishments.

B. Location

The location and boundaries of the Residential-Commercial District are established as shown on the Official Zoning Map and are a part of this Ordinance.

C. Dimensional Requirements

Except for legal non-conformity, buildings or land used or occupied, and buildings erected, constructed, reconstructed, moved, or structurally altered, whether requiring Land Use Authorization or not, must comply with the requirements of Sections Sixteen and Seventeen (General and Specific Performance Standards) of this Ordinance and the following dimensional requirements:

		Required Dimension
1	Minimum Lot Size	
	a. Single family dwellings using a community water system	30,000 square feet
	b. Single family dwellings using on-site water system	40,000 square feet
	c. Two-family or multi-family dwelling	The required minimum lot size in (a) or (b), above, for the first dwelling unit, plus 50% of that for each additional dwelling unit.
	d. Other allowable uses	The required minimum lot size in (a) or (b), above, per use.
	e. Mixed use and multiple uses	The required minimum lot size in (a), (b), or (c) above, for the first use, plus 50% of that minimum lot size for each additional use.
2	Minimum Frontage per lot, including those with multiple uses	100 feet
3	Minimum Setback Dimensions	
	a. Setback from street right-of-way or front lot line, whichever is greater.	35 feet
	b. Side setback	20 feet
	c. Rear setback	20 feet

D. Permitted Uses

The Permitted Uses are those indicated in Section Five of this Ordinance.

SECTION 10
OUTLYING RESIDENTIAL-COMMERCIAL DISTRICT

A. Purpose

The purpose of Outlying Residential-Commercial District is to foster the continuation of the former village areas of Fryeburg Center and North Fryeburg, and East Fryeburg. These are areas where commercial and residential uses have existed together and these mixed uses will be encouraged by the district. High impact industrial and commercial uses are not appropriate in this district, nor are scattered and strip development. Clustered commercial uses and low impact commercial uses are appropriate.

B. Location

The location and boundaries of the Outlying Residential-Commercial District are established as shown on the Official Zoning Map and are a part of this Ordinance.

C. Dimensional Requirements

Except for legal non-conformity, buildings or land used or occupied, and buildings erected, constructed, reconstructed, moved, or structurally altered, whether requiring Land Use Authorization or not, must comply with the requirements of Sections Sixteen and Seventeen (General and Specific Performance Standards) of this Ordinance and the following dimensional requirements:

		Required Dimension
1	Minimum Lot Size	
	a. Single family dwellings using a community water system	30,000 square feet
	b. Single family dwellings using on-site water system	40,000 square feet
	c. Two-family or multi-family dwelling	The required minimum lot size in (a) or (b), above, for the first dwelling unit, plus 50% of that for each additional dwelling unit.
	d. Other allowable uses	The required minimum lot size in (a) or (b), above, per use.
	e. Mixed use and multiple uses	The required minimum lot size in (a) or (b), above, for the first use, plus 50% of that minimum lot size for each additional use.
2	Minimum Frontage per lot, including those with multiple uses	100 feet
3	Minimum Setback Dimensions	

a.	Setback from street right-of-way or front lot line, whichever is greater	35 feet 60 feet from Routes 5, 113, and 302
b.	Side setback	20 feet
c.	Rear setback	20 feet

D. Permitted Uses

The Permitted Uses are those indicated in Section Five of this Ordinance.

SECTION 11
GENERAL COMMERCIAL DISTRICT

A. Purpose

The purpose of the General Commercial District is to accommodate the shopping and business needs of a much larger consumer population and area of residency than is served by the Village Commercial District. Also in the General Commercial District are the commercial uses which because of their needs for large areas of outdoor storage and display, and motor vehicle parking and maneuvering, are not appropriate in the Village Commercial District.

In this district appropriate buffering and set backs are to be used to assure that development is compatible with adjacent uses, and performance, site development, and highway access management standards are to be employed to assure that the uses do not have a detrimental effect on the public health, safety (including traffic safety), and welfare.

B. Location

The location and boundaries of the General Commercial District are established as shown on the Official Zoning Map and are a part of this Ordinance.

C. Dimensional Requirements

Except for legal non-conformity, buildings or land used or occupied, and buildings erected, constructed, reconstructed, moved, or structurally altered, whether requiring Land Use Authorization or not, must comply with the requirements of Sections Sixteen and Seventeen (General and Specific Performance Standards) of this Ordinance and the following dimensional requirements:

			Required Dimension
1	Minimum Lot Size		
	a.	Single family dwellings using a community water system	30,000 square feet
	b.	Single family dwellings using on-site water system	40,000 square feet
	c.	Two-family or multi-family dwelling	The required minimum lot size in (a) or (b), above, for the first dwelling unit, plus 50% of that for each additional dwelling unit.
	d.	Bed and breakfast and boarding house	40,000 square feet plus 7,000 square feet for each lodging unit over 4
	e.	Other uses, including mixed use and multiple uses	The required minimum lot size in (a), (b), (c), and/or (d) above, for the first use, plus 50% of that minimum lot size for each additional use.

2	Minimum Frontage per lot, including those with multiple uses	125 feet
3	Minimum Setback Dimensions for Residential Uses	
	a. Setback from street right-of-way or front lot line, whichever is greater	35 feet 60 feet from Routes 5, 113, and 302
	b. Side setback	20 feet
	c. Rear setback	20 feet
4	Minimum Setback Dimensions for Non-Residential Uses	
	a. Setback from street right-of-way or front lot line, whichever is greater	50 feet 60 feet from Routes 5, 113, and 302
	b. Side setback	35 feet
	c. Rear setback	35 feet
5	Maximum Structure Coverage	30%

D. Permitted Uses

The Permitted Uses are those indicated in Section Five of this Ordinance.

SECTION 12
INDUSTRIAL DISTRICT

A. Purpose

The purpose of the Industrial District is to allow light industrial development in locations which are suitable for such development. These areas are located with easy access to major arterial highways.

Appropriate standards for development are to be employed to assure that the uses in this district do not detrimentally affect the public health, safety, and welfare. Buffering and set backs are to be used to assure that development in this district is compatible with adjacent uses.

Part of the Industrial District is close to, or over, the recharge district of the Fryeburg Water Company's water supply. Because of this, provisions are made which assure that the development that takes place does not harm the drinking water supply.

B. Location

The location and boundaries of the Industrial District are established as shown on the Official Zoning Map and are a part of this Ordinance.

C. Dimensional Requirements

Except for legal non-conformity, buildings or land used or occupied, and buildings erected, constructed, reconstructed, moved, or structurally altered, whether requiring Land Use Authorization or not, must comply with the requirements of Sections Sixteen and Seventeen (General and Specific Performance Standards) of this Ordinance and the following dimensional requirements:

		Required Dimension
1	Minimum Lot Size	
	a. Single family dwellings using a community water system	30,000 square feet
	b. Single family dwellings using on-site water system	40,000 square feet
	c. Two-family or multi-family dwelling	The required minimum lot size in (a) or (b), above, for the first dwelling unit, plus 50% of that for each additional dwelling unit.
	d. Bed and breakfast and boarding house	40,000 square feet plus 7,000 square feet for each lodging unit over 4

	e. Manufacturing, processing, creating, repairing, renovating, painting, cleaning, assembling, and/or testing in a building with 2,500 square feet or more of gross floor area; and such activities conducted outside of a fully enclosed building	2 acres
	f. Other uses, including mixed use and multiple uses	The required minimum lot size in (a), (b), (c), (d), and/or (e) above, for the first use, plus 50% of that minimum lot size for each additional use.
2	Minimum Frontage per lot, including those with multiple uses	125 feet
3	Minimum Setback Dimensions for Residential Uses	
	a. Setback from street right-of-way or front lot line, whichever is greater	50 feet 60 feet from Routes 5, 113, and 302
	b. Side setback	50 feet
	c. Rear setback	50 feet
4	Maximum Structure Coverage	30%
5	Maximum Height	
	a. Manufacturing, processing, creating, repairing, renovating, painting, cleaning, assembling, and/or testing in a building with 2,500 square feet or more of gross floor area; and such activities conducted outside of a fully enclosed building	60 feet, provided that the Planning Board as part of its review consults with the Fire Chief and finds the fire fighting equipment and personnel of the Town are sufficient for rendering fire-fighting services for the building(s) proposed to exceed 35 feet in height. In the absence of such finding, no building in excess of 35 feet in height may be approved except upon condition that it be constructed with an automatic sprinkler system approved by the Fire Chief.
	b. Other allowable uses	35 feet

D. Permitted Uses

The Permitted Uses are those indicated in Section Five of this Ordinance.

SECTION 13
MOBILE HOME PARK OVERLAY DISTRICT

A. Purpose

The purpose of the Mobile Home Park Overlay District is to allow Mobile Home Park development in locations which are suitable for such development.

This district cuts across other districts but is an area that is environmentally suitable for residential use and is an area where mobile homes may be sited and would be compatible with existing and potential future development.

B. Location

The location and boundaries of the Mobile Home Park Overlay District are established as shown on the Official Zoning Map and are a part of this Ordinance.

C. Dimensional Requirements

Except for legal non-conformity, buildings or land used or occupied, and buildings erected, constructed, reconstructed, moved, or structurally altered, whether requiring Land Use Authorization or not, must comply with the requirements of Sections Sixteen and Seventeen (General and Specific Performance Standards) of this Ordinance and the following dimensional requirements:

	Required Dimension
1. Minimum Lot Size	
a. Served by individual subsurface waste water disposal systems	20,000 square feet
b. Served by central subsurface waste water disposal system approved by the Maine Department of Human Services	12,000 square feet
c. If located in a Shoreland Zone	the Minimum Lot Size of the underlying District
2. Minimum Frontage	
a. Served by individual subsurface waste water disposal systems	100 feet
b. Served by central subsurface waste water disposal system approved by the Maine Department of Human Services	75 feet
c. If located in a Shoreland Zone	the Minimum Frontage of the underlying District

3. Minimum Setback Dimensions a. On lots which abut a public way either within the park or adjacent to the park, or on lots which are located within the Shoreland Zone	the Minimum Setback Dimensions of the underlying District
4. Maximum Density	20,000 square feet per mobile home

D. Permitted Uses

The Permitted Uses are mobile home parks plus those indicated in Section Five of this Ordinance for the underlying district.

SECTION 14
RURAL RESIDENTIAL DISTRICT

A. Purpose

The purpose of the Rural Residential District is to provide protection to the Town's rural resources; timber harvesting and growing areas, agricultural areas, natural resource based, business and recreation areas, open spaces, and rural views; while maintaining a rural land use pattern much like that which existed in Fryeburg in the last century – large contiguous open space areas, farmland, land in the Tree Growth tax classification and other forest land, land in which the predominant pattern of development consists of homes and compatible, non-intensive home occupations and businesses interspersed among large open spaces.

B. Location

The location and boundaries of the Rural Residential District are established as shown on the Official Zoning Map and are a part of this Ordinance.

C. Dimensional Requirements

Except for legal non-conformity, buildings or land used or occupied, and buildings erected, constructed, reconstructed, moved, or structurally altered, whether requiring Land Use Authorization or not, must comply with the requirements of Sections Sixteen and Seventeen (General and Specific Performance Standards) of this Ordinance and the following dimensional requirements:

		Required Dimension
1	Minimum Lot Size	
	a. Residential Uses	40,000 square feet per dwelling unit
	b. Bed and breakfast and boarding house	40,000 square feet plus 7,000 square feet for each lodging unit over 4
	c. Nursing homes	120,000 square feet plus 7,000 square feet for each patient bed over 10
	d. Other allowable uses	40,000 square feet per use
	e. Mixed use and multiple uses	The required minimum lot size for the first use plus 50% of that minimum lot size for each additional use.
2	Minimum Frontage per lot	125 feet
3	Minimum Setback Dimensions	
	a. Setback from street right-of-way or front lot line, whichever is greater	35 feet 60 feet from Routes 5, 113, and 302
	b. Side setback	20 feet
	c. Rear setback	20 feet

D. Permitted Uses

The Permitted Uses are those indicated in Section Five of this Ordinance

SECTION 15
WELLHEAD PROTECTION OVERLAY DISTRICT

A. Purpose

The purpose of the Wellhead Protection Overlay District is to protect the public water supply in the Town of Fryeburg from land uses which pose a threat to the quality and/or quantity of the groundwater being extracted from wells which serve the public water system.

B. Authority

This Subsection of the Water Protection Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part Second of the Maine Constitution, Title 30-A M.R.S.A. Section 3001 (Home Rule), Title 30-A M.R.S.A. Section 4312, et seq. (Growth Management), Title 22 M.R.S.A. Section 2611, et seq. (Drinking Water Regulations) and all rules and regulations promulgated thereunder.

C. Location

The location and boundaries of the Wellhead Protection Overlay District are established as shown on the Official Zoning Map, as amended in June, 2007, on a map designated "Wellhead Protection District, Revised June, 2007", and are a part of this ordinance.

D. Establishments of Districts

The Wellhead Protection Overlay District consists of two districts, as determined by the Emery and Garrett Groundwater, Inc. August 2005 Report relating to the Wards Brook Aquifer, which are listed and their hydrologic characteristics described below.

1. District A: Immediate Recharge Area.

   For wells serving more than 500 persons, or otherwise providing drinking water and located in unconsolidated sand and gravel aquifers, the district extends from the wellhead to the 200-day groundwater time-of-travel boundary.

2. District B: Primary Recharge Area

   For wells serving more than 500 persons, or otherwise providing drinking water and located in unconsolidated sand and gravel aquifers, the district extends from the outer boundary of District A to the 2,500-day time-of-travel boundary.

E. Annual Review

The Planning Board will, at its meeting in April annually, review the then current use of the Wards Brook Aquifer, and any new information relating to the effect of such

use, and prepare any amendments to the Wellhead Protection District it deems appropriate for presentation to the Town of Fryeburg at the annual Town meeting.

F. Land Uses

The following Wellhead Protection Area Land Use Table should be used as a supplement to the Land Use Table as shown in Section Five, Uses, in the Town of Fryeburg Land Use ordinance. Where a land use is not permitted in the Land Use Table, the Land Use Table will control. Where a land use is permitted in the Land Use Table, the Wellhead Protection Area Land Use Table will control. All land uses and activities are subject to requirements of the Town of Fryeburg Land Use Ordinance and/or other Town ordinances and State rules and regulations.

Key:

"A" means allowed as provided for elsewhere in the Fryeburg Land Use Ordinance subject to Best Management Practices
"C" means the use requires Code Enforcement Officer authorization and Best Management Practices
"N" means the use is not permitted
"PB" means the use requires Planning Board authorization and Best Management Practices

USES	District A	District B
Non-agricultural chemical use, storage and handling (including petroleum products)		
a. Dry cleaner	N	PB
b. Automobile repair/body shop	N	PB
c. Storage of petroleum products> 500 gallons	N	PB
d. Fertilizer dealers	N	PB
e. Boat yards/builders	N	PB
f. Photo developers	N	PB
Agricultural chemical use, storage and handling		
a. Pesticides application	PB	PB
b. Petroleum based fertilizer application	PB	PB
c. Manure spreading	N	PB
d. Beneficial use of residuals	N	PB
Storage, handling and processing of solid waste		
a. Transfer Station/landfill	N	N
b. Wood waste/agricultural cull piles	N	N
Vehicular storage, use		
a. Overnight storage or parking, maintenance and refueling of commercial vehicles and equipment	N	PB
b. Retail or wholesale vehicles included	N	PB
c. Storage of fuels in gravel pits or rock mining	N	PB

areas	N	N
Bulk storage of leachable material, including, but not limited to concrete, asphalt, coal and salt	N	N
Mining a. Sand and Gravel Mining b. Rock c. Metallic ore	 N N N	 PB PB N
Subsurface injection a. Any septic system. b. Replacement or expansion of subsurface wastewater disposal systems c. Discharge of commercial or industrial wastewater or wash water to a septic system (including car was, Laundromat, etc)	 N N N	 PB PB PB
Storm water management a. New impervious area b. Detention c. Retention d. Infiltration	 PB PB N N	 PB PB PB PB
Commercial water production wells	PB	PB
Utility Corridors	A	A
Commercial agriculture, horticulture, silviculture	N	A
Construction or demolition	PB	A
Use, Storage, or manufacture of hazardous materials or waste	N	PB
Disposal of solid waste, sludge, and ash	N	N
Essential operations of the Water Company or Water District or other official safety or utility entity	C	C

G. Best Management Practices for Wellhead Protection Overlay District

1. General Provisions

All development located within the Wellhead Protection Area shall comply with Best Management Practices to protect the quality and quantity of the public water supply. Best Management Practices, as applied in the State of Maine, are management practices which will mitigate the impacts of the activity on water quality. In some instances, there may be more than one management practice which would accomplish the same result. In other instances, depending on the site location and on-site conditions, more than one management practice may be needed to fully mitigate the problem. Therefore, discretion is needed in determining which management practices to apply. The Planning Board shall require all development located within the Wellhead Protection Area to comply with the Best Management Practices contained in this Section and may refer to

additional applicable Best Management Practices which have been published by or in conjunction with the Maine Department of Environmental Protection or other technical experts.

2. Agriculture/Open Space/Utility Corridors

    a. Soil tests shall be used to determine proper amount of nutrients and limestone applied (pH adjustment).

    b. Nutrients and fertilizers shall be applied only at levels required.

    c. A slow release form or organic fertilizer shall be used, where possible.

    d. Nutrients and chemicals shall not be applied to very shallow soils or exposed bedrock.

    e. Applications of nutrients and fertilizers shall be limited to the active growing season.

    f. All federal and state laws regulating pesticides and chemicals shall be followed.

    g. Pesticides and chemicals shall be applied in accordance with label instructions or under the direction of a certified applicator.

    h. Nutrients, chemicals, and fertilizers, including manure, shall be stored in properly located and constructed facilities.

    i. Secure, safe storage shall be provided for used pesticide containers and disposal of containers shall be in accordance with federal and state law.

3. Chemicals, Hazardous Materials, Petroleum Products and Waste Handling on Construction Sites

    a. The collection and disposal of petroleum products, chemicals and wastes used in construction shall conform to the following:

        (1) Collect and store in closed, clearly marked water tight containers.

        (2) Containers shall be removed regularly for disposal to prevent spills and leaks which can occur due to corrosion of containers. A schedule for removal shall be contained in the application and in any construction specifications for the project.

b. Landscaping chemicals such as fertilizers, herbicides and pesticides shall be applied following appropriate Best Management Practices developed by the Maine Department of Agriculture in conjunction with the Maine Department of Environmental Protection.

4. Chemical, Hazardous Material, and Petroleum Handling and Storage

a. Non-hazardous chemicals shall be substituted for hazardous varieties whenever possible.

b. Provisions shall be made to clean up all spills immediately with an absorbent material or other methods and to dispose of the materials properly.

c. Hazardous materials shall be stored in secure, corrosion resistant containers.

d. Bulk storage shall be in above-ground, corrosion resistant tanks.

(1) A diked area shall be provided around tanks to contain spills. The volume of diked area shall equal the volume of product stored.

(2) A roof shall be provided over containment areas to prevent Collection of rain water.

(3) Drains shall not be installed in containment areas.

e. All floors shall be concrete or an impermeable, hardened material.

f. Non-bulk storage of chemicals shall be indoors. Such storage areas shall comply with the following:

(1) Floor drains shall not be used.

(2) Storage and handling areas shall have waterproof dikes around perimeter so as to contain spills.

g. Tanks shall be equipped with automatic shutoffs or high level alarms.

h. Spill and leak detection programs shall be maintained and reviewed annually and updated as necessary.

i. Oil and water separators shall not be used to remove dissolved compounds or oil and greases which had been subjected to detergents.

j. Concrete or other impermeable pads shall be provided under transfer and handling areas.

k. Exterior transfer and handling areas shall be graded and sloped so as to prevent runoff from other areas from entering the handling area.

l. Procedures shall be established to catch and store chemicals spilled at loading and other transfer areas.

m. The facility and equipment shall be designed to:

(1) prevent tank overflows; and

(2) prevent line breakage due to collision.

n. Provisions shall be made to have:

(1) emergency diking materials available;

(2) emergency spill cleanup materials available.

m. Residential storage tanks for home heating fuel shall be located in cellars or on a concrete slab above the ground if outside and provisions shall be made to periodically inspect and test tanks and lines of leaks.

5. Commercial Maintenance Operations

a. An inventory of chemicals used and stored and a plan detailing the reuse, recycling, or proper disposal of waste chemicals shall be maintained, and updated as needed. The plan shall include provisions for implementation.

b. Buildings, rooms and areas where chemical potential pollutants are used, handled or stored shall be designed to contain spills or leaks.

(1) Specifically, floor drains shall not be used except as required by fire regulations.

(2) A waterproof dike shall be placed around areas to contain accidental spills. The dike shall have an equivalent

volume to the amount of material stored or used in the room.

c. Spill/leakage prevention and detection programs shall be maintained and updated.

(1) Plans shall insure the regular collection and transport of chemicals.

(2) Plans shall provide for inspection of containers and storage areas on a regular basis.

d. A spill clean-up plan shall be maintained and reviewed annually and updated as needed. The plan shall:

(1) Insure adequate materials and equipment are available;

(2) Insure that personnel are trained.

(3) Insure that the local fire department is knowledgeable of clean-up procedures.

e. Wash waters and other dilute wastes shall be adequately treated consistent with state law and the current pretreatment ordinances.

(1) Wastes shall be discharged to sewer systems or treatment plans where possible.

(2) Grease traps and oil separators shall be installed where necessary and shall be maintained on a regular basis.

6. Sand and Gravel Mining

a. Excavation shall be limited to 5 feet above the seasonable high water table.

b. If water supply wells are present within 500 feet of the proposed excavation, ground water level monitoring wells shall be installed and monitored.

c. Haul roads shall be watered to control dust. Salting and oiling of roads is prohibited.

d. Petroleum storage

(1) Petroleum products shall not be stored in the pit.

(2) A spill prevention plan shall be provided, maintained and implemented.

7. Septic/Subsurface Wastewater/Sewage Disposal

a. Sewer/septic systems shall be designed by competent professionals using sound engineering practices. On-site sewage disposal shall be according to the State of Maine Subsurface Wastewater Disposal Rules.

b. Construction of sewers and septic systems shall be carefully inspected to assure proper installation.

c. Septic systems and related piping shall be tested for leakage and certified by the Licensed Plumbing Inspector that they are water tight prior to use. Sewer systems shall be tested for leakage, according to State standards or district regulations.

d. Provisions shall be made to maintain sewer and septic systems in good working order.

e. Sewers and drainage systems shall be designed to assure that stormwater does not enter sanitary sewers.

f. For cluster systems, 1,000 gallon septic tank capacity shall be provided for each 300 gallons of flow. Design flows for leachfields shall be less than 2,500 gallons per day.

g. Chemicals, hazardous materials, floor drains and stormwater drains (i.e., roof drains) shall not be discharged to septic systems.

8. Stormwater Runoff/Snow and Ice Control.

a. Drainage systems, including detention basins, drainage ways, and storm sewer systems, shall be maintained in good working order.

b. Chemicals and wastes shall be stored in such a manner to prevent rainfall from contacting them.

9. Wells, Abandoned

a. Abandoned wells must be filled with inert, compact, natural soil material or as stipulated by the State of Maine Well Drillers and Pump Installers Rules, 144A C.M.R. Chapter 232.

b. Wells must be abandoned according to the State of Maine Well Drillers and Pump Installers Rules, 144A C.M.R. Chapter 232, and all piping
must be removed.

10. Wells, Existing and New

a. Wells must be constructed and secured so that contamination cannot enter the groundwater via either the inside or the outside of the well.

b. Wells must be constructed according to the State of Maine Well Drillers and Pump Installers Rules, 144A C.M.R. Chapter 232.

SECTION 16
PERFORMANCE STANDARDS
GENERAL REQUIREMENTS

A. Applicability and Purpose

These standards apply to all new or expanded uses of land and buildings in the Town of Fryeburg, unless otherwise specified, whether or not specific approval or a permit is required. The purposes of these standards are to help implement the Comprehensive Plan, to balance the rights of land owners to use their land with the rights of abutting land owners and the general public, and to protect the public health, safety, and welfare. Any of these standards may be waived by a unanimous vote of the Planning Board, present and voting, upon a written finding that the purpose and intent of the Ordinance will be maintained without the applicant meeting the specific standard.

B. Access Control and Traffic Impacts

1. Any development must provide for safe access to and from streets. Safe access must be assured by providing access points which are appropriate as to number and location, with respect to sight-distances, intersections, schools, and other traffic generators.

2. Any access on to a street is limited to the minimum width necessary for safe entering and exiting. The proposed development may not have an unreasonable negative impact on the street system, All exit driveways must be designed so that there is at least ten feet of sight-distance for each mile per hour of legal speed on the accessed street.

   Safe circulation within the site must be provided by separating pedestrian and vehicular traffic and by providing parking and loading areas required in this Section 16.I. The site layout shall provide for the safe movement of vehicular, pedestrian, and cyclist traffic, and emergency vehicles through the site.

   A system of pedestrian ways shall be provided within any proposed development. The system shall connect major building entrances and exits with parking areas and with existing or planned sidewalks within the vicinity of the project. The system shall be safely delineated or separated from vehicular traffic though landscape buffers, curbing, or appropriate pavement markings or signage.

3. Slope and intersection angle

   Driveways may not have an average slope in excess of 8% within 25 feet of the point of intersection of a street. The angle of intersection between the driveway and the street must be as close to 90 degrees as possible.

4. Driveways through residential districts

No driveway may be located in a residential district to provide access to uses other than those permitted in that residential district.

5. Streets must have carrying capacity

   The street to which a driveway connects and the streets which are expected to carry traffic to the use served by the driveway must have traffic carrying capacity and be suitably improved to accommodate the amounts and types of traffic generated by the proposed use. No development may reduce the road's Level of Service to "D" or below.

6. Street improvements required

   Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provisions must be made for turning lanes, traffic directional islands, frontage streets, and traffic controls within the public streets.

7. Streets must have carrying capacity

   The street to which a driveway connects and the streets which are expected to carry traffic to the use served by the driveway must have traffic carrying capacity and be suitably improved to accommodate the amounts and types of traffic generated by the proposed use. Table 10-4 (Chapter 10) of the Fryeburg Comprehensive Plan shall be used as a guide for forecasting Level of Service. The Planning Board may require that an updated analysis be submitted. No development may reduce the road's level of service to "D" or below.

8. Prevent queuing

   Driveways serving commercial uses must be designed with enough on-site vehicular stacking capacity so as to prevent queuing of entering vehicles on any street.

9. Circulation connections to adjoining lots

   Where topographic and other conditions allow, provisions should be made for circulation connections to adjoining lots of similar existing or potential use when:

   a. Such connections will facilitate fire protection services as approved by the Fire Chief; and/or

   b. Such connections will enable the public to travel between two existing or potential uses, generally open to the public, without need to travel onto a street.

10. Sight distance for posted speeds of 45 miles per hour or greater

    A driveway must be designed in profile and grading, and located, so as to provide the ten feet of sight distance for every mile per hour of posted speed. If the street is not posted the posted maximum speed is assumed to be 45 miles per hour. The measurements must be from the driver's seat of a vehicle standing on that portion of the driveway with the front of the vehicle a minimum of ten feet

behind the curb line or edge of shoulder, with the height of the eye 3.5 feet to the top of an object 4.25 feet above the pavement.

11. Distance to intersection on roads posted for 45 miles per hour or greater

    No driveway may be located less than 50 feet from the point of tangency of streets at an intersection without signal lights and less than 150 feet from the point of tangency of streets at any signalized intersection.

12. Construction materials

    a. A driveway serving a commercial or industrial use, regardless of driveway volume, must be paved with bituminous concrete pavement over a gravel sub-base at least 6" in thickness within the street right-of-way and for a distance of 30 feet from the paved portion of the street right-of-way.

    b. The Road Commissioner must determine whether a culvert must be installed so as to carry storm water from one side of the driveway to the other side. The size and location of the culvert shall be determined by the Road Commissioner.

13. Driveways and Streets Crossing Setback and Buffer Areas:

    Driveways and streets crossing setback and buffer areas shall intersect the same at an angle of 90% $\pm$ 15° to the perimeter boundary.

C. Access to Lots

1. Existing lots which do not abut a street

   A lot of record legally existing at the date of adoption of this standard, which does not abut a street, may be used for the land uses and activities allowed in that district provided the lot is connected to a street by an access strip meeting the following criteria:

   a. The access strip is a right-of-way in favor of the subject lot;

   b. A driveway along the access strip can be constructed which is suitable to permit emergency vehicle access.

2. New lots which abut a street

   A lot created after the adoption of this standard which abuts a street may be used for the land uses and activities allowed in that district provided it has the minimum frontage and lot size of that district on that street or it is created under the cluster development provisions of this Ordinance.

3. New lots which do not abut a street

   A lot created after the adoption of this standard which does not abut a street and does not require subdivision approval under this Ordinance may be used for the land uses and activities allowed in that district provided it meets the following criteria:

a. The lot has access by an easement to a public or private road which permits access by emergency vehicles;

b. The lot size and dimensions meet the criterion of the District.

D. Building and Site Review

The requirements of this section are applicable only to proposed and existing land uses when such proposed or existing uses are required to obtain Planning Board approval per the Land Use Table in Section 5.B. Building and Site Review is triggered by a new Land Use Authorization application, a request to amend or modify an existing Land Use Authorization, a proposed change in use requiring Planning Board approval, or an application for a Building Permit to modify the exterior appearance of an existing structure that is part of an existing Land Use Authorization granted by the Planning Board .

Except where specifically exempted, the following building and site features must be approved by the Planning Board prior to the issuance of any building permit for a new building, or for any substantive change which affects the exterior appearance of an existing building as seen from the street:

1. Architectural Design

a. The purpose of this section of the ordinance is to provide design standards with which to assist the development or renovations of commercial and industrial properties to compliment the overall New England style ambiance of the Town of Fryeburg. The guidelines are directed towards, but are not limited to, assisting corporate franchises and commercial/industrial developers in the design of structures which reflect small town New England atmosphere unique to Fryeburg. Consideration must be given to scale and pedestrian orientation for the design of, or renovation of a commercial or industrial structure so as to make it fit in and compliment the surrounding neighborhood.

b. This ordinance is not intended to restrict imagination, innovation, or variety in new construction or the renovation of industrial and commercial buildings or related property, but rather to encourage continued economic development, conserve property values, and further enhance the visual appearance of the community.

c. The requirements contained herein do not expect to foresee all possible proposed building situations. Decisions concerning such unforeseen situations will be made with these requirements in mind.

(1) Variation in detail, form and siting shall be used to provide visual appeal. All new buildings and additions shall have pitched roofs of 3:12 or greater or gabled roofs, where practical. In cases where pitched roofs are not practical, the Planning Board may require the use of false building fronts to vary the horizontal lines along portions of the facade. All sides of a structure should receive design

consideration. In commercial structures with over 100 feet parallel to the road front, building elevations facing the road shall be designed to give the appearance of multiple attached buildings. Wherever possible, all roof top mechanical units shall be located so as not to be visible from street level or from public areas from ground level.

(2) The exterior surfaces of all buildings shall be covered with wood or vinyl clapboard, wood or vinyl shingles, brick, or other suitable material approved by the Planning Board. Pitched roofs shall be constructed of shingles, metal roofing or other materials traditionally used in this region.

(3) Except in the Industrial District, windows shall comprise no less than 10% of the exterior wall surface of the portions of the building facing the road front. Windows may be used for either interior illumination or for display purposes.

2. New Construction Setbacks

All new buildings constructed shall have front setbacks reasonably consistent with the setbacks of existing buildings on either side of the subject lot. This provision may be modified by the Planning Board if the abutting buildings have varying setbacks.

3. Landscape

a. Whenever a permit request is for 2,500 square feet or more for the ground floor, it shall comply with the following standards in order to enhance site design; enhance privacy, separate, screen and shield potentially conflicting land uses or abutters from undue impact; control excessive storm water runoff; prevent soil erosion and pollution of water bodies; reduce heat, glare and dust; not detract from the Town's aesthetic qualities; and help integrate the built environmental with the natural environment.

b. Boundaries with existing residential properties must be planted with vegetative screening which will create an effective visual barrier from the ground level to a height of ten feet. If the existing vegetative cover meets the intent of this standard the existing cover may be maintained.

c. Except in the Industrial District, there will be no outside storage of merchandise or equipment and no storage of merchandise in trailers; unless merchandise is designed for outdoor use (e.g. boats, cars, recreational vehicles, lawn and garden equipment, docks, etc.) Outdoor storage of waste, scrap, obsolete materials, or industrial feedstocks should be screened in accordance with Section 16.J of this Ordinance. Outdoor storage and displays may not be placed in the rights-of-way for Route 302, Route 5, or Route 113.

E. Dust, Fumes, Vapors, and Gases

Emission of dust, dirt, fly ash, fumes, vapors or gases in quantity which damage human health, animals, vegetation, or property, or which soils or stains persons or property, at any point beyond the lot line of the establishment creating that emission is prohibited.

F. Explosive Materials

Bulk quantities of highly flammable or explosive liquids, solids, or gases, stored above ground, must be at least 75 feet from any lot line or street, and must be in anchored tanks and buffered by fencing or vegetation from non-compatible uses. Bulk quantities of highly flammable or explosive liquids, solids, or gases stored below ground must be at least 40 feet from any lot line or street.

G. Glare & Lighting

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

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

3. When Land Use Authorization is required, the applicant shall submit plans for all proposed exterior lighting. These plans shall include the location, type of lighting equipment, manufacturer's specification sheets. The Board shall require that the lighting plan include foot-candle distributions, plotting the light levels in foot-candles on the ground, at the designated mounting heights for the proposed fixtures.

   The following design standards shall be followed unless waived by the Planning Board if it finds that, due to special circumstances of a particular plan, they are not necessary to provide for the public health, safety and general welfare.

   a. The style of the light and light standard shall be consistent with the architectural style of the principal building.

   b. The maximum height of freestanding lights shall be the same as the principal building, but shall not exceed twenty (20) feet.

   c. All lights shall have shielding to provide a beam cut-off at no more than 75 degrees above nadir or be IDA (International Dark-sky Association) compliant.

d. When lights along property lines will be visible to adjacent residences, the lights shall be appropriately shielded or be IDA (International Dark-sky Association) compliant.

e. Lighting shall be located along streets, parking areas, at intersections and crosswalks and where various types of circulation systems merge, intersect or split. Lighting shall be consistent with the guidelines and recommendations published by the Illuminating Engineering Society of North America for the given area.

f. Pathways, sidewalks and trails shall be lighted with light fixtures of a height not to exceed four feet and be IDA (International Dark-sky Association) compliant.

g. Stairways and sloping or rising paths, building entrances and exits require illumination.

h. Lighting shall be provided where buildings are set back or offset from the street.

i. The following lighting criteria shall not be exceeded

    1. Parking Lots: a maximum of five (5) foot-candles.

    2. Intersections: an average of three (3) foot-candles, a maximum of five (5) foot-candles.

    3. Maximum at property lines: one-tenth (0.1) foot-candle. The maximum illuminance level at grade along the property line shall be 0.1 foot-candles. Buffers using either the natural landscape or artificial screening may be used to meet this standard and prevent unnecessary or undesirable light from being directed beyond lot lines onto adjacent properties.

j. When the activity is not in use, lighting shall be turned down to security level or turned off.

4. The following types of lighting are exempt from these ordinance provisions: lighting required by the Federal Aviation Administration for aviation control/safety, seasonal holiday lighting displays using low wattage lamps, lights used by police, fire, rescues personnel during an emergency, luminaries attached to a residential building which are less than 2000 lumens and mounted below the eaves, and lighting placed underwater to illuminate swimming pools or fountains.

H. Noise

1. Excessive noise at unreasonable hours is required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume (refer to table below). The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any commercial or industrial activity regulated by this Ordinance is listed below. Sound pressure levels are to be measured on a sound level meter at all major lot lines of the site, at a height of at least four feet above the ground surface.

	Sound Pressure Level Limit	
	7 a.m. - 8 p.m.	**8 p.m. - 7 a.m.**
Activities Outside General Commercial or Industrial District	60 dB(A)	55 dB(A)
Activities Inside General Commercial or Industrial District	70 dB(A)	65 dB(A)

2. The following uses and activities are exempt from the sound pressure level regulations:

   a. Noises created by construction, forestry, agricultural, and temporary maintenance activities between 6:30 a.m. and 8:00 p.m.

   b. The noises of safety signals, warning devices, emergency pressure relief valves, and any other emergency activity

   c. Traffic noises on public streets

   d. Snow removal

   e. Airport activities

   f. Annual West Oxford Agricultural Society Exhibition

I. Off-Street Parking and Loading Requirements

1. Basic Requirements

   a. In any district where permitted, no use of premises may be authorized or extended, and no building or structure may be constructed or enlarged unless such extension, construction or enlargement is provided with the appropriate number of off-street parking spaces as outlined in Section 16.I.2, within 300 feet of the principal building, structure or use of the premises. b. No off-street parking facility may have more than two accesses on the same street, and no access may exceed 26 feet in width.

   c. Parking areas for non-residential uses shall be designed to allow each motor vehicle to proceed to and from the parking space without requiring the moving of any other motor vehicles and must be so arranged that vehicles can be turned around rather than being backed into the street.

d. Parking stalls and aisle layout shall be designed as outlined below:

Parking Angle (degrees)	Stall Width	Skew Width	Stall Depth	Aisle Width
90	10’-0”	0’0”	20’-0”	24’-0”
60	8’-6”	10’-6”	18’-0”	16’-0” (one way only)
45	8’-6”	12’-9”	17’-6”	12’-0” (one way only)
30	8’-6”	17’-0”	17’-0”	12’-0” (one way only)
Parallel to internal driveways	9’-0”	0’-0”	20’	n/a

e. In lots utilizing diagonal parking, the direction of proper traffic flow shall be indicated by signs, pavement markings, or other permanent indications, and maintained as necessary.

f. In parking lots utilizing a parking angle of 90 degrees, 20 percent of the spaces may be created with a stall width of 9’-0” and a stall depth of 18’-0”. These spaces shall be marked for compact vehicles.

g. All parking spaces and access drives shall be located at least 5 feet from any side or rear property line. No parking spaces shall be located within five feet of the front property line.

h. Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (example: Fire Lane – No Parking).

i. The parking lot network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

j. Parking areas must be designed and landscaped to create a pedestrian-friendly environment. A landscaped border must be created around parking lots. There must be at least one (1) island for every twenty (20) spaces. Landscaping must screen the parking area from adjacent residential uses and from the street. Boundaries with existing residential properties must be planted with vegetative screening which will create an effective visual barrier from the ground level to a height of ten feet. If the existing vegetative cover meets the intent of this standard the existing cover may be maintained. Any parking lot with 20 or more spaces must be landscaped with at least one tree (of 2” caliper measured 3 1/2 feet above the ground) for every 25 car spaces, to be located within the lot.

k. Parking lots should be located to the side or rear of the building. Parking should not be located between the building and the street unless no practicable alternative exists.

l. The requirements noted in Sections I.1.d, e, f, h, i, j, and k, above do not apply to any residential uses as listed in Section 5.B.1 except for multi-family dwellings.

2. Off-street parking spaces required:

Use	Number of Parking Spaces Required
Dwelling Unit	2 spaces per dwelling, except for accessory dwelling units
Affordable Housing Development	2 spaces per 3 dwelling units
Sale or rental of goods, merchandise, or equipment	1 space per 250 sq ft gross floor area
Office, clerical, research, or services not primarily related to the sales or rental of goods or merchandise	1 space per 250 sq ft gross floor area
Manufacturing, processing, creating, repairing, renovating, cleaning, painting	1 space per 500 sq ft gross floor area
Schools with students less than 16 years of age	1 space per employee plus 1 space per 10 students
Schools with students 16 and older	1 space per employee plus 1 space per 4 students
Places of worship	1 space per 4 seats
Libraries, museums, art galleries, and art centers	1 space per 250 sq ft gross floor area
Social, fraternal clubs, union halls, community centers, function halls, movie or live theaters	1 space per 4 seats, if fixed, or 1 space per 100 sq ft gross floor area
Indoor/outdoor recreation, except for personal use	15 spaces minimum, or 1 space per 250 sq ft gross floor area
Hospital	1 space per 2 beds
Nursing home	1 space per 4 beds
Congregate care/community living facility	1 space per unit
General food service, tavern, bar, brew pub, cocktail lounge, bottle club	1 space per 4 seats
Deli, bakery, ice cream parlor, take out food service	1 space per 250 sq ft gross floor area
Hotel, motel, bed & breakfast, cabin or similar rental	1 space per room plus 3 spaces
Motor vehicle related sales and service	1 space per 250 sq ft gross floor area
Warehousing distribution center	1 space per 500 sq ft gross floor area
Passenger transit terminal	6 spaces per 1000 sq. ft. gross floor area
Services related to animals	1 space per 100 sq ft gross floor area
Public safety, municipal owned facilities	1 space per 250 sq ft gross floor area
Drycleaner, laundromat	1 space per 250 sq ft gross floor area
Funeral home	1 space per 4 seats
Campground	1 space per campsite

a. For the purposes of the table above, gross floor area is the sum of all floors within a building or use. The Board may consider deducting closet and storage space.

b. For buildings with 2 uses, the parking requirements for each use will be applied and totaled.

c. For expanded buildings/uses there only needs to be spaces for the expansion. It is not required that the deficit in spaces for the original building/use be accounted for.

d. For changes of use there shall be the appropriate number of spaces for the new use, when feasible based on the particular lot characteristics.

e. If fractional results occur when calculating the required number of motor vehicle spaces for an affordable housing development, the number of motor vehicle spaces required shall be rounded up to the nearest whole number.

3. Off-street Loading

In any district, except the Village Commercial District, commercial or industrial uses must provide, as necessary, off-street loading facilities located entirely on the same lot as the building or use to be served, so that trucks, trailers, and containers are not located for loading or storage upon any public way.

J. Landscaping and Screening

1. Natural site features shall be maintained wherever possible to provide a buffer between proposed development and the surrounding properties and roadways.

2. Exposed and long term storage areas, exposed machinery used on-site, sand and gravel extraction and processing operations, and areas used for the storage or collection of discarded automobiles, auto parts, metal or any other articles of salvage or refuse, or any use which may have an adverse impact on surrounding properties as determined by the permitting authority, must have setbacks and screening to provide a visual buffer (such as a stockade fence or a dense evergreen hedge six feet or more in height) sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties.

3. Landscaping and screening buffers shall be durable and properly maintained at all times by the owner and shall be located so that maintenance of both sides of the buffer can be completed without intruding on abutting properties.

K. Refuse Disposal

Operators of Commercial and Industrial uses must provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. The waste shall be disposed of at a licensed disposal facility having adequate capacity to accept waste from the use. The Planning Board must consider the impact of particular industrial or chemical wastes or by-products upon the Town's facilities (in terms of volume, flammability or toxicity) and may require the applicant to dispose of such

wastes elsewhere. The Board may require the applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

All permanent solid waste dumpsters shall be installed on a concrete or gravel pad and shall be screened on all sides by fencing or vegetation.

L. Sanitary Standards

All subsurface sewage disposal facilities must be installed in conformance with the Maine State Subsurface Waste Water Disposal Rules, and with the following:

1. The approval of a building permit application is subject to presentation of a completed site evaluation form (HHE-200) which evidences adequate soil conditions for waste water disposal.
2. A holding tank is not allowed for a first-time residential or commercial use but may be allowed as a replacement system in accordance with the Maine Subsurface Wastewater Disposal Rules.
3. When two or more lots or buildings in different ownership share a common subsurface disposal system, the system must be owned and maintained in common by an owners' association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.
4. The disposal of industrial or commercial waste waters by means of subsurface waste water treatment systems must comply with the laws of the State of Maine concerning water pollution.

M. Signs

1. General
    a. All signs must comply with these requirements unless there is a specific exception.
    b. No sign may be positioned so as to prevent or block the free ingress to or egress from any door, window, or fire escape, or in a manner which confuses, impedes or impairs traffic movement or visibility.
    c. No sign may be erected adjacent to any public way in such a manner as to obstruct clear and free vision of roadways or where, by reason of its position, shape, color, illumination or wording, it interferes with, obstructs the view of, or is confused with any authorized traffic sign, signal, or device or where it otherwise constitutes a hazard to pedestrian or vehicular traffic.
    d. The owner and/or lessee of the land upon which a sign is located is responsible for its safe construction, installation, maintenance and removal.
2. Scope of Sign Regulation

a. If the sign contains more than nine square feet of sign area, the person erecting it must first obtain a sign permit from the Code Enforcement Officer. The fee for such a sign is to be set by the Board of Selectmen.

b. Application for a permit is to be made on forms prescribed and provided by the Town.

c. The Code Enforcement Officer will review the application to ensure that the signs meets the standards of the ordinance. The Code Enforcement Officer may also require that new signs are placed in alignment with existing signs on the street in order to maintain a uniform appearance.

3. General Regulations

a. All signs and their supporting structures must be properly maintained to prevent rust, rot, peeling, or similar deterioration.

b. Any outdoor sign which advertises, identifies, or pertains to an activity or business no longer in existence must be removed by its owner or person otherwise responsible, within 30 days from the time the activity or business ceases existence. If a discontinued sign might reasonably be used by a future tenant or property owner within 1 year of the activity or business ceasing to exist, then the sign area may be modified by painting or by covering with a durable cloth or canvas, within 30 days from the time the activity or business ceases to exist, so that the sign pertaining to the discontinued business or activity is no longer visible. This provision does not apply to the seasonal activities or businesses during the regular periods in which they are closed.

c. Illuminated signs may only be lit during the hours in which the business is open to the public.

d. No sign may:

(1) Have visible moving parts or emit sounds

(2) Have blinding, moving, flashing, or flaring illumination

(3) Consist of banners, pennants, ribbons, streamers or similar devices except as temporary displays not to exceed ten days, and approved by the Code Enforcement Officer in writing.

(4) Consist of bunting or flags except "open," state, religious, or national flags. No unrelated message may be displayed on any flag

(5) Be located on any other premises other than the premises where the activity occurs.

e. No ground sign may be closer than:

(1) five feet to a side or rear lot line, in the Village Commercial District;

(2) 15 feet to a side or rear lot line, in any other district in the Town; or

(3) five feet to a street right of way. If no right of way can be determined, a right of way of 66 feet will be assumed.

f. All outdoor signs must meet the requirements of the Maine Traveler Information Services Act.

4. Standards

a. Outdoor signs may be displayed as:

(1) Ground signs;

(2) Wall, window, or roof signs;

(3) Projecting signs, hanging signs, awning signs

(4) Sandwich board signs, reader board message signs ; or

(5) Combination of these, but the total sign area of all outdoor signs displayed may not exceed 100 square feet per business.

(6) The maximum number of outdoor signs displayed for any business may not exceed four.

b. Ground signs are limited to a maximum sign area of 40 square feet and a height of 25 feet above the ground on which it is located, and be limited to one per premises except where the premises is commercial and abuts two streets, in which case up to two ground signs would be permitted, each limited to 40 square feet in area and 25 feet in height.

c. Wall signs may occupy no more than 30% of the wall (sign area of the wall) to which they are attached or affixed and in any case, may not contain more than 100 square feet of sign area.

d. Roof signs may only be displayed in place of wall signs but are subject to the 50 square foot limit of wall signs and may not extend above the highest point of the roof or 3 feet above a flat roof.

e. Projecting signs, awning signs, or hanging signs may not extend above the second floor and shall not impede snow removal. The maximum sign area is 15 square feet.

f. Sandwich board signs or reader board message signs may only be displayed during open business hours and are limited to 3 feet in width and 4 feet in height. When placed on sidewalks, a minimum of 4 feet of sidewalk shall remain clear.

5. Non-conforming Signs

The use of any non-conforming sign, lawfully in existence at the time of the adoption of this Ordinance may continue but only in strict compliance with the following:

a. No non-conforming sign shall be enlarged, increased or extended to occupy a greater area than it occupied when it became non-conforming or in any other way that increases its non-conformity.

b. A legally existing non-conforming sign may be replaced only with a sign that complies with this ordinance in all respects, except that a legally existing non-conforming sign, the replacement of which is necessitated by vandalism, or by forces of nature, may be replaced with a sign identical in all aspects to the one being replaced.

c. Any sign removed may be replaced only with a sign that complies with this ordinance in all respects.

d. Normal maintenance and repairs including painting are permitted but the sign shall not be enlarged in any dimension except in conformance with this ordinance, and subject to permit.

e. If a non-conforming sign is abandoned, the grandfathered rights shall terminate and any replacement shall comply with the requirements of this ordinance.

6. Political Signs

Signs bearing political messages relating to an election, primary or referendum must comply with State Law with the following limitations:

a. On public property signs may not be displayed earlier than twenty-one (21) days prior to the election, primary or referendum date and must be removed not later than seven (7) days thereafter.

b. On public property signs may not exceed sixteen (16) square feet per sign face or be more than six feet in height.

c. Signs may not be displayed on public property at the intersection of Routes 302 and 5 and/or at the intersection of Route 302 and Pine Street.

d. Signs may not be placed on any town owned property, including but not limited to the Town Office, Transfer Station, and any Town parks.

7. Real Estate Signs

a. Signs advertising the sale or lease of a residential structure or individual vacant lots intended for residential uses may not exceed 4 square feet. Signs advertising commercial buildings, vacant lots intended to be used for commercial or industrial purposes, or lots within an approved subdivision for sale or lease may not exceed 32 square feet.

b. Real estate signs may only be located on the actual property for sale and are limited to one per street frontage.

c. Real estate signs must be removed within 10 business days of the sale or lease of the property.

8. Business Cluster Signs

a. Business clusters: There may be only one ground sign per business cluster, limited to 100 sq ft in size and 25 ft in height, in which each business may advertise. It will be up to the owner or operator of the business cluster to divide the signage area amongst the present and planned businesses. Each business represented on the ground sign may also have a roof, wall, window, projecting, hanging or awning signs provided the total signage for each business does not exceed 100 square feet and that there are no more than 4 signs for each business.

9. Temporary Signs Giving Notice

a. Signs of a temporary nature such as advertisements for charitable functions, notices of meetings, and other non-commercial signs of a similar nature are permitted to be displayed for 10 days prior to the function and shall be removed within 48 hours after the function is complete.

10. Temporary Contractor Signs

a. Signs identifying a construction contractor are permitted at the specific site where the actual construction is taking place provided each sign does not exceed 8 square feet. One sign is permitted per contractor. The signs must be removed when the project is finished and prior to the issuance of a certificate of occupancy.

11. Education and Industrial Campus Signage;

a. One 6 square foot ground sign shall be allowed per principle building for identification purposes. In addition, one 3 square foot wall sign shall be allowed per principle building for identification purposes.

b. Non-illuminated, 1 square foot, directional/information signs shall be allowed to identify appurtenances such as amenities and features within the campus.

12. Definitions: See Section 25 for definitions related to signs.

N. Erosion Control

Erosion of soil and sedimentation of watercourses and water bodies must be minimized by the following erosion control management practices:

1. The stripping of vegetation, removal of soil, re-grading, or other development of the site must be accomplished by limiting the duration of exposure and area of the site to be disturbed. Dust control methods as required by the review authority must be employed during dry conditions.

2. Temporary vegetation, mulching, and/or siltation fabrics must be used to protect critical areas during the development. Sedimentation of run-off waters must be trapped by debris basins, silt traps, sediment basins, or other methods determined acceptable by the review authority. Any exposed ground area must be temporarily or permanently stabilized within one week from the time it was

last actively worked, by use of riprap, sod, seed, mulch, or other effective measures. In addition:

a. Where mulch is used, it must be applied at a rate of at least one bale per 500 square feet and must be maintained until a catch of vegetation is established.

b. Anchoring the mulch with netting, peg and twine, or other suitable method may be required to maintain the mulch cover and must be used on slopes of 2:1 or greater.

c. Additional measures must be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

3. Permanent vegetation and/or other erosion control measures should be installed prior to completion of the construction, but no later than six months after completion of the construction.

4. The top or bottom of a cut or fill may not be closer than ten feet to a property line unless otherwise mutually agreed to by the affected landowner and Town, but in no instance may said cut or fill exceed a 3:1 slope, unless an adequate retaining wall is constructed to prevent erosion of the slope.

5. Man-made drainage ways and drainage outlets must be protected from erosion caused by water flowing through them. Drainage ways must be stabilized with vegetation or lined with riprap.

O. Storm Water Run-off

Surface water run-off must be minimized and detained on-site if possible or practicable. If it is not possible to detain water on-site, downstream improvements to the channel are required of the developer to prevent flooding caused by his project. The natural state of watercourses, swales, floodways, or rights-of-way must be maintained as nearly as possible. Design period is 50-year storm.

P. Water Quality Protection

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

2. All outdoor storage facilities for fuel, chemicals, chemical or industrial wastes, and potentially harmful raw materials must be located on impervious pavement, and must be completely enclosed by an impervious dike which is high enough to contain the total volume of liquid kept within the storage area, plus, if not covered by a roof, the rain falling into this storage area during a 50-year storm,

so that such liquid will not spill onto or seep into the ground surrounding the paved storage area. Storage tanks for home heating oil and diesel fuel, not exceeding 350 gallons in size, are exempted from this requirement, if they are not located over a high seasonal water table (within 15 inches of the surface) or over rapidly permeable sandy soils.

Q. Aquifer Protection

A study of the impacts on the aquifer should be required if a development which comes under Town Planning Board review is proposed in any areas shown on the Prime Aquifers Map as being a Prime Aquifer. If the study determines that the development will adversely affect the quality or quantity of the ground water, the development shall be required to be modified so that the ground water will not be adversely affected.

R. Other Regulations Apply

The applicant is responsible for complying with all applicable local, county, state, and federal laws and regulations. Public buildings, businesses and multi-family dwellings which contain 2 or more floors shall conform with state law requirements concerning approval by the State Fire Marshall.

S. Density and Dimensional Requirements

If more than one use or building is located on a single parcel of land, all density and dimensional requirements must be met separately for each use or building, as per the dimensional standards of the zoning district in which it is located unless specifically allowed otherwise. A common use, unit or building designated for a purpose or use in a cluster or for more than one-family dwelling must separately meet all density and dimensional requirements per the zoning district in which it is located under this ordinance. An Accessory Dwelling Unit that meets the requirements of Section 17.A shall not be counted as a dwelling unit, and shall be exempt from Section 6 through 14's lot area and density requirements.

T. Water Supply

Any use or development shall be provided with a system of water supply that is adequate for the intended use or uses.

If the project is to be served by a public water supply, the applicant shall secure and submit a written statement from the supplier of the proposed water supply system stating that the project will not result in an undue burden on the source or distribution system.

U. Building Height

No building may exceed 35 feet in height. Features of buildings and structures, such as chimneys, cupolas with no floor area, towers, solar energy systems, ventilators, and spires may exceed 35 feet in height, but must be set back from the nearest lot line a distance equal to at least the height of such feature or structure.

In the Industrial District building heights for uses that require height may exceed 35 feet, up to a maximum of 60 feet, provided the Planning Board, as part of its review, consults with the Fryeburg Fire Chief and finds the fire fighting equipment and personnel of the town are sufficient for rendering fire fighting services for the building proposed to exceed 35 feet in height. In the absence of such finding, no building in excess of 35 feet in height may be approved except upon condition that it be constructed with an automatic sprinkler system as recommended by the Fire Chief.

V. Historical & Archaeological

1. If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

2. Proposed developments which include or are adjacent to buildings or sites on the National Register of Historic Places, the Maine Historic Preservation Commission or which the Comprehensive Plan has identified as being of historical significance, shall be designed in such a manner as to minimize the impacts on the historic features. When the historic features to be protected include buildings, the placement and the architectural design of new structures shall be similar to the historic structures. The Board may require the applicant to seek the advice of the Maine Historic Preservation Commission.

3. In areas with a high concentration of historic properties, the Planning Board may require new construction to utilize exterior building materials which harmonize with surrounding properties, and be designed so as not to be architecturally incompatible in terms of scale, height, window size, and roof pitch. Solar access must also be considered.

W. Sanitation and Potable Water Standards Applicable to Dwelling Units

The standards in Section 16.W shall apply to all dwelling units, including units within an affordable housing development and accessory dwelling units. Prior to the issuance of a Certificate of Completion, the holder of a permit to construct the dwelling unit must provide written verification to the Code Enforcement Officer that the dwelling unit is connected to adequate water and wastewater services, as follows:

1. If a dwelling unit is connected to a public, special district, or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system.
2. If a dwelling unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be

verified as adequate by a local plumbing inspector pursuant to 30-A M.R.S.A. § 4221. Plans for a subsurface wastewater disposal system must be prepared by a licensed site evaluator in accordance with 22 M.R.S.A. § 42.

3. If a dwelling unit is connected to a public, special district, or other community water system, proof of adequate service to support any additional flow created by the dwelling unit and proof of payment for the connection and the volume and supply of water required for the dwelling unit.
4. If a dwelling unit is connected to a private well, proof of access to potable water, including the following standards:
    i. The well must be sited and constructed to prevent infiltration of surface water and contamination from subsurface wastewater disposal systems and other known sources of potential contamination.
    ii. Site design must allow for placement of wells, subsurface wastewater disposal areas, and reserve sites for subsurface wastewater disposal in compliance with the Maine Subsurface Waste Water Disposal Rules.
    iii. Proposed activities involving sources of potential contamination, including junkyards, automobile graveyards, gas stations, and bulk storage of petroleum products, must be located at least 300 feet from existing private and public water supplies.
    iv. For subdivisions and commercial, industrial, and other non-residential development, the applicant must demonstrate that there is sufficient healthful water supply to serve the needs of the project.
    v. When a project is to be served by a public water system, the location and protection of the source, the design, construction, and operation of the system must conform to the standards of 10-144 C.M.R. Ch. 231, Rules Relating to Drinking Water.
5. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

SECTION 17
PERFORMANCE STANDARDS
SPECIFIC ACTIVITIES AND LAND USES

The following performance standards apply to the following specific activities and land uses. The general performance standards in Section Sixteen which may be applicable to the specific activities and land uses contained in this Section also apply.

A. Accessory Dwelling Unit (ADU)

An accessory dwelling unit (ADU) that meets the standards in section 17.A shall not be considered a dwelling unit for the purposes of (i) applying the minimum lot size and maximum structure coverage requirements in Sections 6 through 14 of this Ordinance; (ii) calculating the number of dwelling units for the purposes of determining whether there is a subdivision or whether the subdivision is considered minor or major pursuant to Section 21, Article I.B.3(a)-(b); (iii) for calculating the maximum allowable residential density of development within a subdivision pursuant to Section 21, Article VII.F and O; and (iv) calculating the number of required off street motor vehicle spaces required pursuant to Section 16. An ADU that does not meet the following standards is considered a dwelling unit and must meet all applicable standards for a single-family dwelling.

1. ADUs are allowed with a permit in the zoning districts so designated in the Land Use Table in Section 5.B. No more than one ADU shall be permitted on a lot containing one or more single family dwelling units.
2. An ADU may be constructed within or attached to a single-family dwelling or accessory structure, or as a new structure on the lot for the primary purpose of creating an ADU. An ADU that is constructed within or attached to a single-family dwelling unit must meet the applicable street frontage, shore frontage, and minimum setback dimensions for the zoning district where the ADU is located. An ADU that is constructed as a separate structure, or is attached to a separate accessory structure, must comply with all street frontage, shore frontage, and minimum setback dimensions that are applicable to structures within the zoning district where the ADU is located.
3. The ADU must comply with Section 16.W's sanitation and potable water standards.
4. An ADU must have at least 190 square feet and not more than 800 square feet of living space
5. The lot on which the ADU is located must comply with Section 16.I.2's off-street parking requirements.
6. All required permits and a Certificate of Completion must be obtained prior to human habitation and/or occupancy of an ADU.
7. Any ADU that meets this section's standards shall not be used as a short-term rental, and may only be rented for periods exceeding thirty (30) days.
8. Except as expressly provided herein, Section 17.A shall not be construed to exempt an ADU from any other requirement of this Ordinance, including without limitation Section 20's shoreland zoning requirements.

B. Adult Businesses

1. "Adult business" means any business, a substantial or a significant portion of which consists of selling, renting, leasing, exhibiting, displaying or otherwise dealing in obscene materials which depict or describe any of the following:

   a. human genitals in a state of sexual stimulation or arousal;

   b. acts of human masturbation, sexual intercourse or sodomy;

   c. fondling or other erotic touching of human genitals, pubic region, buttock or female breast;

   d. less than completely and opaquely covered:

      (1) human genitals, pubic region

      (2) buttock

      (3) female breast below a point immediately above the top of the areola; and

   e. human male genitals in a discernibly turgid state, even if completely and opaquely covered.

2. "Viewing booth" means any booth, cubicle, room or stall within the premises of an adult business used to display, by audio or visual reproduction, projection or other means, any of the materials described in paragraph 1, above.

3. "Public building" means a building owned, operated or funded in whole or in part by the Town of Fryeburg which members of the general public have occasion to visit, either regularly or occasionally, such as, but not limited to, the Town Hall, the Public Library, the Police Station and Fire Stations.

4. Location of adult businesses restricted.

   An adult business may be located only:

   a. In the General Commercial District, and

   b. In a location where the customer entrance to the adult business would be 1,000 feet or more, measured in a straight line without regard to intervening structures or objects, to the nearest point of the boundary of any property which is:

      (1) Occupied by a residence, school, park, playground, church, or public building; or

      (2) Occupied by another adult business.

5. Outside displays prohibited.

   No material or devices displaying or exhibiting specified sexual activities may be visible from the exterior of the building in which the adult business is located.

6. Design of viewing booths.

   Viewing booths shall be designed, located and lighted so that the interior of each viewing booth is clearly visible from the interior common areas of the premises and visibility into the viewing booths shall not be blocked or obscured by any doors, curtains, partitions, drapes or any other visual barriers.

7 Municipal review limited.

In the review of a proposed adult business in Section Two, the Planning Board's scope of review is limited to the impacts and effects of a proposed use as determined by applying the criteria which apply to any business use. The Planning Board may not consider the type or content of the material sold, rented, exhibited, or displayed in the business and may not restrict or limit the content of such materials.

C. Animal Husbandry

1. Without Planning Board approval, as allowed in Paragraph 3, below, animal husbandry may only be conducted on a lot of at least two acres and all pens, stables, barns, or other shelters for animals must be set back at least 100 feet from any lot line.
2. No manure may be stored within 100 feet of the normal high water mark of any water body, watercourse, wetland, or potable water supply.
3. If the property on which the animals are kept is less than two acres and/or the applicant cannot meet the setbacks in Paragraphs 1 and 2, a permit for keeping animals may be authorized by the Planning Board if the following standards are met:
   a. All pens, stables, barns, or other shelters for animals are set back at least 100 feet from the nearest dwelling other than the applicant's.
   b. All manure is stored in a covered structure and at least 100 feet from the nearest dwelling (other than the applicant's) and at least 100 feet from the nearest potable water supply, and at least 100 feet from normal high water mark of any water body, watercourse, or wetland.
   c. All structures are set back the required number of feet as defined in this Ordinance.
   d. Manure storage structures are constructed according to plans approved by the Oxford County Soil and Water Conservation District.
   e. All feed and grain is stored in rodent proof containers.
   f. All paddocks, pastures, barnyards, or other enclosures are fenced to contain livestock, animals, or fowl.
   g. The Planning Board must set a limit on the number and species of animals permitted. In determining these limits the Board must consider the size and layout of the lot; the size of adjacent lots; the presence of vegetative screening and buffer strips; and the potential for noise, odor, and vermin problems.

D. Automobile Graveyards and Junkyards

1. Prior to issuance of the municipal permit, the applicant must present either a permit from the Maine Department of Environmental Protection (DEP) or a letter from the DEP stating that a State permit is not required.
2. Site Considerations:
   a. No motor vehicles, parts thereof, or fluids from the motor vehicles may be located on a sand and gravel aquifer, or on an aquifer recharge area, as mapped by the Maine Geological Survey or by a licensed geologist.
   b. No motor vehicles, parts thereof, or fluids from the motor vehicles may be located within the 100 year floodplain, as mapped by the Federal Emergency Management Agency, the Army Corps of Engineers, or the U.S. Department of Agriculture.

c. A visual buffer capable of completely screening from view all portions of the automobile graveyard or junkyard must be established and maintained along all property lines.

d. No motor vehicles, parts thereof, or fluids from the motor vehicles, with the exception of the owner/occupant, may be stored within 300 feet of any dwelling or school.

e. No motor vehicles, parts thereof, or fluids from the motor vehicles may be stored within 250 feet of any water body.

3. Operational Considerations

Upon receiving a motor vehicle, the battery must be removed, and the engine lubricant, transmission fluid, brake fluid, and engine coolant must be drained into watertight, covered containers. No discharge of any fluids from any motor vehicle may be permitted into or onto the ground.

E. Campgrounds

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

1. Density

Campgrounds must contain at least 5,000 square feet of suitable land, not including road and driveways, per recreational vehicle site, tent site, and shelter area site. Land supporting wetland vegetation, and land below the normal high-water line of a water body, may not be included in calculating land area per site.

2. The area intended for placement of the recreational vehicle, tent, or shelter and utility and service buildings, must be set back at least 100 feet from the normal high-water line of any great pond or a river; 75 feet from the normal high-water line of other water body, tributary streams, or the upland edge of a wetland; and must be set back at least 100 feet from the exterior lot lines of the campground. Every waterfront site must have at least 50 feet of frontage on the water.

3. All campgrounds created in unvegetated areas, open fields or otherwise open land, must be screened from adjacent land areas by a continuous landscaped area 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 feet in height. Campgrounds created in forested areas shall be required to preserve the forest within the 100 foot setback.

F. Farmers Market

1. The establishment and operation of a Farmers Market requires approval by the Planning Board. The Land Use Authorization application shall be submitted as required by Section 2 of this Ordinance, along with the following information:

a. A plot plan showing the location of the market, the size and shape of the lot, any existing or proposed structures onsite, existing and proposed parking areas, proposed vendor layout, vehicular and pedestrian travel ways, and any other applicable elements of the farmers market.
b. Management Plan. The management plan will include a description of the proposed location of the farmers market, the hours of operation including the set

up and clean up times, the method of refuse disposal, the available sanitary facilities, methods of vehicular and pedestrian ingress and egress applicable to both vendors and customers. The management Plan will also identify a "Market Manager", who will be responsible for general oversight and will serve as a contact person for the Town.

G. Garage and Yard Sales

1. Garage and Yard Sales are allowed in all districts. Such sales may only be held by the property owner on whose property the sale is located.
2. Garage and Yard Sales are allowed up to 15 days per year. Sales in excess of 15 days in the aggregate are classified as "Sales or Rental of Goods, Merchandise, or Equipment," Land Use Category number 2 in the Land Use Table. These uses require additional permits, must be located in appropriate zoning districts, and must meet appropriate performance standards.
3. Signs for such sales must meet the requirements for signs in this Ordinance.

H. Ground Water and/or Spring Water Extraction and/or Storage

1. Permit Required

   The removal of more than 10,000 gallons per day of ground water or spring water as part of a residential, commercial, industrial, or land excavation operation, where allowed under this Ordinance, requires approval by the Planning Board. The Planning Board must grant approval if it finds that the proposal, with any reasonable conditions, will conform with the requirements of this Section, all other requirements of this Ordinance, and all applicable codes and Ordinances.

2. Submission Requirements

   The application together with site plan must include the following information:

   a. Statement of the quantity of ground water to be extracted, expressed as the annual total, the maximum monthly rate by month, and the maximum daily rate;

   b. A letter from the Maine Department of Human Services approving the facility as proposed when the Department has jurisdiction over the proposal;

   c. Where appropriate, letters from the Department of Environmental Protection when the Site Location Law is applicable or a discharge permit is required.

   d. Applicants must present a written report of a hydrogeologic investigation conducted by a certified professional geologist or registered professional engineer, except for spring water extraction facilities which meet the following conditions: the spring enhancement may not increase the combined spring's catchment capacity by removing more than four cubic yards of earth and not increase the spring's depth by more than four feet, where the discharge drain is no lower than the existing spring water level, where gravity alone (without the aid of a siphon) is used to withdraw the spring water to other facilities on site, and where other improvements do not threaten ground water levels. This report must include the following information:

      (1) A map of the aquifer tributary to the spring(s), well(s) or excavation(s) from which water is to be extracted, in sufficient detail to support a calculation of sustained yield during a drought with a probability of one in ten years, as

well as an estimate of any potential interaction between this aquifer and adjacent aquifers.

(2) The results of the investigation must establish the aquifer characteristics, the rates of draw-down and rebound, the sustainable yearly, monthly (by month) and daily extraction rates, and the cone of depression which may develop about the proposed facility. Other impacts on the water table in the tributary aquifer and such other private or public wells within 1,000 feet of the proposed extraction facilities must also be assessed.

3. Performance Standards

The following standards must be met and the applicant must clearly demonstrate that they will be met.

a. The quantity of water to be taken from ground water sources may not substantially lower the ground water table beyond the property lines, cause undesirable changes in ground water flow patterns, or cause unacceptable ground subsidence, based on the conditions of a drought with a probability of occurrence of once in ten years.

b. The proposed facility may not cause water pollution or other diminution of the quality of the aquifer from which the water is to be extracted.

c. Safe and healthful conditions must be maintained at all times within and about the proposed use.

d. The proposed use may not cause sedimentation or erosion.

e. The proposed facility is not within the defined aquifer recharge area of a public water supply, unless notice is given to the operator thereof and the Planning Board has considered any information supplied by the operator and finds that no adverse affect on a public water supply will result.

f. The operator must keep monthly operating records of the quantity of water extracted, stored, and removed from the site and make them available to the Code Enforcement Officer or a designee.

g. Nothing in this procedure, and no decision by the Planning Board, is deemed to create groundwater rights other than those rights which the applicant may have under Maine law.

I. Hazardous Waste Facilities

Hazardous waste facilities must comply with the following site and performance standards:

1. Site Standards

In addition to being in compliance with the most current Regulations of the Department of Environmental Protection that address the disposal of waste, the applicant must conduct a hydrogeologic investigation of the site and prepare detailed construction and site development plans and operating procedures. The site must include the following characteristics:

a. It must consist of at least 500 acres.

b. The disposal areas within the overall site must be at least 5,000 feet from the nearest inhabited residence or potable water supply existing at the time at which the application is filed.

c. There must be a buffer zone of at least 1,000 feet between disposal areas and all public roads.

2. Performance Standards

If the Town does not operate the site, the site may not be operated unless the Planning Board is furnished by the owner and/or operator with:

a. A performance bond, which must be in effect at all times the facility is in operation, and for a period of 20 years after closure or termination or default of the facility or site, conditioned on faithful performance of the requirements of this Ordinance. All such bonds must be written by an insurance company licensed to transact business in the State of Maine, and must be for a sum of at least $1,000,000.00.

b. A certificate evidencing proof of liability insurance covering all aspects of the solid waste disposal facility operations under this Ordinance. Such policy of liability insurance must insure against personal injury in an amount at least $1,000,000.00 per person or $2,000,000.00 per occurrence, and insure against property damage in an amount at least $2,000,000.00 per occurrence. Such insurance must be in effect at all times the facility is in operation and for a period of 20 years after closure of the facility or site.

3. Transfer of Ownership

a. In the event that any person or corporation to whom a permit has been issued, and prior to transfer of ownership or operational responsibility for the facility to another, the new owner and/or operator is required to obtain a new permit in the manner required herein. Any performance bond established under the provisions of this Ordinance for the facility may only be released by the vote of the Town Meeting.

b. In the event of a change of ownership, the performance bond established for a facility must remain in effect until the new performance bond for the facility is in effect and presented to the Town.

J. Home Occupations

1. Purpose

To allow the residents of Fryeburg to engage in work for economic gain from within and about their residence in a manner that does not adversely affect abutting or neighboring owners.

2. Home Occupations are defined in two different categories, each carrying differing performance standards.

a. Minor Home Occupations: business activities performed or provided entirely within the owner's principle dwelling or existing structure. Such activities involve no discernable adverse impact on adjacent properties such as audible sounds, external work related lighting, or odors. The use must be secondary to the use of the dwelling unit for residential purposes.

b. Major Home Occupations: any small business, trade, work, or services similar to a "Minor Home Occupation", but which by nature of the business cannot, or typically is not, conducted, operated, or provided from entirely within the proprietor's existing principal dwelling and/or fully enclosed accessory building such as a

garage, and entails, or is likely to entail, external evidence of the existence of the business occupation such as outside processing of materials, outside display of materials, products, or inventory, or any processing, manufacturing, assembly, repair, or refurbishing operations from within or without the dwelling or enclosed accessory building which emit, transmit, dispense, or accumulate any discernable noise, dust, refuse, fumes, odors, hazardous by-products, vibrations, or utilizes exterior lighting, the intensity and coverage or which exceeds normal residential lighting schemes as exist in the general vicinity.

"Major Home Occupations" may be allowed in all districts by authorization of the Planning Board. Any such permit shall clearly define the scope and limits of the proposed activity, and any violation of the conditions of the Planning Board's approval shall be grounds for revocation of said permit and other enforcement actions. The permit shall also specify allowable days and hours of operation.

3. Performance Standards for home occupations:

Home Occupations must meet the standards listed below.

a. There may be no external alteration of the building to accommodate for the home occupation.

b. Any alteration of the site, including the provisions for parking, shall not detract from the residential character of the neighborhood.

c. Signs advertising the home occupation are limited to a single, stationary, unlit announcement or professional sign which may not be larger than 6 square feet in size.

d. Business deliveries of supplies, materials, or inventory is accomplished by mail or express parcel delivery service, and not as freight delivered by a commercial truck, or something similar.

e. The business operations are only to be conducted by the principle residential occupants and not more than 2 non-residential employees.

f. Off-street parking spaces shall be provided except for home occupations in the Village Commercial District. Parking areas with more than 2 spaces must be so arranged that vehicles can be turned around onsite rather than being backed into the street. If on a public street, the homeowner must comply with all applicable parking ordinances. If on a private road, adequate parking must be provided so as not to impede the normal use of the road.

g. No more than 30% of the floor area of the principal dwelling shall be used for a home occupation.

h. The home occupation shall not require the storage or use of any explosive, radioactive, flammable, toxic, or other hazardous materials that are not normally found in the home or in amounts that are not normally associated with a residence.

i. There may be no more than ten customer vehicle trips per day with no more than 2 customer vehicles on the premises at any time.

j. There shall be no more than 2 commercial vehicles kept outside of a garage overnight.

k. Retail sales: On-site retail sales are limited to products or goods produced, fabricated, or substantially altered on the premises as a result of the home occupation or that are incidental to a non-retail home occupation such as the sale of shampoo at a beauty salon.

l. Major Home Occupations that require outside processing of materials, or outside storage of inventory that is visible from the roadway or from abutting properties shall be landscaped with vegetative screening or fencing sufficient to minimize impact on abutting properties.

m. Home occupations are required to meet the standards of Section 16.H relating to noise.

4. Prohibited Home Occupations: The following uses are prohibited from being home occupations: restaurants, auto repair (except small engine repair), auto painting, motor vehicles sales or rentals, commercial outdoor storage, machine shop, junkyard, salvage yard, funeral home, funeral director.

K. Lodging

1. For all new construction the building must meet the setback requirements of the district they're built in. An undeveloped buffer strip not less than 20 feet wide must be maintained with grass, bushes, flowers, and/or trees all along each side lot line, the rear lot line, and the front line, except for entrance and exit driveways. The buffer strip may not be used for parking.
2. If cooking or eating facilities are provided in any rental units, each rental unit with such facilities is considered a dwelling unit and the building is required to meet all the standards for multi-family developments in this Ordinance, including the residential density requirements of the appropriate district.
3. Accessory apartments may be provided for a resident owner, manager, or other responsible staff person.
4. Building construction plans must be reviewed and approved by the State Fire Marshall's Office.

L. Individual Private Campsites:

1. Individual Private Campsites in the Shoreland Zone must meet the standards of Section 20.
2. Campsite placement, including the area intended for a recreational vehicle or tent platform must meet the dimensional requirements of the zoning district in which it is located.
3. A written sewage disposal plan describing the proposed method and location of sewage disposal is required for each campsite and must be approved by the Code Enforcement Officer. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
4. When a recreational vehicle, tent, or similar shelter is placed on-site and used as a dwelling unit for more than 120 days per year, all requirements for residential structures must be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Waste Water Disposal Rules.

M. Kennels and Veterinary Hospitals

1. Kennels, structures or pens for housing or containing the animals must be located at least 200 feet from the nearest residence other than the owner's existing at the time of permit.
2. All pens, runs, or kennels, and other facilities must be designed, constructed, and located on the site in a manner that minimizes the adverse effects upon the surrounding properties. Among the factors that must be considered are the relationship of the use to the topography, natural and planted screening, the direction and intensity of the prevailing winds, the relationship and location of residences and public facilities on nearby properties, and other similar factors.
3. The owner or operator of a kennel must maintain the premises in a clean, orderly, and sanitary condition at all times. No garbage, offal, feces, or other waste material may be allowed to accumulate on the premises. The premises must be maintained in a manner so as to not provide a breeding place for insects, vermin, or rodents.
4. Temporary storage containers for any kennel or veterinary wastes containing or including animal excrement must be kept tightly covered at all times, and emptied at least once every four days. Such containers must be made of steel or plastic to facilitate cleaning, and must be located in accordance with the setbacks required for outdoor runs.
5. If outdoor runs are provided, they must be completely fenced in, and must be paved with cement, asphalt, or a suitable material to provide for cleanliness and ease of maintenance.
6. Any incineration device for burning excrement-soaked waste papers and/or animal organs or remains must be located at least 400 feet from nearest residence other than the applicant’s, and must have a chimney vent at least 35 feet above the average ground elevation. The applicant must also provide evidence that approval from the Maine Department of Environmental Protection has been obtained for the proposed incinerator, and that it meets State standards for particulate emissions, flue gas temperature, and duration of required flue temperatures.

N. Livestock Keeping

1. No manure may be stored within 100 feet of the normal high water mark of any waterbody, watercourse, wetland, or potable water supply.
2. All pens, stables, barns, or other shelters for the animals must meet the property line setbacks as defined in this Ordinance.
3. All paddocks, pastures, barnyards, or other enclosures must be fenced to contain animals.
4. Manure must be stored and/or disposed of in a manner that does not negatively affect the abutting property owners.

O. Manufactured Housing and Mobile Homes

1. Single unit manufactured housing and mobile homes, whether single- or double-wide, must meet all of the following requirements:
   a. Dimensional and density requirements of the zoning district for single family dwellings.
   b. A permanent foundation, frost wall, grade beam, gravel pad, or floating slab with skirting of permanent material which meets the requirement of United States Department of Housing and Urban Development (HUD) financing.
2. Multi-unit modular, manufactured and mobile housing must meet the same standards and requirements as site-built homes.

P. Earthmoving

1. Mineral Exploration and Extraction & Major Earthmoving Activities:

   Mineral extraction and major earth moving may be permitted in any district only after a special permit for such operations has been issued by the Planning Board. Such a permit may only be issued provided that:

   a. An extraction and reclamation plan shall be submitted by the applicant and approved by the Planning Board showing existing grades in the area from which the materials are to be removed, and finished grades at the conclusion of the operations.
   b. When the removal of materials is completed, the finished grade, as specified in the plan and approved, is to be covered with not less than four inches of topsoil and seeded with suitable cover crop except where ledge is exposed.
   c. A surety company bond, or other security, in an amount and nature as approved by the Planning Board, is posted with the Town, sufficient to guarantee conformance with the requirements of the permit and this Ordinance.
   d. There is at least 75 feet between the digging and quarrying activities and the property lines.
   e. Provision is made so that dust or other pollutants are kept to a minimum by appropriate landscaping, paving, oiling, fencing or other means.
   f. Appropriate fencing or landscaping is provided to screen the site of digging operations from any public right-of-way and from any dwelling within 250 feet of the property lines of the excavation site.
   g. A Public Hearing shall be held in accordance with Section Two, F., Land Use Permit Review Procedure by the Planning Board.

h.. The following additional requirements shall apply to all proposed mineral extraction or major earthmoving activities:

1) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond or a river flowing to a great pond, and within seventy-five (75) feet, horizontal distance of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland.

2) Within 12 months following the completion of extraction operations at any extraction site which operations shall be deemed complete when less than 100 cubic yards of materials are removed in any consecutive 12 month period, ground levels and grades shall be established in accordance with the following:

a. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site, above the seasonal high water table.

b. (2) The final graded slope shall be two and one half to one (2 1/2:1) slope or flatter.

i. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

2. Minor Earth Moving Activities

The following minor earth moving activities do not require a permit:

a. The removal or filling of less than 100 cubic yards of material from or onto any lot in any one year, unless located within 250 feet of any shoreline.

b. The removal or filling of material incidental to construction, alteration, or repair of a building or in the grading and landscaping incidental thereto.

c. The removal, filling, or transfer of material incidental to construction, alteration, or repair of a public or private way or essential services, such as a fire pond, unless located within 250 feet of the shoreline.

Other earth moving, processing, and storage in any district require a permit authorized by the Planning Board.

Q. Mobile Home Parks

1. Except as stipulated below, mobile home parks must meet all the requirements for a residential subdivision, and must conform to all applicable State laws and local Ordinances or regulations. Where the provisions of this Section conflict with specific provisions of the Fryeburg Subdivision Section of this Ordinance, the provisions of this Section prevail.

2. Lot Area and Lot Width Requirements

Notwithstanding the district dimensional requirements contained in this Ordinance, lots in a mobile home park must meet the following lot area and lot width requirements.

a. Lots served by individual subsurface waste water disposal systems, as follows:

(1) Minimum lot area: 20,000 square feet

(2) Minimum lot width: 100 feet

b. Lots served by a central subsurface waste water disposal system approved by the Maine Department of Human Services, as follows:

(1) Minimum lot area: 12,000 square feet

(2) Minimum lot width: 75 feet

c. The overall density of any park served by any subsurface waste water disposal system may not exceed one dwelling unit per 20,000 square feet of total park area.

d. Lots located within the Shoreland Zone must meet the lot area, lot width, and shore frontage requirement for that district.

3. Unit Setback Requirements

a. Structures may not be located less than 15 feet from any boundary lines of an individual lot.

b. On lots which abut a public way either within the park or adjacent to the park, or on lots which are located within the Shoreland zoning district, structures must meet the front setback requirements found in the district dimensional requirements of this Ordinance.

4. Buffering

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

5. General Street Design and Construction Standards Procedures and Requirements:

a. The Planning Board shall not approve any mobile home park plan unless proposed streets are designed to be constructed in accordance with Section 23.

b. Applicants shall submit to the Planning Board, as part of the Land Use Authorization application for Mobile Home Park approval the following information:

(1) Name of applicant
(2) Name of record owners of the land which the proposed street is to be located
(3) A statement of any legal encumbrances on the land which the proposed street is to be located
(4) The anticipated starting and completion dates of each major phase of construction
(5) A statement indicating the nature and volume of traffic expected to use the proposed street.

c. Plans: The plans and illustrations submitted as part of the application shall conform to the requirements of Sections 23.

d. The final subdivision plan shall contain a note on the filing plat which specifies the ownership and future maintenance responsibilities regarding proposed streets in the development.

e. The application must contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation must be based on the Trip Generation Manual, 1991 Edition, published by the Institute of Transportation Engineers. If the park is projected to generate more than 400 vehicle trip ends per day, the applicant must also include a traffic impact analysis by a registered professional engineer with experience in transportation engineering.

6. Ground Water Impacts

a. Assessment Submitted

Accompanying the application for approval of any mobile home park which is not served by public sewer must be an analysis of the impact of the proposed mobile home park on ground water quality. The hydrogeologic assessment must be prepared by a Certified Geologist or Registered Professional Engineer experienced in hydrogeology and must contain at least the following information:

(1) A map showing the basic soil types;

(2) The depth to the water table at representative points throughout the mobile home park;

(3) Drainage conditions throughout the mobile home park;

(4) Data on the existing ground water quality, either from test wells in the mobile home park or from existing wells on neighboring properties;

(5) An analysis and evaluation of the effect of the mobile home park on ground water resources. The evaluation must, at a minimum, include a projection of post-development nitrate-nitrogen concentrations at any wells within the mobile home park boundaries and at a distance of 1,000 feet from potential contamination sources, whichever is a shorter distance. For mobile home parks within the watershed of a lake, projections of the development's impact on groundwater phosphate concentrations must also be provided.

(6) A map showing any subsurface waste water disposal systems and drinking water wells within the mobile home park and within 200 feet of the mobile home park boundaries.

b. Standards for Acceptable Ground Water Impact

(1) Projections of ground water quality must be based on the assumption of drought conditions (assuming 60% of annual average precipitation.)

(2) No mobile home park may increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No mobile home park may increase any contaminant

concentration in the ground water to more than the Secondary Drinking Water Standards.

(3) If ground water contains contaminants in excess of the primary standards, and the mobile home park is to be served by on-site ground water supplies, the applicant must demonstrate how water quality will be improved or treated.

(4) If the ground water contains contaminants in excess of the secondary standards, the mobile home park may not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

c. Subsurface waste water disposal systems and drinking water wells must be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards must be included as a note on the plan.

7. No development or subdivision which is approved under this Section as a mobile home park may be converted to another use without the approval of the Planning Board, and without meeting the appropriate lot size, lot width, setback, and other requirements of this Ordinance. The mobile home park plan must be recorded at the Registry of Deeds and filed with the town and must include the following restrictions as well as any other notes or conditions of approval:

a. The land within the park must remain in a unified ownership and the fee simple title to lots or portions of lots may not be transferred.

b. No dwelling unit other than a manufactured housing unit may be located within the park.

R. Multi-family Dwelling Units

1. Two-family Dwelling Units

Lots for two-family units must meet the district dimensional requirements in this Ordinance and the multi-family criteria listed in paragraph 2 below.

2. Multi-family Dwelling Units

Multi-family dwelling units must meet all of the requirements for a Planning Board authorized permit, detailed in Section Two and the following criteria:

a. The site plan must show proposed buffering and screening and provisions for playground, recreation, or open space.

b. All multi-family dwelling units must be connected to a common water supply and distribution system, either public or private, at no expense to the Town of Fryeburg.

c. All living areas below grade must be constructed with at least 50% of the total wall area above grade, or the total wall area of one wall entirely above grade.

d. All developments containing 15 or more dwelling units must have appropriate fire and emergency vehicle access.

e. Except where buildings, roads, or parking areas are to be sited, no topsoil may be removed from the site and existing vegetation must be left as much as possible to prevent soil erosion.

f. There must be at least 40 feet between principal buildings.

S. Food and Alcohol Service

1. The application for a permit must state the maximum seating and standing capacity of the building. Any expansion or enlargement over this capacity requires a new permit.
2. When subsurface waste water disposal is proposed, completed soil evaluation forms (HHE-200) must be submitted. All proposed subsurface disposal systems must meet the State of Maine Subsurface Waste Water Disposal Rules.
3. Restroom facilities for the patrons must be provided on the premises.

T. Sawmills

1. Temporary sawmills (On a property for 60 days or less per calendar year) must meet the following standards:
    a. Temporary sawmills must not be located within 100 feet of any dwelling not owned or occupied by the sawmill operator, school, or religious institution.
    b. Temporary sawmills shall meet the sound level limits of this Ordinance
    c. Temporary sawmills shall not cause the erosion and waterborne transportation of soil onto any abutting property.
2. Permanent sawmills (On a property for more than 60 days per calendar year) must meet the following standards:
    a. The sawmill may not be located within 100 feet of any dwelling not owned or occupied by the sawmill operator, school, or religious institution.
    b. The sawmill shall meet the sound level limits of this Ordinance.
    c. Screening shall be provided to establish a visual buffer (such as a stockade fence or a dense evergreen hedge six feet or more in height) from abutting properties. Natural site features shall be maintained wherever possible to provide this buffer.
    d. Wood shall not be stacked to a height that is greater than the screening.
    e. Sawdust accumulations of greater than 20 cubic yards are not allowed.
    f. A written soil erosion and sedimentation control plan must be submitted to the Planning Board for approval and must include, a written description of the management practices, a plan identifying the placement of any silt fence, check dams, or erosion control barriers including permanent stabilization structure, and provisions for the mulching and revegtation of any disturbed soil

U. Temporary Dwellings Used in Connection with the Construction of a Permanent Building or for some Non-recurring Purpose

1. Temporary residences used on construction sites of nonresidential premises must be removed immediately upon completion of the project.
2. Permits for temporary residences to be occupied pending the construction, repair, or renovation of the permanent residential building on a site expire within 12 months after the date of issuance, except that the CEO may renew such permit for one additional period not to exceed 12 months if the CEO determines that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to

complete the construction, repair, renovation, or restoration work necessary to make such building habitable.

V. Professional Offices (Land Use Category 3.4)

Professional offices are restricted to conversion of existing structures built prior to 1960 in the Village Residential, Outlying Village Residential and Rural Residential districts and where general aesthetics, characteristics and footprint are maintained, and the applicable standards of Section 16 are met.

W. Towers

1. Permit Required:

   a. All new telecommunication facilities, towers, or wind energy systems which exceed 35 feet in height in the shoreland zone, and all new telecommunication facilities, towers, or wind energy systems exceeding 70 feet in height in all other areas of Town must receive Land Use Authorization from the Planning Board and conform to the requirements of this ordinance.

   b. New telecommunication facilities, towers, or wind energy systems which are less than the threshold heights listed in Section 17.W.1.a shall be considered a permitted accessory use and need a building permit from the Code Enforcement Officer, if such telecommunication facilities, towers, or wind energy systems are accessory to a principal use on the lot and is used for the private communications or wind energy conversion for the owner of the lot or business on the lot.

   c. All telecommunication facilities, towers, or wind energy systems proposing to locate on existing towers or alternative tower structures below the threshold heights listed in Section 17.W.1.a shall only require a building permit from the Code Enforcement Officer

   d. All other telecommunication facilities, towers, or wind energy systems below the threshold heights of Section 17.W.1.a shall receive Land Use Authorization from the Planning Board.

2. Application Procedure

   a. Applications for Land Use Authorization for telecommunication facilities, towers, or wind energy systems must be submitted in accordance with Section 2.D of this Ordinance.

   b. Additionally the applicant shall submit the following items:

      i. A construction detail of the telecommunication facility, tower, or wind energy system including the dimensions of the tower, structural supports, lighting, color, and equipment located on the tower, if any. The detail shall also include any accessory structures that are necessary for the operation of the telecommunication facility, tower, or wind energy system.

      ii. A visual impact analysis prepared by a landscape architect or other qualified professional that quantifies the amount of visual impact on properties located within 2 miles of the proposed structure. This analysis shall include recommendations on how to mitigate adverse impacts on such properties, if necessary.

      iii. An analysis prepared by a qualified professional that describes why this

site and structure is critical to the operation for which it is proposed. The analysis shall address existing and proposed service area maps, how this structure is integrated with other company operations in Fryeburg or surrounding towns, future expansion needs in the area, other sites evaluated for location of this structure and how such sites compare to the proposed site, and other options to deliver similar services particularly if the proposed equipment can be co-located.

All existing and proposed (on file with the Town Office) telecommunications facilities and/or towers in Fryeburg and within 1 mile of Town boundaries shall be identified. Evidence that there is insufficient antenna space on such towers or that access to the towers is denied must be provided.

It shall be demonstrated that adequate communication service utilizing such existing telecommunications facilities and/or towers cannot be provided.

iv. Certification by a structural engineer that the construction of the structure shall satisfy all Federal, State, and local building code requirements.

v. Payment of all required performance guarantees as a condition of plan approval, with a note on the plan so stating.

c. If applicable, ten days prior to the date of the public hearing scheduled by the Planning Board, the applicant must give written notice to all property owners of record, as reflected by the municipal tax records, located within 1000 feet of the property for the structure is proposed. Written notice to property owners within the first 500 feet shall be delivered either personally which is dated and signed by recipient, or by certified mail, return receipt request. Notice to the remaining property owners may be delivered by first class mail or personally which is dated and signed by recipient.

3. The Planning Board, in its review of the Application for Land Use Authorization for a telecommunication facility, tower, or wind energy system shall consider the following:

a. The safety and utility of any proposed ingress and egress to the site.

b. The availability of suitable existing telecommunication facility, tower, or wind energy system or alternate locations for the telecommunication facility, tower, or wind energy system.

c. The visual impacts on view sheds, ridgelines, and other impacts from the telecommunication facility, tower, or wind energy system, including tree and foliage cleaning and placement of accessory structures, power lines, and access roads.

d. The visual impacts on the view from any public park, natural scenic vista, historic building or major view corridor.

e. That the proposed telecommunication facility, tower, or wind energy system be constructed in a manner so as not to result in needless height, mass, and/or guy wire supports. The height of the tower should not exceed that which is necessary for its intended use and public safety.

f. The proposed telecommunication facility, tower, or wind energy system will

minimize potential impacts on wildlife.

g. The nature of uses on adjacent properties and the impact of the proposed construction on those properties.

h. The proximity of the proposed development to residential development and potential impacts to the value or uses of properties in such residential areas.

i. The surrounding topography and tree cover/foliage and the impact of the proposed construction on the existing site features.

4. Performance Standards

a. Height: Telecommunication facilities, towers, or wind energy systems shall not exceed a height of 150 feet.

b. Setbacks: All telecommunication facilities, towers, or wind energy systems shall be setback from the lot lines a distance equal to at least 125% of the tower height. Tower guys, and accessory structures shall meet the minimum zoning district setback requirement. Rotor blades on wind turbines must maintain at least 24 feet of clearance between their lowest point and the ground.

c. Telecommunication facilities, towers, or wind energy systems shall have a galvanized, rust resistant steel finish or be painted a neutral color which is non-reflective to reduce visual obtrusiveness.

d. No telecommunication facility, tower, or wind energy system shall have any signage, writing, or pictures that may be construed as advertising. No flags, streamers, or banners shall be attached.

e. The required setbacks shall be maintained as an undisturbed buffer. Additional plantings may be required to enhance the quality and effectiveness of the buffer to serve as a visual screen.

f. Structures accessory to telecommunication facilities, towers, or wind energy systems shall, to the extent possible, use materials, colors, screenings, and landscaping to blend into the natural environment.

g. Telecommunication facilities, towers, or wind energy systems shall not be lighted unless required by the FAA.

h. Road access to the telecommunication facilities, towers, or wind energy systems shall be the minimum size necessary to allow safe access.

i. The base of the telecommunication facility, tower, or wind energy system may not be located in a wetland or floodplain.

j. A security fence of not less than 8 feet in height from the finished grade shall be provided around the telecommunication facility or tower. Wind energy systems are exempt from this criteria.

k. Co-location: The applicant and owner shall allow other future wireless service carries, to co-locate antennae, equipment, and facilities on a telecommunications facility or tower and site, unless satisfactory evidence is presented and the Planning Board concurs that technical constraints prohibit co-location. Space shall be provided at no charge to public agencies namely police, fire, rescue, if requested at the time of the review by the Planning Board.

l. The owner shall ensure that the structure is designed, constructed, and maintained in conformance with applicable State, Federal, and local building, electrical, and safety codes.

5. Performance Guarantees and Removal of Unused Facilities

   a. No building permit may be issued until the applicant has filed a performance guarantee with the Town, equal to 100% of the cost of completing the construction of any drainage systems, erosion and sedimentation control measures, and other site improvements required by the Planning Board.

   b. Removal of Unused Facilities: The owner of a telecommunication facilities, towers, or wind energy systems shall be required to remove the telecommunication facilities, towers, or wind energy systems should it not be used for the use or uses approved for a period of twelve consecutive months. An applicant for a permit under this section shall post a performance guarantee with the Town prior to obtaining a permit that is equal to 125% of the cost of removing the structure. Private, residential use towers are exempt from posting a performance guarantee.

   c. The CEO may extend the removal timeframe if proof of extenuating circumstances is submitted and approved by the CEO.

X. Portable Storage Containers

1. Portable storage containers may be used for storage. The following standards shall be met:
   a. The storage container meets the dimensional requirements for the zoning district in which it is located.
   b. The storage container will be adequately screened from neighboring properties and the street.
   c. The use of the storage container is not intended to circumvent the limitations for the zoning district for which it is located or prolong the use of facilities which have been outgrown.
   d. The storage container will not be used as or intended for advertising on or off premises purposes.
   e. The storage container may not be used for retail sales, human habitation, refuse storage, or the storage of hazardous materials.
   f. No storage containers may be stacked on top of each other or on any other structure.
   g. The storage container may not be located in the front yard unless no practicable alternative exists. If necessary to be located in the front yard, then it must be kept at the furthest accessible point from the street.
2. The above provisions do not prohibit the use of portable storage containers as construction or job site office or equipment storage facilities during construction.

Y. Adult Use Cannabis Operations

1. Purpose: The purpose of this standard is to regulate the location, licensing and operation of adult use cannabis operations authorized by the Cannabis Legalization Act within the Town of Fryeburg under the general authority granted pursuant to and consistent with Article VIII-A of the Maine Constitution and Title 30-A Section 3001 (Home Rule), as from time to time amended. Adult use cannabis and cannabis operations is often referred to as "recreational cannabis". This section does not apply to medical cannabis uses allowed per Section 17.Z of this ordinance and which are in compliance with the Maine Medical Use of Cannabis Act.

2. All cannabis operations shall follow and be in compliance with The State of Maine – Cannabis Legalization Act, Title 28-B of the Maine Revised Statues, Chapter 1.

3. Application Procedure:

    a. Applications for Land Use Authorization for Cannabis Operations must be submitted in accordance with Section 2.D of this Ordinance.

    b. Additionally the applicant must submit the following:

        i. Proof of receipt of license from the State of Maine to provide evidence of compliance with State licensing criteria.
        ii. A site plan depicting the shape, size, and location of the lot on which the structure is, or is proposed to be, located, and the shape, size, and location on the lot of the structure or additions, precisely located and noted as to distances and dimensions.
        iii. A building plan depicting the interior layout of the structure. Include secured areas, areas open to the public, entrances/exits, hazardous materials storage areas, and all other operational features.
        iv. An Operating Plan which demonstrates the proposed size and layout of the cannabis operation; plans for wastewater and waste disposal; plans for providing electricity, water and other utilities necessary for the normal operation of the facility; plans for securing the proposed facility, hours of operation and plans for compliance with applicable building code and federal and state environmental requirements. An operating plan for a cultivation facility must include the proposed size and layout of the cultivation areas, and must depict the total square footage of plant canopy area (or number of plants for Tier 1 cultivation facilities).
        v. For indoor operations, an Odor Mitigation Plan that is in compliance with the State of Maine Odor Mitigation rules.
        vi. If applicable, a description of the type of products to be processed and the equipment to be used, including a list of any solvents, gasses, chemicals, or other compounds that will be used, kept, or created, and how such materials will be stored.

    c. A separate Application for Land Use Authorization must be submitted for each proposed adult use Cannabis operation.

d. Following receipt of Land Use Authorization the applicant must also obtain a license from the Board of Selectmen as required by the Town of Fryeburg Adult Use Cannabis Cultivation, Products Manufacturing, and Testing Ordinance. Land Use Authorization alone shall not constitute "local authorization" pursuant to the Cannabis Legalization Act, 28-B M.R.S.§§ 205 and 402(3)(B).

e. A Land Use Authorization Revision After Approval: The following shall apply if there are changes to the approved site plan, building plan, or operating plan, or if an increase in cultivation tier is proposed:

i. If the Code Enforcement Officer determines that the change would not have had the effect of subjecting the prior review of the approved plan to materially different approval standards, the Code Enforcement Officer shall issue a written certificate reflecting such determination, and certifying that no further review of the proposed change by the Planning Board is required.
ii. If the Code Enforcement Officer shall determine that the change would have had the effect of subjecting the prior review of the approved plan to materially different approval standards, the lot owner must obtain Planning Board approval for the change of the plan.

4. General Performance Standards for Adult Use Cannabis Operations: (This Section does not apply to Home Cultivation for Personal Use)

a. Location, setbacks, and buffers: In addition to the dimensional requirements for each zoning district, retail cannabis operations must also meet the following dimensional requirements.

i. Cannabis operations may not be located within 1,000 feet of preexisting schools (public or private), public athletic complexes, libraries, churches, public parks, licensed day-care centers, and special purpose schools whose majority clientele are under 21 years of age. This measurement is taken from the lines of the property on which the cannabis operation is located.
ii. Adult use cannabis operations shall operate from a fixed, permanent location and may not be permitted to be operated from a moveable or mobile location. If an application for an adult use cannabis operation is approved, the approval is for that location only; relocation of the operation would require new Land Use Authorization.
iii. Tier 1, Tier 2 and nursery outdoor cultivation operations must be setback 50 feet from all property lines, have secure fencing around the growing area and may not be visible from the street.
iv. Tier 3 and Tier 4 outdoor cultivation operations must be setback 100 feet from all property lines, have secure fencing around the growing area and may not be visible from the street.
v. Adult use cannabis operations shall not occur in rented housing, apartments, condominiums.

vi. Existing tree and shrub cover screening and buffering the proposed cannabis operation shall be retained to the maximum possible extent. The Board may require additional visual buffering per Section 16.J of this Ordinance.
vii. The Town will limit the maximum number of medical cannabis registered caregiver retail store and adult use cannabis stores to a total of five(5).
viii. Applicants may not have interest of license for more than one adult use cannabis or medical cannabis store at a time in the Town of Fryeburg.

b. Odors/Ventilation

i. Indoor cannabis businesses shall be ventilated so that the odor from the cannabis cannot be detected by a person with a normal sense of smell from any adjoining use or property.
ii. Indoor cannabis businesses shall have an odor mitigation system installed that is in compliance with the State of Maine Odor Mitigation rules.

c. Hazardous Substances

i. Any inherently hazardous substances, hazardous materials, solvents, or flammables must be kept safe, be stored and used in compliance with all applicable laws, and not create a danger to any person.
ii. Non-hazardous chemicals shall be substituted for hazardous varieties whenever possible.

d. Refuse/Product Waste Disposal

i. Cannabis product waste must be made unusable and unrecognizable prior to leaving the premises and shall be disposed of in accordance with State law, including, to the extent applicable, rules adopted pursuant to Title 28-B.
ii. Solid, liquid and hazardous wastes generated during cannabis production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations.

e. Lighting

i. Exterior lighting, including required security lighting shall meet the standards of Section 16.G of this ordinance.
ii. Interior lighting: Grow lamps and lighting may not be visible from the exterior of the building.

f. Signage

i. Exterior signs must be in compliance with the regulations of the Section 16.M of this ordinance, and also shall not advertise cannabis brand names or

utilize graphics related to cannabis or paraphernalia on the exterior of the cannabis retail business or the building in which the business is located.

ii. There may be no display of cannabis and paraphernalia so as to be clearly visible from the exterior of a facility.

5. Specific Performance Standards for Adult Use Cannabis Cultivation Facilities (This does not apply to Home Cultivation for Personal Use)

a. A cultivation facility may only cultivate adult use cannabis for sale and distribution to products manufacturing facilities, cannabis stores, or other cultivation facilities. Retail sales at a cultivation facility is prohibited. A cannabis cultivation facility may not give away adult use cannabis to consumers.

b. Cannabis extraction without a separate products manufacturing approval is prohibited.

c. Adult use cultivation facilities may also include cultivation of medical cannabis under the Maine Medical Use of Cannabis Act and in compliance with The State of Maine – Cannabis Legalization Act. This must be disclosed to the Town during the Land Use Authorization process.

d. The building design of structures housing cultivation facilities, including greenhouses, in the Rural Residential zoning district must be approved by the Planning Board. The structure shall be designed, located, constructed and buffered to blend in with its surroundings and mitigate significant adverse impacts on adjoining properties. If the structure is visible from a street then New England style architecture is encouraged. Industrial or warehouse designs should be avoided.

e. There may be no increases to Tier 4 cultivation facilities.

f. Nursery Cultivation Facility:

i. A nursery cultivation facility may not sell or distribute mature cannabis plants. Direct sales to consumers must be in compliance with The State of Maine – Cannabis Legalization Act.

ii. A nursery is limited to not more than 1,000 square feet of plant canopy.

6. Specific Performance Standards for Adult Use Cannabis Products Manufacturing Facilities (This does not apply to Home Cultivation for Personal Use)

a. A cannabis products manufacturing facility may only manufacture adult use cannabis for sale and distribution to cannabis stores, social clubs or other manufacturing facilities. Retail sales at a cannabis products manufacturing facility are prohibited, unless the cannabis products manufacturing facility licensee

obtains a separate Land Use Authorization, and a separate license from the Board of Selectman, to operate a cannabis store. A cannabis products manufacturing facility may not give away adult use cannabis products or cannabis to consumers.

b. Cannabis cultivation without separate approval for a cannabis cultivation facility is prohibited.

c. Cannabis products manufacturing facilities may also include manufacture of medical cannabis products under the Maine Medical Use of Cannabis Act and in compliance with The State of Maine – Cannabis Legalization Act. This must be disclosed to the Town during the Land Use Authorization process.

d. Cannabis extraction must be completed in a safe manner and in compliance with Cannabis Legalization Act.

7. Adult Use Home Cultivation for Personal Use:

All home cultivation for personal use shall be in compliance with The State of Maine – Cannabis Legalization Act and subsequent amendments.

8. Planning Board Review:

The Planning Board will review this Section and the State of Maine – Cannabis Legalization Act as necessary after adoption by the Town, and prepare any amendments it deems appropriate for presentation to the Town of Fryeburg at the next annual Town meeting.

9. Indemnity:

By applying for or accepting a Land Use Authorization or permit issued pursuant to this ordinance, all applicants for adult use cannabis operations, agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, volunteers and agents, insurers and self- insurance pool against all liability, claims and demands on account of any injury, loss or damage, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of an adult use cannabis operation. Furthermore, by accepting a permit issued pursuant to this ordinance, all adult use cannabis operators, agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, volunteers and agents, insurers and self- insurance pool against all liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of federal, state or local laws and regulations. This obligation to indemnify, defend and hold harmless shall include the obligation to reimburse the party so indemnified, defended and held harmless for any and all attorney's fees reasonably incurred by that indemnified party in defense of such liabilities, claims and demands.

Z. Medical Use Cannabis Operations

1. Purpose: The purpose of this standard is to regulate the location, licensing and operation of medical cannabis operations authorized by the Maine Medical Use of Cannabis Legalization Act within the Town of Fryeburg under the general authority granted pursuant to and consistent with Article VIII-A of the Maine Constitution and Title 30-A Section 3001 (Home Rule), as from time to time amended.

2. All medical use cannabis operations shall follow and be in compliance with Maine Medical Use of Cannabis Act Title 22, Chapter 558-C.

3. Application Procedure:

   a. Applications for Land Use Authorization for Medical Use Cannabis Operations must be submitted in accordance with Section 2.D. of this Ordinance.

   b. Additionally the applicant must submit the following:

      i. Proof of receipt of one or more registry identification cards issued by the State of Maine pursuant to provide evidence of compliance with State registration criteria.
      ii. A site plan depicting the shape, size, and location of the lot on which the structure is, or is proposed to be, located, and the shape, size, and location on the lot of the structure or additions, precisely located and noted as to distances and dimensions.
      iii. A building plan depicting the interior layout of the structure. Include secured areas, areas open to the public, entrances/exits, hazardous materials storage areas, and all other operational features.
      iv. An Operating Plan which demonstrates the proposed size and layout of the cannabis operation; plans for wastewater and waste disposal; plans for providing electricity, water and other utilities necessary for the normal operation of the facility; plans for securing the proposed facility, hours of operation and plans for compliance with applicable building code and federal and state environmental requirements. An operating plan for a cultivation facility must include the proposed size and layout of the cultivation areas, and must depict the total square footage of plant canopy area.
      v. For indoor cultivation operations, an Odor Mitigation Plan that is in compliance with State of Maine Odor Mitigation Rules.
      vi. If applicable, a description of the type of products to be processed and the equipment to be used, including a list of any solvents, gases, chemicals, or other compounds that will be used, kept, or created, and how such materials will be stored. If inherently hazardous substances are used then submittal of certification or documentation from Maine licensed PE is required.

   c. A separate Application for Land Use Authorization must be submitted for each proposed medical use cannabis facility, operation, or use.

d. Land Use Authorization will constitute "municipal authorization" per The State of Maine – Medical Use Cannabis Legalization Act.

e. A Land Use Authorization Revision After Approval: The following shall apply if there are changes to the approved site plan, building plan, or operating plan is proposed:

i. If the Code Enforcement Officer determines that the change would not have had the effect of subjecting the prior review of the approved plan to materially different approval standards, the Code Enforcement Officer shall issue a written certificate reflecting such determination, and certifying that no further review of the proposed change by the Planning Board is required.
ii. If the Code Enforcement Officer shall determine that the change would have had the effect of subjecting the prior review of the approved plan to materially different approval standards, the lot owner must obtain Planning Board approval for the change of the plan.

4. General Performance Standards for Medical Use Cannabis Operations:

a. Location, setbacks, and buffers: In addition to the dimensional requirements for each zoning district, medical use cannabis operations must also meet the following requirements.

i. Excepting medical use cannabis cultivation and qualifying patient products manufacturing not using inherently hazardous substances, other medical use cannabis operations may not be located within 1,000 feet of preexisting schools (public or private), public athletic complexes, libraries, churches, public parks, and licensed day-care centers, and special purpose schools whose clientele are under 21 years of age. This measurement is taken from the lines of the property on which the cannabis operation is located.
ii. Medical use cannabis operations shall operate from a fixed, permanent location and may not be permitted to be operated from a moveable or mobile location. If an application for a medical use cannabis operation is approved, the approval is for that location only; relocation of the operation would require new Land Use Authorization.
iii. Medical use cannabis operations, except qualifying patient cultivation, shall not occur in rented apartments or condominiums.
iv. Existing tree and shrub cover screening and buffering of the proposed cannabis operation shall be retained to the maximum possible extent. The Board may require additional visual buffering per Section 16.J of this Ordinance.
v. Medical use cannabis operations may not engage in any adult use cannabis operations in the same facility.

vi. The Town will limit the number of medical use cannabis registered caregiver retail store and adult use cannabis stores to a total of five(5).
vii. Applicants may not have interest of license for more than one adult use cannabis or medical cannabis store at a time in the Town of Fryeburg.

b. Odors/Ventilation

i. Indoor medical use cannabis uses shall be ventilated so that the odor from the cannabis cannot be detected by a person with a normal sense of smell from any adjoining use or property.
ii. Indoor medical cannabis use cultivation operations shall have an odor mitigation system installed that is in compliance with the State of Maine Odor Mitigation rules.

c. Hazardous Substances

i. If inherently hazardous substances are used for medical use products manufacturing, including products manufacturing by a qualifying patient, then specific authorization under the Maine Medical Use of Cannabis Act is required including certification and documentation from Maine licensed professional engineer.
ii. Any inherently hazardous substances, hazardous materials, solvents, or flammables must be kept safe, be stored and used in compliance with all applicable laws, and not create a danger to any person.
iii. Non-hazardous chemicals shall be substituted for hazardous varieties whenever possible.

d. Refuse/Product Waste Disposal

iii. Cannabis product waste must be made unusable and unrecognizable prior to leaving the premises and shall be disposed of in accordance with State law.
iv. Solid, liquid and hazardous wastes generated during cannabis production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations.

e. Lighting

i. Exterior lighting, including required security lighting shall meet the standards of Section 16.G of this ordinance.
ii. Interior lighting: Grow lamps and cultivation-related lighting may not be visible from the exterior of the building.

f. Signage

i. Exterior signs must be in compliance with the regulations of the Section 16.M of this ordinance, and also shall not advertise cannabis brand names or utilize graphics related to cannabis or paraphernalia on the exterior of the cannabis retail business or the building in which the business is located.

g. Edibles

i. All manufacturing of cannabis for consumption as an edible will require a state certified commercial kitchen to process.

5. Planning Board Review:

The Planning Board will review this Section and the Maine Medical Use Cannabis Act as necessary, and prepare any amendments it deems appropriate for presentation to the Town of Fryeburg at the next annual Town meeting.

6. Indemnity:

By applying for or accepting a permit issued pursuant to this ordinance, all applicants for adult use cannabis operations, agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, volunteers and agents, insurers and self-insurance pool from and against all liability, claims and demands on account of any injury, loss or damage, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of an adult use cannabis operation that is the subject of such approval. Furthermore, by accepting a permit issued pursuant to this ordinance, all adult use cannabis operators, agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, volunteers and agents, insurers and self- insurance pool from and against all liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of federal, state or local laws and regulations. This obligation to indemnify, defend and hold harmless shall include the obligation to reimburse the party so indemnified, defended and held harmless for any and all attorney's fees reasonably incurred by that party in defense of such liabilities, claims and demands.

A.A. Solar Energy Systems

1. Purposes:

a. Solar energy is a local, renewable energy resource that can reduce fossil fuel dependence and emissions. Energy generated from Solar Energy Systems can be used to offset energy demand on the utility grid, with benefits for system owners and electricity consumers.

b. The use of solar energy for the purpose of providing electricity and energy for heating and or cooling is an important part of the Town of Fryeburg's sustainability goals.

c. The standards herein enable the accommodation of Solar Energy Systems in appropriate locations and in a manner that protects the public health, safety, and welfare while still allowing the quiet enjoyment of property and supporting the goals of the Comprehensive Plan, including goals related to natural resources and historical and archeological preservation.

2. Applicability: Notwithstanding the provisions of 1 M.R.S.A. Section 302 or any other law to the contrary, the requirements of this Section 17.AA shall apply to (a) all Roof-Mounted Solar Energy Systems installed on or any time after the date that the legislative body of the Town adopted this Section 17.AA, and (b) all proceedings and applications for the construction or installation of any other Solar Energy Systems (including any expansion, upgrade, modification, or structural change that materially alters the size, placement, or output of such systems) that are pending before any municipal reviewing authority on or any time after the date that the legislative body of the Town adopted this Section 17.AA.

3. Permitting Requirements:

   a. Roof-Mounted Solar Energy Systems must comply with the Dimensional Requirements applicable to structures within the zoning district in which such systems are to be located and the standards in Section 16 of this Ordinance. Roof-Mounted Solar Energy Systems shall be considered an accessory land use and shall not be considered in the determination of Minimum Lot Size as specified in Sections 6 through 14 of this Ordinance. Roof-Mounted Solar Energy Systems must obtain a Building Permit from the Code Enforcement Officer in accordance with the procedures set forth in Section 2.C of this Ordinance.

   b. Small-Scale Solar Energy Systems must comply with the Dimensional Requirements applicable to structures within the zoning district in which such systems are to be located, the standards in Section 16 of this Ordinance, and the standards in Section 17.A.A.5 of this Ordinance. Small-Scale Solar Energy Systems must obtain a Building Permit from the Code Enforcement Officer in accordance with the procedures set forth in Section 2.C of this Ordinance.

   c. Medium-Scale Solar Energy Systems and Large-Scale Solar Energy Systems must obtain Land Use Authorization from the Planning Board in accordance with the procedures set forth in Section 2.F of this Ordinance.

4. Additional Application Submissions Required for Medium-Scale Solar Energy Systems and Large-Scale Solar Energy Systems:

   An application for Land Use Authorization for a Medium-Scale Solar Energy System or a Large-Scale Solar Energy System must be submitted in accordance with Section 2.D of this Ordinance. In addition to the submission requirements in Section 2.D, the applicant must submit the following:

a. Written confirmation from the public utility to which the Solar Energy System will be connected confirming that the solar operator has conditional or final approval to interconnect the Solar Energy System to the utility grid.

b. Evidence of financial capacity to construct, operate, and decommission the Solar Energy System.

c. Erosion and sedimentation control narrative and plans with details.

d. Site plans showing all proposed construction and alteration of the project site, including changes to the landscape of the Solar Land Area, filling, grading, earthmoving, vegetation clearing and planting, screening, fencing, Solar Energy System components, utilities (above and/or below ground), and all other aspects of the project.

e. Site plans showing water bodies, wetlands, flood hazard areas, and vernal pools.

f. A description of the major components of the Solar Energy System (including arrays) proposed to be used, including manufacturers' specifications and cut sheets if available.

g. A landscaping plan, prepared by a licensed forester, landscape architect, or arborist, demonstrating compliance with all applicable landscaping and vegetated buffering requirements. At minimum, the landscaping plan must specify the locations, elevations, and height above finished grade of all vegetation, berms and plantings, and must identify the plant species and other materials that will comprise the elements used to establish any vegetated buffers and substantially screen the Solar Energy System from view from abutting residential properties, public roads, and Public Vantage Points.

h. A long-term operations and maintenance plan providing for ongoing monitoring and inspections of all site improvements. The plan must provide a method for maintaining sufficient financial resources for performing ongoing maintenance and repair of the Solar Energy System.

i. A proposed decommissioning plan for the removal of the Solar Energy System, disposal of system components, and stabilization of the site, which meets the requirements in Section 17.AA.8 of this Ordinance, and a written statement of the applicant's intent concerning the following:

    i. Physical removal of any Solar Energy System components, structures, foundations, supports, fencing, or security barriers from the site.

    ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal laws and rules.

    iii. Stabilization or re-vegetation of the site as necessary to minimize erosion and return the site to substantially its pre-construction state.

j. A description of any proposed dual-use or co-location of the property, including but not limited to agrivoltaics. If no dual-use is proposed or intended on the property, an explanation as to why such dual-use or co-location is not practicable.

k. A visual impact assessment prepared by a landscape architect or other professional with expertise in evaluating visual impacts, which identifies the visual impacts of the Solar Energy System on any Public Vantage Point within a one-mile radius of the project area, and on abutting properties. At minimum, the assessment must include a line-of-sight profile analysis that illustrates what is visible and what is obstructed along a straight line running from the Solar Energy System and each Public Vantage Point. The Planning Board may require additional visual impact assessments, including digital viewshed maps, if it determines in its sole discretion that such assessments are necessary for the Planning Board to evaluate the Solar Energy System's compliance with the scenic impact standards in Section 17.AA.6.f of this Ordinance.

5. Additional Standards for Small-Scale, Medium-Scale, and Large-Scale Solar Energy Systems:

   In addition to the standards in Section 16, a Small-Scale, Medium-Scale, or Large-Scale Solar Energy System must comply with the following standards:

   a. The Solar Energy System shall be less than 25 feet in Height.

   b. The Solar Energy System shall be operated and located such that no disruptive electromagnetic or radio frequency interference with signal transmission or reception is caused beyond the property lines of the site.

   c. The Solar Energy System shall be located and designed to avoid, minimize, or mitigate any glare onto abutting properties or roadways.

6. Additional Standards for Medium-Scale and Large-Scale Solar Energy Systems:

   In addition to the standards in Section 16 and Section 17.AA.5, a Medium-Scale or Large-Scale Solar Energy System must comply with the following standards:

   a. Minimum Setbacks: The following minimum setback requirements must be met, regardless of the zoning district in which the Solar Energy System is located, unless the minimum setback requirement in the applicable zoning district is more restrictive, in which case the more restrictive requirement shall apply:

Front Lot Line	75 feet
Side and Rear Lot Line	75 feet
Street Right-of-Way	100 feet

   b. Wildlife Habitat: The Solar Energy System shall have no undue adverse effect on any portion of the property designated by the Maine Department of Inland Fisheries and Wildlife as Rare, Threatened, or Endangered Wildlife, Essential Wildlife Habitat, or Significant Wildlife Habitat. The applicant shall assess the potential impacts of the Solar Energy System on any such designated species or habitat, including any adjacent areas that are important to the maintenance of the affected species or habitat, and shall take measures to avoid, minimize, or

mitigate impacts of the Solar Energy System on the habitat and the species that the area supports. The Planning Board may require the applicant to consult with the Maine Department of Inland Fisheries and Wildlife or a wildlife biologist preapproved by the Board in conducting such an assessment.

c. Natural Areas: The Solar Energy System shall have no undue adverse effect on any portion of the property designated as a unique natural area or a Rare or Exemplary Plant and Natural Community in the Town's Comprehensive Plan or by the Maine Natural Areas Program. The applicant shall assess the potential impacts of the Solar Energy System on any such designated natural area or community, including any adjacent areas that are important to the maintenance of the affected area or community, and shall take measures to avoid, minimize, or mitigate impacts of the Solar Energy System on the natural area or community. The Planning Board may require the applicant to consult with the Maine Natural Areas Program in conducting such an assessment.

d. Historic or Archaeological Resources: The Solar Energy System shall have no undue adverse effect on any portion of the property that has been identified as containing a significant historic or archaeological resource in the Town's Comprehensive Plan or on the National Register of Historic Places, or is considered by the Maine Historic Preservation Commission or other pertinent authority as likely to contain a significant historic or archaeological resource. The applicant shall assess the potential impacts of the Solar Energy System on any such resource, including any adjacent areas that are important to the preservation of the resource, and shall take measures to protect these resources, including but not limited to, modification of the proposed location and design of the Solar Energy System, timing of construction, limiting the extent of excavation, physical or legal protection, or by archaeological excavation or mitigation. The Planning Board may require the applicant to consult with the Maine Historic Preservation Commission in conducting such an assessment.

e. Agricultural Resources: The Solar Energy System shall have no undue adverse effect on any portion of the property containing prime agricultural soils or soils of statewide importance. The applicant shall assess the potential impacts of the Solar Energy System on any such soils, and shall take measures to avoid or minimize impacts to such soils. The Planning Board may require the applicant to consult with the Department of Agriculture, Conservation, and Forestry, Agricultural Resource Development Division, in conducting such an assessment. No topsoil or prime agricultural soil shall be removed from the site for installation of the Solar Energy System. All stockpiled topsoil shall be retained on site and reused in the landscaping plan for the site.

f. Revegetation: Any disturbed ground cover on the site shall be revegetated with pollinator friendly, native, and non-invasive vegetation.

g. The Solar Energy System must be located and designed for minimal visual impact on the surrounding area, particularly when viewed from abutting residential properties or any Public Vantage Point.

h. A vegetated buffer that is at least half the width of the minimum setback requirement in Section 17.AA.6.a of this Ordinance shall be maintained along any property boundary line of a Solar Energy System that abuts a residential dwelling

or a public road, except where necessary to accommodate a driveway entrance to the site. Existing vegetation must be used to the greatest practical extent. If there is insufficient existing vegetation to create a vegetated buffer, the applicant shall plant and maintain native species of conifers and evergreens to adequately screen the Solar Energy System from view.

i. Security Fencing: All components of the Solar Energy System, excepting overhead utility and communication lines and poles, shall be completely enclosed by a minimum 6-foot-high fence. The fence shall be elevated an minimum of 6 inches above the ground to accommodate crossings by small terrestrial animals. Functional alternatives to chain-link style fencing is encouraged.

j. Utility Connections: All on-site utility transmission lines and piping associated with the Solar Energy System shall be placed underground to the greatest extent practicable. The Planning Board may waive this requirement if the applicant can demonstrate that satisfying this requirement is not practicable based on requirements of the utility provider or specific site conditions.

k. Operations and Maintenance: The applicant must provide for the long-term operation of the Solar Energy System and maintenance of the Solar Land Area, including ensuring that vegetation buffers are maintained, inspections are performed as needed, and the site is accessible to emergency responders in the event of an emergency.

7. Additional Performance Standards for Large-Scale Solar Energy Facilities:

   a. Greenhouse Gas Assessment: The Large-Scale Solar Energy System shall not result in a net increase of greenhouse gas emissions over a 20-year period. The Planning Board may request an independent greenhouse gas assessment including an analysis of on-site, upstream, and downstream emissions from the project.

8. Post-Approval Requirement for Medium-Scale Solar Energy Systems and Large-Scale Solar Energy Systems: Prior to the start of construction of a Medium-Scale Solar Energy System or Large-Scale Solar Energy System, the permit holder must submit to the Code Enforcement Officer a decommissioning plan and financial assurance approved by the Maine Department of Environmental Protection, in accordance with the requirements of 35-A M.R.S.A. Sections 3491-3496, as may be amended, for all costs associated with decommissioning the Solar Energy System.

9. Post-Construction Requirements for Medium-Scale Solar Energy Systems and Large-Scale Solar Energy Systems:

   After completion of construction and prior to commercial operation of a permitted Medium-Scale Solar Energy System or Large-Scale Solar Energy System, the permit holder must:

   a. Submit to the Code Enforcement Officer as-built drawings prepared by a Maine licensed professional land surveyor or engineer. The as-built drawings shall include the actual locations of the Solar Energy System and its components, any structures and their components, above and underground utilities, roads, swales, ditches, detention/retention facilities, areas of filling and grading, vegetated buffers, fencing, land and landscaping alterations, and any other infrastructure and

facilities, all as actually constructed on the site. The as-built drawings must be accompanied by a letter signed by the surveyor or engineer certifying that the Solar Energy System had been constructed in accordance with all Planning Board approvals, including any conditions of approval and any accompanying plans and specifications.

d. Provide a written manual to the Fryeburg Fire Department and Code Enforcement Officer, which provides clear response information and instructions, including lock box details and disconnection locations necessary for a fire/emergency response at the site.

B.B. Affordable Housing Development

An affordable housing development that complies with the requirements of Section 17.B.B. is eligible for a dwelling unit density bonus of 2 ½ times the base density that is otherwise allowed on the lot where the proposed affordable housing development is located.

1. Eligibility for Affordable Housing Density Bonus: For purposes of this Section, an affordable housing development must meet the following requirements:
   i. The proposed affordable housing development must be located in a designated growth area, or be served by a public, special district, or other community water system and a public, special district or other comparable sewer system;
   ii. The standards in Section 16.W shall apply to each unit within the affordable housing development.

2. Long-Term Affordability
   a. More than half of the total dwelling units in the affordable housing development must be designated as affordable rental units or affordable homeownership units.
   b. Prior to the issuance of a Certificate of Completion for an affordable housing development, the owner of the affordable housing development shall execute a restrictive covenant that is enforceable by a party acceptable to the Planning Board and record the restrictive covenant in the Oxford County Registry of Deeds to ensure that for at least 30 years after the completion of construction:
      i. For rental housing, occupancy of all the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy; or
      ii. For owned housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy.
      iii. The restrictive covenant must run with the land and encumber the affordable housing development, be binding upon the developer (for rental housing) or the unit owners (for owned housing) and their successors and assigns, and inure to the benefit of and be enforceable by the Town of Fryeburg and a third party acceptable to the Planning Board.

3. Density Bonus

   If the requirements in Section 17.B.B. are met, the Town shall allow an affordable housing development to have a dwelling unit density of 2 ½ times the Base Density that is otherwise allowed on the lot where the proposed affordable housing development is located.

   If fractional results occur when calculating the affordable housing density bonus allowed by this Section, then the maximum number of allowed dwelling units within the Affordable Housing Development shall be rounded down to the nearest whole number. The number of parking spaces may rounded up to the nearest whole number.

SECTION 18
BOARD OF APPEALS

A. Establishment and Organization

1. A Board of Appeals is hereby established. It consists of not more than five regular members and two associate members ("Associate" members were formerly called "alternate" members.). Regular members and associate members of the Board of Appeals are appointed by the municipal officers. A municipal officer or municipal officer's spouse may not be a regular member nor an associate member of the Board of Appeals. A Planning Board member or member of the Board of Selectmen may not be a regular member nor an associate member of the Board of Appeals.
2. The term of office of regular and associate members is three years. Initial terms for regular members are two members appointed for three years, two for two years, and one for one year. Associate members will be appointed for three-year terms.
3. When there is a permanent vacancy, the municipal officers must appoint a new member to serve for the remainder of the unexpired term.
4. Members of the Board of Appeals must be legal residents of the Town of Fryeburg when appointed and serving.
5. Members of the Board of Appeals may be removed from office by the municipal officers for cause upon written charges and after public hearing. "For cause" includes failure of a board member to attend three consecutive meetings without the recorded consent of the chair.
6. The Board of Appeals must annually elect a chair, vice chair, and secretary from its own membership. No member may hold two Board of Appeals offices simultaneously.
7. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting must be decided by a majority of the members, except the member who is being challenged.

B. Proceedings of the Board of Appeals

1. A quorum necessary to conduct business of the Board of Appeals is three members.
2. The Board of Appeals must adopt rules necessary to the conduct of its affairs, in keeping with the provisions of this Ordinance and Title 30-A M.R.S.A. Section 2691.
3. Meetings are held at the call of the chair and at such other times as the Board of Appeals may determine. All meetings are open to the public.
4. The Board of Appeals must keep minutes of its proceedings, showing the vote of each member upon each question, or of absence or failure to vote, and must keep records of its examinations and other official actions, all of which are a public record and must be filed with the Town Clerk.

C. Powers and Duties of the Board of Appeals

The Board of Appeals has the following powers and duties:

1. Administrative appeal of the Code Enforcement Officer (CEO)

   To hear and decide administrative appeals where it is alleged there is a violation or error in any written order, requirement, decision, interpretation, or determination made by the CEO in the administration and enforcement of this Ordinance.

2. Administrative appeal of the Planning Board

   a. To hear and decide administrative appeals where it is alleged there is a violation or error in any decision, interpretation, or determination made by the Planning Board in its administration of any section of this Ordinance, except for Administrative Appeals of Final Subdivision Approval granted by the Planning Board.

   b. Appeals of Final Subdivision Approval granted by the Planning Board shall be taken directly to Superior court.

   c. Notwithstanding any other provision of this ordinance, a hearing of an Administrative Appeal pursuant to this sub-section C(2), shall be conducted by the Board of Appeals as an appellate review and not *de novo*.

3. Variances

   To authorize variances when specifically applied for, but only within the limitations set forth in this Ordinance.

D. Variances

Variances may be permitted only under the following conditions:

1. Variances may be granted only from dimensional requirements: lot size, lot frontage, structure height, lot coverage, and setback requirements.
2. Establishment or expansion of uses otherwise prohibited are not allowed by variance.
3. A variance may not be granted simply because of the presence of non-conformity in the district or uses in adjoining districts.
4. The Board of Appeals may grant a variance only if it finds that:

   a. The land in question cannot yield a reasonable return unless a variance is granted;

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

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

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

5. Such hardship may only be found by the Board of Appeals where this Ordinance, as applied to the applicant's property, substantially destroys or decreases the value of the property in question for any permitted use to which the land or property can reasonably be put. Mere inconvenience to the property owner does not satisfy this requirement. Financial hardship alone or pleading that a greater profit may be realized from the applicant's property if a variance is granted is not sufficient evidence of unnecessary hardship. Personal hardship may not be considered as grounds for a variance, since the variance will continue to affect the character of the neighborhood after title to the property has passed.

6. The variance granted may only be the minimum variance that will make possible the reasonable use of the land or structure in order to preserve the terms of the Ordinance as much as possible, and the Board of Appeals may impose such conditions to a variance as it deems necessary, to this end. The party receiving the variance and any subsequent owner of the property must comply with any conditions imposed.

7. The Board of Appeals may grant a variance only by the concurring vote of at least three members.

E. Disability Variance

The Code Enforcement Officer may issue a permit to an owner of a dwelling for the purpose of making a dwelling accessible to a person with a disability who resides in, or regularly uses, the dwelling. If the permit requires a variance, the permit is deemed to include that variance solely for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling for the person with a disability. The Code Enforcement Officer may impose conditions on the permit, including limiting the permit for the duration of the disability or to the time that the person with a disability lives in the dwelling.

For the purposes of this section, the term "structures necessary for access to or egress from the dwelling" includes ramps and associated railings, walls or roof systems necessary for the safety or effectiveness of the ramps.

For the purposes under this section, "disability" has the same meaning as a physical or mental disability under Title 5, Section 4553-A.

F. Repealed

G. Administrative Appeal and Variance Procedure

An applicant may apply for an administrative appeal, a variance, or both.

1. Application procedure:

   a. An application is made by filing with the Board of Appeals a written notice of appeal or application for a variance on forms provided. The application must be received at the Fryeburg Town Office, addressed to the Board of Appeals, within 30 days after the decision is made by the CEO or the Planning Board. The application must include the following:

(1) A sketch drawn to scale showing lot lines, location of existing structures and other physical features pertinent to the relief request.

(2) A concise written statement stating what relief is requested and why it should be granted.

(3) The application fee.

b. When an application is filed, it must be examined for completeness and accuracy, and particularly to determine whether all information necessary to make a determination has been supplied. Where information is lacking or inadequate at the time of submission the applicant must be notified in writing of the incompleteness. A hearing may not be set until the application is complete. It is the responsibility of the Board of Appeals to determine completeness.

c. Upon being notified of an application for an administrative appeal or a variance, the CEO, or the Planning Board if the appeal is of their decision, must transmit to the Board of Appeals copies of all the written documentation which makes up the record of the decision.

d. All advertising and administrative costs of an appeal or a variance must be borne by the applicant and must be paid at the public hearing.

e. The Board of Appeals must hold a public hearing on the appeal or variance request within 30 days of the receipt of the completed application.

2. Notification

a. A copy of each variance request affecting a parcel in shoreland zoned areas, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officers to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

b. At least ten days prior to the date of the hearing on the appeal, the Board of Appeals notifies the Planning Board and the CEO, and must cause to be posted in the Town Office and must cause to be published once in a newspaper of general circulation in the Town a notice which includes:

(1) The name of the person appealing.

(2) A brief description of the property involved.

(3) A brief description of the decision appealed from, or the nature of a variance appeal.

(4) The time and place of the Board's hearing.

b. At least ten days prior to the date set for hearing, the applicant must give written notice, either personally whish is dated and signed by recipient or by certified mail, return receipt requested to:

All property owners of record, as reflected by the municipal tax records, whose properties lie within 200 feet of the property in the Village Residential and Village Commercial Districts and 500 feet of the activity in other Districts.

c. The Board of Appeals must keep a record of all parties notified.

d. Failure of any property owner to receive a notice of any public hearing does not necessitate another hearing or invalidate any action by the Board of Appeals.

3. Hearings

a. The Board of Appeals may receive any oral or documentary evidence but must provide as a matter of policy for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. Every party has the right to present a case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examinations as may be required for a full and true disclosure of the facts.

b. The applicant's case is heard first. To maintain orderly procedure, each side has the right to proceed without interruption. All persons at the hearing must abide by the order of the chair.

c. At any hearing, a party may be represented by an agent.

d. Hearings may not be continued to other times except for good cause. If the Board of Appeals votes to continue a hearing the motion to continue must include the reason for the continuance and the time and date to which the hearing is continued.

e. The CEO or designated assistant, or the Planning Board chair if the appeal is of a Planning Board decision, must attend all hearings and may present to the Board of Appeals all plans, photographs, or other material the CEO or Planning Board deems appropriate for an understanding of the appeal.

f. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, constitute the record.

g. The Board of Appeals may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose and purchasing policies of the Town.

H. Decisions of the Board of Appeals

1. The concurring vote of at least three members of the Board of Appeals is necessary to grant an administrative appeal or a variance. A tie vote fails.

2. The Board of Appeals must decide all administrative appeals and variances within 30 days after the hearing, and must issue a written decision.

3. All decisions become a part of the record and must include a statement of findings and conclusions as well as the reasons or basis therefore, upon all the material issues of fact, law, or discretion presented, and the appropriate order, relief, or denial thereof. Notice of any decision must be mailed or hand

delivered to the applicant and agent, the Planning Board, the CEO, and the municipal officers within seven days of the decision date.

4. Upon notification of the approval of an administrative appeal or a variance by the Board of Appeals, the CEO or Planning Board must comply with the order of the Board of Appeals.

5. A copy of each variance granted to property in the Shoreland Zone must be forwarded by the Board of Appeals to the Commissioner of the Department of Environmental Protection within 14 days of the decision.

6. Whenever the Board of Appeals grants a variance a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title, and indicating the act that a variance, including any conditions on the variance, has been granted and the date of the granting, must be prepared in recordable form. This certificate must be recorded by the property owner in the Oxford County West District Registry of Deeds within 90 days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded. For the purpose of this subsection, the date of the final written approval is the date stated on the written approval.

7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within 45 days from the date of any decision of the Board of Appeals.

8. If the Board of Appeals can not judge information presented to it because of its technical nature, the Board may, after notification to, and at the expense of, the applicant, employ one or more independent consultants to review the information. The estimated costs of such studies must be deposited with the Town Treasurer prior to their undertaking. Any money not spent must be reimbursed to the applicant.

I. Stay of Proceedings

An application to the Board of Appeals for the granting of an administrative appeal or a variance stays all legal proceedings related to that administrative appeal or variance unless the CEO certifies to the Board of Appeals, after the notice of administrative appeal or variance has been filed with the CEO, that by reason of facts stated in the certificate a stay would, in the CEO's opinion, cause irreparable harm to property or create a threat to the life or health of any person including the applicant. In such case, the CEO, if legally authorized by State law or local Ordinance, may seek injunctive relief or, in appropriate cases, refer the matter to the municipal officers for prosecution.

J. Fees

The application fee is to be set annually by the Board of Selectmen.

SECTION 19
PLANNING BOARD

A. Establishment

Pursuant to Article VIII, pt. 2, Section 1 of the Maine Constitution and Title 30-A M.R.S.A. Section 3001, the Town of Fryeburg hereby establishes the Fryeburg Planning Board. The existing Planning Board stays in effect until the Planning Board members appointed by the Board of Selectmen according to this Section have been sworn into office.

B. Appointment

1. Planning Board members are appointed by the Board of Selectmen and must be sworn in by the clerk or other person authorized to administer oaths.
2. The Planning Board consists of not more than seven regular members.
3. The term of each regular member is three years. However, the initial terms are three appointed for three years, two appointed for two years, and two appointed for one year.
4. Members of the Planning Board may be removed from office by the municipal officers for cause upon written charges and after public hearing. "For cause" includes failure of a board member to attend three consecutive meetings without the recorded consent of the chair.
5. A Selectman or a member of the Board of Appeals may not be a member of the Planning Board.
6. All Planning Board members must be residents of the Town of Fryeburg when appointed and while serving.

C. Organization and Rules

1. The Planning Board must elect a chair, vice chair, and secretary from among its members. The term of these offices is one year with eligibility for re-election.
2. Any question of whether a member must be disqualified from voting on a particular matter must be decided by a majority vote of the members except the member who is being challenged.
3. The chair must call at least one regular meeting of the Planning Board each month.
4. No meeting of the Planning Board may be held without a quorum. A quorum consists of at least four members authorized to vote. If any member has or has been declared by the chairman to have a conflict of interest, said member shall not be counted in establishing a quorum for that case. If a member has spoken or written publicly in favor of or in opposition to the care prior to its being heard or decided, that member shall not be counted in establishing the quorum. If a member has not attended all meetings when the application has been considered, to include public hearing, if any, and has not fully familiarized

him/herself with the records of meetings not attended, that member shall not be counted in establishing a quorum. The Planning Board acts by majority vote, calculated on the basis of the number of members present and voting, including the chair.

5. The Planning Board must adopt rules for transaction of business and the secretary must keep a record of its resolutions, transactions, correspondence, findings, and determinations. All records are deemed public and may be inspected at reasonable times. Minutes of all meetings must be kept. A copy of all minutes must be filed with the Town Clerk.

D. Duties and Powers

1. The Planning Board must perform such duties and exercise such powers as are provided by this Ordinance, the Subdivision Section of this Ordinance, and the laws of the State of Maine.
2. The Planning Board must make recommendations regarding all amendments to this Ordinance and these recommendations must appear in the Town meeting warrant.
3. The Planning Board is responsible for periodic updates to the Comprehensive Plan.
4. The Planning Board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose and within the limits of the Town's purchasing policies.

SECTION 20
SHORELAND ZONING

A. Shoreland Overlay District

1. Purpose

   The purpose of the Shoreland Overlay District is to discourage additional intensive development in these areas and to protect the water quality and visual beauty of these valuable resources. And to further the maintenance of safe and healthful conditions and the general welfare; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; control building sites and the placement of structures and land uses; conserve shore cover, visual as well as actual points of access to inland waters, and natural beauty.

2. Location

   The location and boundaries of the Shoreland Overlay District are established as shown on the Official Zoning Map and are a part of this Ordinance. The depiction of these districts on the official zoning map is merely illustrative of their general location. The boundaries of these districts shall be determined by actual measurement of the distance from the high water mark of the water body or the upland edge of wetland vegetation, regardless of the location of the boundaries shown on the map. Boundaries indicated as following or paralleling shorelines or the upland edge of wetlands shall be construed to follow such shorelines or upland edges, and in the event of change shall be construed as moving with the actual shoreline or upland edge. The intent of this map is to include in the Shoreland District those land areas not included in the Resource Protection District which are within 250 feet, horizontal distance, of the normal high water line of Black Pond, Bog Pond, Cat Pond, Charles Pond, Clays Pond, Dead Lake, Horseshoe Pond, Hunt Pond, Kezar Pond, Lovewell's Pond, Lower Kimball Pond, and Pleasant Pond, and the Saco River, the Old Course of the Saco River from the confluence of Charles River to the Saco River, Kezar River from the confluence of Popple Hill Brook to the Old Course of the Saco River, Charles River from Charles Pond to the Old Course of the Saco River, Cold River from the Stow town line to Charles Pond and within 250 feet, horizontal distance, of the upland edge of wetlands which are not rated as either high or medium value by the Maine Department of Inland Fisheries and Wildlife. This district includes areas within 75’ of streams or tributary streams.

3. Dimensional Requirements

   Except for legal non-conformity, buildings or land used or occupied, and buildings erected, constructed, reconstructed, moved, or structurally altered, whether requiring Land Use Authorization or not, must comply with the requirements of Sections Sixteen and Seventeen (General and Specific Performance Standards) of this Ordinance and the following dimensional requirements:

Required Dimension

1. Minimum Lot Size per allowed structure or use:

a. Residential uses	40,000 square feet per dwelling unit
b. Recreational facilities	40,000 square feet
c. Other allowable uses	40,000 square feet per use
d. Mixed use	The required minimum lot size per use

2. Minimum Frontage — As required by the underlying District

3. Minimum Shore Frontage per allowed structure or use:

a. Residential uses	200 feet per dwelling unit
b. Recreational facilities	200 feet
c. Other allowable uses	300 feet

4. Minimum Setback Dimensions — that which is required by the underlying District

5. Setback from Normal High Water Line per allowed structure or use:

a. From a great pond or a river flowing to a great pond	100 feet
b. From all other bodies of water, wetlands, and/or tributary streams	75 feet

6. Maximum Lot Coverage:

The total area of all structures, parking lots, and other non-vegetated surfaces, including land area previously developed, may not exceed 20% of a lot or a portion of that lot located within the Shoreland Zone (this limitation does not apply to public boat launching facilities).

4. Permitted Uses: Uses which are allowed in the underlying district

5. Application for Planning Board Review of Shoreland Zone Projects

   a. Application to the Planning Board must be made on the Application for Land Use Authorization.

   b. For any proposed Shoreland construction or alteration requiring a permit from the Department of Environmental Protection, a copy of said Permit and all attachments shall be submitted to the Planning Board.

   c. Conditions of Permit

The Planning Board may authorize the issuance of a permit provided that the criteria applicable to Planning Board Land Use Authorization Permits have been met, and the applicant has clearly demonstrated that the following will be met:

(1) The use will not unreasonably interfere with existing recreational and navigational uses, nor unreasonably alter scenic and aesthetic qualities;

(2) The use will not unreasonably interfere with or harm the natural environs of any lake, pond, tributary, stream, or river, nor harm any fish or wildlife habitat;

(3) The use will not cause unreasonable soil erosion nor lower the quality of any waters;

(4) The use will not unreasonably alter the natural flow or storage capacity of any water body; and

(5) The use will not create or cause to be created unreasonable noise or traffic of any nature.

d. Assistance

The Planning Board may seek assistance from the Department of Inland Fisheries and Wildlife and the Department of Environmental Protection in evaluating these proposals.

B. Resource Protection Overlay District

1. Purpose

The purpose of the Resource Protection Overlay District is to protect the environmental integrity of those areas of the town which have severe physical development limitations or which have extremely high natural resource value.

2. Location

The location and boundaries of the Resource Protection Overlay District are established as shown on the Official Zoning Map and are a part of this Ordinance. The depiction of these districts on the official zoning map is merely illustrative of their general location. The boundaries of these districts shall be determined by actual measurement of the distance from the high water mark of the water body or the upland edge o wetland vegetation, regardless of the location of the boundaries shown on the map. Boundaries indicated as following or paralleling shoreline or the upland edge off wetlands shall be construed to follow such shorelines or upland edges, and in the event of change shall be construed as moving with actual shoreline or upland edge. The intent of this map is to include in the Resource Protection Overlay District:

a. Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the

Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps;

b. Areas of two of more contiguous acres with sustained slopes of 20% or greater;

c. Land along the rivers which is subject to severe bank erosion, undercutting, or river bed movement;

d. Areas of two or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a wetland, and which are not surficially connected to a water body during the period of normal high water;

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

3. Dimensional Requirements

Except for legal non-conformity, buildings or land used or occupied, and buildings erected, constructed, reconstructed, moved, or structurally altered, whether requiring Land Use Authorization or not, must comply with the requirements of Sections Sixteen and Seventeen (General and Specific Performance Standards) of this Ordinance and the following dimensional requirements:

Required Dimension

a. Minimum Lot Size per allowed structure or use:

(1) Recreational facilities	40,000 square feet
(2) Other allowable uses	40,000 square feet per use
(3) Mixed use	The required minimum lot size per use

b. Minimum Frontage 125 feet

c. Minimum Shore Frontage per allowed structure or use:

(1) Recreational facilities	200 feet
(2) Other allowable uses	300 feet

d. Minimum Set Back Dimensions

(1) Setback from street right-of-way	60 feet
(2) Side setback and rear setback	20 feet

e. Setback from Normal High Water Line per allowed structure or use:

(1) From a great pond or a river flowing to a great pond	100 feet
(2) From all other bodies of water, wetlands, and/or tributary streams	75 feet

f. Maximum Lot Coverage:

The total area of all structures, parking lots, and other non-vegetated surfaces, including land area previously developed, may not exceed 20% of a lot or a portion of that lot located within the Shoreland Zone

4. Permitted Uses

a. The following activities are allowed without the need for a permit from the Code Enforcement Officer, but shall meet the performance standards of the Ordinance, where applicable.

(1) Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking

(2) Motorized vehicular traffic on existing roads and trails

(3) *(Repealed)*

(4) Mineral exploration

(5) Signs

b. The following activities are allowed following issuance of a permit from the Code Enforcement Officer

(1) *(Repealed)*

(2) Clearing of vegetation for approved construction

(3) Temporary piers, docks, wharves, bridges and other structures and uses extending over or below the normal high water line or within a wetland

(4) Individual private campsites

(5) Filling and earth moving of less than ten cubic yards

(6) Agriculture

c. The following may be permitted following authorization of a permit by the Planning Board

(1) Mineral extraction, except in Resource Protection Districts adjacent to wetlands of medium or high value as waterfowl habitat

(2) Small non-residential facilities for educational, scientific or nature interpretation purposes

(3) Structures accessory to allowed uses

(4) Recreational areas involving minimal structural development

(5) Filling and earth moving of ten cubic yards or more

(6) Campgrounds, only in a Resource Protection District designated such due to floodplain

(7) Parking areas, only in a Resource Protection District designated such due to floodplain

(8) Permanent piers, docks, wharfs, bridges, and other structures and uses extending over or below the normal high water line or within a wetland

(9) Single-family residences (Special Exception Planning Board Review Required)

5. Land Uses and Activities in the Resource Protection District

The Review Authority may only deny a Land Use Authorization application for an allowed land use or activity in the Resource Protection Overlay District if it determines, based upon its own findings, that the proposed allowed use or activity:

a. Will not maintain safe and healthful conditions;

b. Will result in water pollution, erosion, or sedimentation to surface waters in violation of State laws;

c. Should not minimize any adverse impact on spawning grounds, fish aquatic life, bird or other wildlife habitat;

d. Should not conserve shore cover and visual, as well as actual, points of access to water bodies;

e. Should not protect archaeological and historic resources as designated in the Comprehensive Plan;

f. Will not avoid problems associated with floodplain development; and

g. Is not in conformance with the applicable standards of this Ordinance including Sections Sixteen and Seventeen.

6. Special Exception

In addition to the criteria specified in Section 20.B.5 above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

a. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.

b. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.

c. All proposed buildings, sewage disposal systems and other improvements are:

1) Located on natural ground slopes of less than 20%; and

2) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance. If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

d. The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.

e. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

C. Performance Standards

1. Agricultural Activities in the Shoreland Zone

a. All spreading or disposal of manure must conform to the requirements of a nutrient management plan which meets the standards of the *Manure Utilization Guidelines* published by the former Maine Department of Agriculture on November 1, 2001 and the Nutrient Management Law (7 M.R.S.A § 4201-4209). The nutrient management plan must be filed with the Code Enforcement Officer. Manure may not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond or a river

flowing to a great pond, or within seventy-five (75) feet horizontal distance of a tributary stream, or other water body, or wetland. All manure storage areas within the Shoreland Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

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

c. Agricultural practices must be conducted to minimize soil erosion, sedimentation, contamination, and nutrient enrichments of ground and/or surface waters. In the Shoreland Zone, the tilling of soil greater than forty thousand (40,000) square feet in surface area shall require a Conservation Plan which must be filed with the Code Enforcement Officer.

d. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance of other water bodies including streams, or within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which is not in conformance with the above setback provisions, may continue, provided that such grazing is conducted in accordance with a Conservation Plan filed with the Planning Board.

2. Individual Private Campsites in the Shoreland Zone

a. No more than one campsite per lot existing on the effective date of this Ordinance, or per 30,000 square feet of lot area within the Shoreland Zone, whichever is less, may be permitted upon issuance of a use permit from the Code Enforcement Officer.

b. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, must be set back 100 feet, horizontal distance, from the normal high-water line of a great pond or river, and 75 feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

c. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.

d. The clearing of vegetation for the siting of the recreational vehicle, tent, or similar shelter in a Resource Protection Overlay District may only be 1,000 square feet.

e. A written sewage disposal plan describing the proposed method and location of sewage disposal is required for each campsite and must be approved by the Code Enforcement Officer. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

f. When a recreational vehicle, tent, or similar shelter is placed on-site for more than 120 days per year, all requirements for residential structures must be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Waste Water Disposal Rules.

g. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use and the individual private campsite separately.

4. Erosion and Sedimentation Control

a. Within the Shoreland or Resource Protection Overlay District all activities which involve filling, grading, excavation, or other similar activities which result in unstable soil conditions and which require a permit, require a written soil erosion and sedimentation control plan. The plan must be submitted to the review authority for approval and must include, where applicable, provisions for:

(1) Mulching and revegetation of disturbed soil.

(2) Temporary runoff control features such as hay bales, silt fencing, or diversion ditches.

(3) Permanent stabilization structures such as retaining walls or riprap.

b. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible and natural contours shall be followed as closely as possible.

c. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance and shall be in operation during all stages of the activity. The amount of soil exposed at every phase of construction shall be minimized to reduce the potential for erosion.

d. Any exposed ground area shall be temporarily or permanently stabilized within 1 week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within 9 months of the initial date of exposure.

e. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a 25 year storm or greater, and shall be stabilized with vegetation or lined with riprap.

f. When an excavation contractor will perform an activity that requires or results in more than 1 cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of a person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, sate and federal employees engaged in projects associated with that employment.

5. Parking Areas

a. Parking areas must meet the setback requirements for structures. If the Planning Board finds that no other reasonable alternative exists, the setback requirement for parking areas serving public boat launching facilities may be reduced, but may not be less than 50 feet from the normal high-water line or upland edge of a wetland.

b. Parking areas must be adequately sized for the proposed use and must be designed to prevent storm water runoff from flowing directly into a water body, and, where feasible, to retain all runoff on-site.

6. Piers, Docks, Wharves, Breakwaters, Causeways, Bridges over 20 feet in Length, and Other Structures and Uses Extending over or below the normal high water line of a waterbody or within a wetland, and Shoreline Stabilization.

a. In addition to Federal or State permits which may be required for such structures and uses, they must conform to the following:

(1) Access from shore must be developed on soil appropriate for such use and constructed so as to control erosion.

(2) The location must not interfere with developed beach areas.

(3) The facility must be located so as to minimize adverse effect on fisheries.

(4) The facility must be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock, or wharf shall not be wider than six feet for non-commercial uses.

(5) New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

(6) No new structure may be built on, over, or abutting a pier, wharf, or other structure extending below the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.

(7) No existing structures built on, over, or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland may be converted to residential dwelling units.

(8) No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a waterbody or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage required, a second structure may be allowed and may remain as long as the lot is not further divided.

(9) Vegetation may be removed in excess of the standards in Section 20.C.8 in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

i. When necessary, the removal of trees and other vegetation to allow for construction equipment to access the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment access way must be restored.

ii. Revegetation must occur in accordance with Section 20.C.11

7. Timber Harvesting within the Shoreland Zone ***(Repealed: See Section 1.M.3 or contact the Maine Forest Service, Department of Conservation for more information on timber harvesting regulation.)***

8. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

a. In a Resource Protection Overlay District abutting a great pond, there may be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees as described in Section 20.C.9. Elsewhere, in any Resource Protection Overlay District, the cutting or removal of vegetation is limited to that which is necessary for uses expressly authorized in that district.

b. Except in areas as described in Section 20.C.8.a, above,, within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond or a river, or within a strip extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation must be preserved as follows:

(1) There may be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrubcrown. However, a single foot path not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.

(2) Distribution

[a] Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 20.C.8, a "well-distributed stand of trees" adjacent to a great pond, river, or stream flowing to a great pond, must be defined as maintaining a rating score of twenty-four (24) points or more in each twenty-five (25) foot by fifty (50) foot rectangle (1250 square feet) area as determined by the following rating system:

Diameter of Trees at 4 1/2 feet Above Ground Level	**Points**
2- < 4 inches	1
4- <8 inches	2
8- <12 inches	4
12 inches or greater	8

[b] Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as

maintaining a minimum rating score of sixteen (16) per twenty-five (25) foot by fifty (50) rectangle area.

The following shall govern in applying this point system:

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

For the purposed of Section 20.C.8.b "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until five (5 saplings have been recruited into the plot.

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

(3) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 20.C.b and b.1.

(4) Pruning of tree branches on the bottom one-third of the tree is allowed.

(5) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead, or hazard trees results in the creation of

cleared openings, these openings must be replanted with native tree species in accordance with Section 20.C.9 below, unless existing tree growth is present.

(6) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 20.C.8.b.

(6) Section 20.C.8.b does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

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

In no event may cleared openings for any proposed development, including but not limited to principal and accessory structures, driveways, lawns, and sewage disposal areas, exceed in the aggregate twenty-five (25) percent of the lot area within the Shoreland Zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision applies to the portion of the lot within the shoreland zone, including the buffer area.

d. Legally existing non-conforming cleared openings may be maintained, but may not be enlarged, except as allowed by this Ordinance.

e. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation are regulated under the provisions of Section 20.C.

9. Hazard Trees, Storm Damaged Trees, and Dead Tree Removal

a. Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

1) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than 250 square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least 2 inches in diameter, measured at 4.5 feet above the ground level. If new growth is not present, then replacement trees shall consist of

native species and be at least 4 feet in height and be no less than 2 inches in diameter. Stumps may not be removed.

2) Outside of the shoreland buffer, when the removal of hazard trees exceeds 40 percent of the total volume of trees 4 inches or more in diameter, measured at 4.5 feet above ground level in any 10 year period, and/or results in cleared openings exceeding 25 percent of the lot area within the shoreland zone, or 10,000 square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least 2 inches in diameter, measured at 4.5 feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least 4 feet in height and be no less than 2 inches in diameter.

3) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting of a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purpose of this provision dead trees are those trees that contain no foliage during the growing season.

4) The Code Enforcement Officer may require property owners to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

5) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees that exceed 8 inches in diameter measured at 4.5 feet above the ground level.

b. Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

1) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than 250 square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:

- The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
- Stumps from storm-damaged trees may not be removed;
- Limbs damaged from a storm event may be pruned even if they extend beyond the bottom 1/3 of the tree; and
- If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or

saplings is required at a density of one seedling per 80 square feet of lost canopy.

2) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40 percent of the volume of trees 4 inches or more in diameter, measured at 4.5 feet above ground level in any 10 year period, or results, in the aggregate, in cleared openings exceeding 25 percent of the lot area within the shoreland zone or 10,000 square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

10. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 20.C.8, provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

a. The removal of vegetation that occurs at least once every 2 years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such area shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every 2 years, reverts back to primarily woody vegetation, the requirements of Section 20.C.8 apply;

b. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements are not applicable;

c. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

d. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized and provided all requirements of Section 20.C.1 are complied with;

e. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

1) If removal of vegetation occurs via wheeled or tracked motorized equipment, the equipment is operated and stores at least 25 feet, horizontal distance, from the shoreline, except that tracked or wheeled equipment may be operated or stored on existing structural surfaces such as pavement or gravel;

2) Removal of vegetation with 25 feet, horizontal distance, from the shoreline occurs via hand-tools; and

3) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

f. The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

11. Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section 20.C.8, to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development that may not otherwise be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements:

a. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

b. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed.

c. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the new permit, a new revegetation plan shall be submitted with any renewal or new permit application.

d. Revegetation activities must meet the following requirements for trees and saplings:

1) All trees and saplings removed must be replaced with native non-invasive species;

2) Replacement vegetation must at a minimum consist of saplings;

3) If more than 3 trees or saplings are planted, then at least 3 different species shall be used;

4) No one species shall make up 50 percent or more of the number of trees and saplings planted.

5) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees and saplings were removed, then trees or saplings must be

planted in a location that effectively reestablishes the screening between the shoreline and structure; and

6) A survival rate of at least 80 percent of planted trees or saplings is required for a minimum of a 5 year period.

e. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under 3 feet in height:

1) All woody vegetation and vegetation under 3 feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under 3 feet in height as applicable;

2) Woody vegetation and vegetation under 3 feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of storm water;

3) If more than 3 woody vegetation plants are to be planted then at least 3 different species shall be planted.

4) No one species shall make up 50% or more of the number of planted woody vegetation plants; and

5) Survival of planted woody vegetation and vegetation less than 3 feet in height must be sufficient to remain in compliance with the standards contained within this chapter for a minimum of 5 years.

f. Revegetation activities must meet the following requirements for ground vegetation and ground cover:

1) All ground vegetation and ground cover removed must be replanted with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of storm water;

2) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum 4 inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of storm water; and

3) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for a minimum of 5 years.

12. Retaining Walls

Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

a. The site has been previously altered and an effective vegetated buffer does not exist;

b. The wall(s) is at least 25 feet, horizontal distance, from the normal high water line of a water body, tributary stream, or upland edge of a wetland;

c. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

d. The total height of the wall(s), in the aggregate, are no more than 24 inches;

e. The retaining walls are located outside of the 100 year floodplain on rivers, streams, and wetlands, as designated on the FEMA Flood Insurance Rate Maps or Flood Hazard Boundary Maps;

f. The area behind the wall is vegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur in the setback area, including patios and decks; and

g. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high water line of a water body, tributary stream or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

   1) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;

   2) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;

   3) Only native plant species may be used to establish the buffer area;

   4) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high water line or upland edge of a wetland;

   5) A footpath not to exceed the standards in Section XXX may traverse the buffer;

13. Stairs

Stairways or similar structures may be allowed with a permit from the Code Enforcement Officer to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of 4 feet in width; that the structure does not extend below or over the normal high water line of a waterbody or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act 38 M.R.S.A. §480-C); and that the applicant demonstrates that no reasonable alternative access exists on the property.

14. Roads and Driveways in the Shoreland Zone

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

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

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

   Section D.1 does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall fully comply with the requirements of Section D.1 except for that portion of the road or driveway necessary for direct access to the structure.

2. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from the water body, tributary stream or wetland.

3. New permanent roads are not allowed within the Shoreland zone along Significant River Segments except:

   a. To provide access to structures or facilities within the zone; or
   b. When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set back as far as practicable from the normal high water line and screened from the river by existing vegetation.

4. New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or

driveway to provide access to permitted uses within the district. , A road or driveway may also be approved by the Planning Board in a resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road and/or driveway is permitted in the Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high water line of a water body, tributary stream, or upland edge of a wetland.

5. Road and driveway banks shall be no steeper than a slope of two (2) horizontal feet to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 16.O.

6. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

7. In order to prevent road and driveway surface drainage form directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

8. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway or ditch. To accomplish this, the following shall apply:

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

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

   b. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

c. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle down slope from a line perpendicular to the centerline of the road or driveway.

a. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.

9. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

15. Storm Water Runoff

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

16. Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction.

SECTION 21
SUBDIVISION CONTROLS

Article I – Authority and Administration

A. These standards have been prepared in accordance with provisions of Title 30-A M.R.S.A., Sections 4401-4406.

B. Administration

1. The Planning Board, hereinafter called the Board, shall administer these standards.

2. The provision of these standards shall pertain to all the land proposed for subdivision as herein defined within the boundaries of the Town of Fryeburg, except that beginning July 1, 2018, the standards of Section 21 shall not apply to a division of a new or existing structure into 3 or more dwelling units whether the division is accomplished by sale, lease, development or otherwise where the project is subject to Land Use Authorization before the Board pursuant to Section 2.D and F.

3. Subdivision Classification

    a. Minor Subdivision: Any subdivision containing not more than 5 lots, dwelling units or other subdivision units.

    b. Major Subdivision: Any subdivision containing more than 5 lots, dwelling units or other subdivision units.

4. The Planning Board shall not approve any new subdivision unless the proposed streets road and/or common driveways are designed in accordance with Section 23 – Road Standards.

5. The Planning Board shall require the applicant or his/her authorized agent to deposit in escrow with the Town an amount of money to cover the costs for any professional review of the plan and documents which the Board may feel is reasonably necessary to protect the environmental quality or general welfare of the Town. This escrow payment shall be made before the Board engages any outside party to undertake this review and make recommendations to the Board. Any part of this escrow payment in excess of the final costs for review shall be returned to the owner or his agent.

6. The Planning Board will not process an application for a new subdivision or for an amendment to an approved subdivision for any subdivider currently in default of any requirement of a previously approved subdivision.

7. Violations

a. No plan of a division of land within the Town which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in accordance with this ordinance.

b. A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.

c. A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.

d. No public utility, water district, or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.

e. Development of a subdivision without Board approval shall be considered a violation. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in this ordinance and recorded in the Registry of Deeds.

f. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot is accessed is completed in accordance with this ordinance.

g. Violations of the above provisions of this section are a nuisance and shall be punishable in accordance with the provisions of Title 30-A MRSA §4452.

Article II – Pre-application/Sketch Plan

A. Submissions

1. A Sketch Plan application form.

2. A Sketch Plan, which shall show in simple sketch form the proposed layout of streets, lots, buildings, and other pertinent features of the existing land and proposed subdivision.

3. General subdivision information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawing required above.

   This information shall include data on existing covenants, copy of the portion of the Oxford County Soil Survey covering the proposed subdivision, and available community facilities and utilities and information describing the subdivision proposal such as, number of residential lots, typical lot width and depth, price range, business areas, playgrounds, park areas and other public areas, proposed protective covenants and proposed utilities and street improvements.

Article III - Review and Approval of Minor Subdivision

A. General

The Planning Board may require, where it deems it necessary for the protection of public health, safety and welfare, that a Minor Subdivision comply with all or any of the requirements specified for Major Subdivisions.

B. Procedure

1. Within six months after submission of the Sketch Plan, the subdivider shall submit an application for approval of a Final Plan at least fourteen (14) days prior to a scheduled meeting of the Board. Failure to do so shall require re-submission of the Sketch Plan to the Board. The Final Plan shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Board.

2. All applications for Plan approval for Minor Subdivisions shall be accompanied by a fee as shown on the Town of Fryeburg permit fee schedule.

3. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Final Plan.

4. The Planning Board shall vote as to whether a public hearing is warranted. If the majority so votes, there will be a public hearing. The Planning Board shall post and publish notice of the public hearing. Notice must be posted in the municipal office at least 14 days before the public hearing and notice of the hearing must also be advertised at least two times in a newspaper that complies with Title 1 M.R.S.A. Section 601 and that has a general circulation in the Town of Fryeburg.

   Ten days prior to the public hearing the applicant must give written notice, either personally which is dated and signed by recipient or by certified mail, return receipt requested to: All property owners of record, as reflected by the municipal tax records, whose properties lie within 200 feet of the property in the Village Residential and Village Commercial Districts, and 500 feet of the property boundary in other districts.

5. The Board will, within sixty (60) days from the date of submission, approve, modify and approve, or disapprove the Final Plan. The Board shall specify in writing its reasons for any such modification or disapproval. If the Planning Board needs more time to review the application and the information presented, votes to hold a public hearing, or if the applicant needs more time to present additional information to show that the application is satisfactory, the Planning Board may vote to continue review of the application to another Planning Board meeting which is to be held within 60 days. This time period may be longer by

mutual agreement of the applicant and the Planning Board. The motion to continue must state the reason for the continuation and the date, time, and location of the meeting to which it is continued.

C. Submissions

6. The subdivision plan submittal for a Minor Subdivision shall consist of two full sized original plan(s), seven reduced copies of the plan(s), seven (7) copies of the application and supporting information, and a digital copy of all submitted plans and supporting information. The full sized plans shall be drawn to a scale of not more than one hundred (100) feet to the inch, which shall be legibly reproduced and the size of the sheets shall be 8 ½ x 11 inches or a multiple thereof, but in no case larger than 34 x 44 inches. Space shall be reserved thereon for endorsement by all appropriate agencies. The application for approval of a Minor Subdivision shall include all the information presented on the Sketch Plan plus the following:

   a. If a new street is proposed, then plans shall be submitted which conform to the requirements of Road Standards Section 23.D.2. The street must be designed and constructed in accordance with Section 23.

   b. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.

   c. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments as herein required, and shall be referenced as shown on the Plan.

   d. A soils report identifying the soils boundaries and names in the proposed development with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification. A lot by lot soils suitability determination for building with septic sewage disposal will accompany the plot plan soils study.

   e. All on site sewage and water supply facilities shall be shown and designed to meet the minimum specifications of these standards and all pertinent State and local ordinances.

   f. Proposed name of the subdivision or identifying title, and the name of the Municipality in which it is located.

g. The date, north point, graphic map scale, name and address of record owner and subdivider, and names of adjoining property owners.

h. Computations showing the net residential acreage and allowable density of development. For proposed cluster developments, the computations must depict the required amount of open space as outlined in Article VII, Section R.

i. A soil erosion and sediment control plan.

Article IV - Preliminary Plan for Major Subdivision

A. Procedure

1. Within six months after submission of the Sketch Plan, the subdivider shall submit an application for the consideration of a Preliminary Plan for a major Subdivision. Failure to do so shall require resubmission of the Sketch Plan to the Planning Board. The Preliminary Plan shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Planning Board.

2. The application for conditional approval of the Preliminary Plan shall be accompanied by a fee as shown on the Town of Fryeburg permit fee schedule.

3. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plan.

4. After review of the Preliminary Plan, the Board may vote to require a site walk and/or may vote to hold a public hearing (majority vote required).

   The Planning Board shall post and publish notice of the public hearing. Notice must be posted in the municipal office at least 14 days before the public hearing and notice of the hearing must also be advertised at least two times in a newspaper that complies with Title 1 M.R.S.A. Section 601 and that has a general circulation in the Town of Fryeburg.

   Ten days prior to the public hearing the applicant must give written notice, either personally which is dated and signed by recipient or by certified mail, return receipt requested to: All property owners of record, as reflected by the municipal tax records, whose properties lie within 200 feet of the property in the Village Residential and Village Commercial Districts, and 500 feet of the property boundary in other districts..

5. Within sixty (60) days after formal submission of a Preliminary Plan, the Planning Board will take action to give preliminary approval, with or without modifications, or disapprove such Preliminary Plan. The reasons for any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board, and the subdivider shall be notified in writing.

   If the Planning Board needs more time to review the application and the information presented, votes to hold a public hearing or site walk, or if the applicant needs more time to present additional information to show that the application is satisfactory, the Planning Board may vote to continue review of the application to another Planning Board meeting which is to be held within 60 days. This time period may be longer by mutual agreement of the applicant and the Planning Board. The motion to continue must state the reason for the continuation and the date, time, and location of the meeting to which it is continued.

6. When granting preliminary approval to a Preliminary Plan, the Planning Board shall state the conditions of such approval, if any, with respect to: (1) the specific changes which it will require in the Final Plan; (2) the character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and general welfare, as decided by the Board; (3) the amount of improvements or the amount of all bonds, therefore which it will require as prerequisite to the approval of the Final Subdivision Plan.

   The preliminary plan decision of the Planning Board, plus any conditions imposed, shall be forwarded to the subdivider.

7. Preliminary approval of a Preliminary Plan shall not constitute approval of the Final Plan, but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any. Prior to approval of the Final Subdivision Plan, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at a public hearing.

B. Submissions

1. A Preliminary Major Subdivision Application Form

2. Preliminary Plan

The subdivision plan submittal for a Preliminary Subdivision Plan shall consist of two full sized original plan(s), seven reduced (11 x 17 inch) copies of the plan(s), seven (7) copies of the application and supporting information, and a digital copy of all submitted plans and supporting information. The full sized plans shall be drawn to a scale of not more than one hundred (100) feet to the inch, which shall be legibly reproduced and the size of the sheets shall be 8 ½ x 11 inches or a multiple thereof, but in no case larger than 34 x 44 inches. Space shall be reserved thereon for endorsement by all appropriate agencies. The application for approval of a Preliminary Subdivision Plan shall show or be accompanied by the following information:

a. Location Map drawn at an adequate size to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area.
    i. Locations, widths and names of existing or proposed streets, easements, building lines and alleys pertaining to the proposed subdivision.
    ii. The boundaries and designations of zoning districts, school districts and parks or other public spaces.
    iii. An outline of the proposed subdivision together with its street system and an indication of the future probable street system of the remaining portion of the tract, if the Preliminary Plan submitted covers only part of the subdividers entire holding.

b. Proposed subdivision name or identifying title and the name of the Municipality.

c. Name and address of record owner, subdivider and designer of Preliminary Plan.

d. Number of acres within the proposed subdivision, location of property lines, existing easements, trails, buildings, impervious areas, and vegetative cover type

e. Location of watercourses, wetlands (regardless of their size), significant wildlife habitats identified by the Department of Inland Fisheries and Wildlife, unique natural areas identified within the Comprehensive Plan or Maine Natural Areas Program, historic areas identified within the Comprehensive Plan or Maine Historic Preservation Commission, and other essential existing physical features.

f. The boundaries of any Flood Hazard areas within the subdivision.

g. Location of slopes in excess of 25% slope

h. The names of all subdivisions immediately adjacent and the names of owners of record of adjacent acreage.

i. The provisions of the zoning district dimensional requirements applicable to the area to be subdivided and any zoning district boundaries affecting the subdivision.

j. Computations showing the net residential acreage and allowable density of development. For proposed cluster developments, the computations must depict the required amount of open space as outlined in Article VII, Section R.

k. The location and size of any existing sewers and water mains, culverts and drains on the property to be subdivided.

l. Location, names and present widths of existing and proposed streets, highways, easements, building envelopes, buffers, storm water and/ or phosphorus control measures, alleys, parks and other public open spaces.

m. If a new street is proposed, then plans shall be submitted which conform to the requirements of Road Standards Section 23.D.2. The street must be designed and constructed in accordance with Section 23.

n. Contour lines at intervals of not more than five (5) feet or at such intervals as the Planning Board may require.

o. A soils report identifying the soils boundaries and names in the proposed development with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification. A lot by lot soils suitability determination for building with septic sewage disposal will accompany the plot plan soils study.

p. Location and results of tests to ascertain subsurface soil suitable for subsurface wastewater disposal systems.

q. Date, true north point and graphic scale.

r. Standard boundary survey made and certified by a registered land surveyor, tied into established reference points. The entire parcel or tract must be shown, including all contiguous land in common ownership within the last five years.

s. Verification of right, title, and interest and copy of most recent recorded deed.

t. Copy of any deed restrictions intended to cover the lots or dwellings within the subdivision.

u. Indication of the type of water supply systems to be used in the subdivision and the location of drinking water wells within 100 feet of the property lines on adjacent properties.

v. Estimate of the amount of traffic created by the subdivision.

w. Provisions for collecting and discharging storm drainage, in the form of a drainage plan.

x. Preliminary designs of any bridges or culverts, which may be required.

y. The proposed lot lines with approximate dimensions and suggested locations of buildings.

z. All parcels of land proposed to be dedicated to public use and the conditions of such dedication, or land to be left permanently unused.

aa. The location of all natural features or site elements to be preserved.

bb. A soil erosion and sediment control plan.

cc. The Planning Board may require any additional information not listed above when it is necessary to determine if the proposed subdivision meets these Ordinance requirements and 30-A M.R.S.A. §4404.

Article V - Final Plan for Major Subdivision

A. Procedure

The subdivider shall, within six months after the preliminary approval of the Preliminary Plan, file with the Planning Board an application for approval of the Final Subdivision Plan in the form described herein. If the Final Plan is not submitted to the Planning Board within six months after the approval of the Preliminary Plan, the Planning Board may refuse without prejudice to act on the Final Plan and require re-submission of the Preliminary Plan.

1. If the proposed subdivision:

a. Requires a license from the Department of Environmental Protection under the Natural Resources Protection Act, Site Location of Development or Storm water Law;

b. Requires a license from the Department of Environmental Protection under some other regulation such as waste discharge or air quality;

c. Requires a Maine Department of Transportation Traffic Movement Permit and/or Highway Entrance/Driveway Access Management Permit, or

d. Requires any other Federal or State permits, licenses, approvals:

Then such approvals, permits, licenses shall be secured in writing before official submission of the Final Plan.

2. Water supply system proposals contained in the Subdivision Plan shall be approved in writing by:

a. The servicing water company if existing public water service is to be used, or

b. The State of Maine, Department of Health and Human Services if the subdivider proposes to provide a central water supply system, or

c. A civil engineer or hydrogeologist if individual wells serving each building site are to be used stating that there is evidence of adequate ground water suppl.

Such approval shall be secured before submission of the Final Plan.

3. Sewage disposal system proposals contained in the Subdivision Plan shall be properly endorsed and approved in writing by the State of Maine, Department of Health and Human Services if a separate central sewage collection and treatment system is to be utilized. Such approval shall be secured before official submission of the Final Plan.

4. The Planning Board shall hold a public hearing on the final plan. The Planning Board shall post and publish notice of the public hearing. Notice must be posted in the municipal office at least 14 days before the public hearing and notice of the hearing must also be advertised at least two times in a newspaper that complies with Title 1 M.R.S.A. Section 601 and that has a general circulation in the Town of Fryeburg.

Ten days prior to the public hearing the applicant must give written notice, either personally which is dated and signed by recipient or by certified mail,

return receipt requested to: All property owners of record, as reflected by the municipal tax records, whose properties lie within 200 feet of the property in the Village Residential and Village Commercial Districts, and 500 feet of the property boundary in other districts.

5. The Planning Board shall, within sixty (60) days from the date of the public hearing, approve, modify and approve or disapprove the Final Plan. The reasons for any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board.

   If the Planning Board needs more time to review the application and the information presented or if the applicant needs more time to present additional information to show that the application is satisfactory, the Planning Board may vote to continue review of the application to another Planning Board meeting which is to be held within 60 days. This time period may be longer by mutual agreement of the applicant and the Planning Board. The motion to continue must state the reason for the continuation and the date, time, and location of the meeting to which it is continued.

B. Submissions

1. A Final Major Subdivision Application Form

2. The Final Plan shall consist of two full sized original plan(s), seven reduced copies of the plan(s), seven (7) copies of the application and supporting information, a digital copy of all submitted plans and supporting information, plus copies sufficient for recording in the Registry. Space shall be reserved thereon for endorsement by all appropriate agencies. The Final Plan shall show:

   a. All of the information presented on the Preliminary and any amendments thereto suggested or required by the Board, including plans showing conformance with Section 23 Road Standards.

   b. The name, registration number and seal of the land surveyor, architect, engineer or planning consultant who prepared the plan.

   c. Street names and line, pedestrian ways, lots, easements and areas to be reserved for or dedicated to public use.

   d. By proper designation, all public open space for which offers of cession are made by the subdivider and those spaces to which title is reserved by him.

   e. Lots and blocks within the subdivision numbered in accordance with local practice.

f. Permanent reference monuments shown thus: "X". They shall be constructed in accordance with specifications herein and their location noted and referenced upon the Final Plan.

g. A performance guaranty to secure completion of all improvements required by the Board and written evidence that the Municipal Officers are satisfied with the sufficiency of such bond.

C. Final Approval and Filing

1. Upon completion of the requirements in Articles IV and V and notion to that effect upon the Plan, it shall be deemed to have final approval and shall be properly signed by a majority of the members of the Planning Board. The Plan shall be filed with the Oxford County Registry of Deeds. Any Subdivision Plan not so filed or recorded within ninety (90) days of the date upon which such Plan is approved and signed by the Planning Board as herein provided shall become null and void, unless the particular circumstances of said applicant warrant the Planning Board to grant an extension which shall not exceed two (2) additional periods of ninety (90) days.

2. Two additional final approval plans shall be properly signed by a majority of the members of the Planning Board. One will be filed with the Assessor and the other will be maintained as part of the Planning Boards record.

3. At the time the Planning Board grants Final Plan approval, it may permit the Plan to be divided into two (2) or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan. The applicant may file a section of the approved Plan with the Municipal Officers and the Registry of Deeds if said section constitutes at least 10% of the total number of lots contained in the approved Plan. In these circumstances, Plan approval of the remaining sections of the Plan shall remain in effect for three years or a period of time mutually agreed to by the Municipal Officers, Planning Board and the subdivider.

4. Except in approved phased development plan, failure to complete substantial construction of the approved subdivision within 5 years of approval shall render the plan and approval null and void.

D. Public Acceptance of Streets, Recreation Areas

1. The approval by the Planning Board of a Subdivision Plan shall not be deemed to constitute or be evidence of any acceptance by the town of any street, easement, or other open space shown on such Plan.

2. When a park, playground, or other recreation area shall have been shown on the Plan, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Planning Board shall require the Plan to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

Article VI – Review and Approval of Resubdivision or Revision to Approved Subdivision Plan

A. Modification Of Lot Line Configuration On Previously Approved Plans; Initial Review By Code Enforcement Officer

1. If the owner of a lot in a previously approved subdivision proposes to convey a portion of the lot or otherwise alter the boundaries of his or her lot ("alteration"), he or she will submit to the Code Enforcement Officer a notice of intention, together with a sketch plan showing the proposed alteration, and the Code Enforcement Officer will make a determination as to whether the proposed alteration, together with prior such alterations by any owners of lots shown on the plan, would, at the time of the subdivision's approval, have had the effect of subjecting the prior review of the approved plan to materially different approval standards. By way of example, and not by way of limitation, if the proposed alteration would have increased the number of lots, such that the applicable street design or street construction standards would have been more stringent, the alteration would have had the effect of subjecting the prior review of the approved plan to materially different approval standards.

2. If the Code Enforcement Officer shall determine that the alteration would not have had the effect of subjecting the prior review of the approved plan to materially different approval standards, the Code Enforcement Officer shall issue a written certificate reflecting such determination, and certifying that no further review of the proposed alteration by the Planning Board is required.

B. Planning Board Review

1. If the Code Enforcement Officer shall determine that the alteration would have had the effect of subjecting the prior review of the approved plan to materially different approval standards, the lot owner must obtain Planning Board approval for the alteration of the plan.

2. The Planning Board need not conduct the same degree of review upon a proposed alteration as would be required with respect to a proposed new subdivision; however, the Planning Board shall consider those standards for approval which were in effect at the time of the original plan approval, and shall take into consideration:
    a. the degree of completion of development of all lots within the subdivision;
    b. the extent to which the proposed alteration might itself or, if replicated upon other undeveloped lots (or on developed lots still capable of similar development),
        i. materially affect the density of development of the land shown upon the plan;
        ii. materially affect the sufficiency of the roads to accommodate traffic and emergency vehicle access;
    c. the degree, if any, of potential interference of the proposed alteration with existing services for lots, such as wells or septic systems, including the potential for installing replacement septic systems, as they might be needed; and
    d. the ability of the lots, as altered, to comply with the dimensional requirements of the current Land-Use Ordinance.

Article VII - General Requirements

In reviewing applications for the subdivision of land, the Board shall consider the following general requirements. In all instances the burden of proof shall be upon the person proposing the subdivision.

A. Subdivision Plan shall conform to all pertinent state and local codes and ordinances, including Title 30-A M.R.S.A. §4404.

B. Retention of Proposed Public Sites and Open Spaces

The Board may require that the subdivider reserve an area of land as open space and/or recreational area for use by the property owners within the subdivision. The Board will consider the need for recreational space and the proximity of other open spaces and recreational areas. Any area designated for common use shall be arranged so that each property owner has access to it.

C. Preservation of Natural Features.

The Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic or environmentally desirable areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as far as possible.

D. Historic Locations.

The Board shall consider the proposed subdivisions impact on historic buildings and sites, as identified in the Comprehensive Plan or as listed on the National Register of Historic Places. When a subdivision will include a historic building or site the applicant will design the subdivision to minimize the impacts on the historic building or site.

E. Land Not Suitable for Development

1. The following areas are not suitable for development: wetlands, streams, brooks, ponds, vernal pools, storm water drainage features, public and private right of ways, land zoned as resource protection, slopes in excess of 25%, and significant wildlife habitats as defined by the Department of Inland Fisheries and Wildlife. Land subject to flooding and land deemed by the Planning Board, on the recommendation of the Soil Conservation Service, to be uninhabitable, shall not be plotted for residential occupancy or for such other uses as may increase danger to health, life or property but such land shall be set aside for such uses as shall not produce unsatisfactory living conditions.

2. Wherever situated, in whole or in part, within two hundred-fifty (250) feet of the high water line of any pond, lake, river, a proposed subdivision shall conform to Section 20 – Shoreland Zoning.

3. Computation of density of a development will be based on net residential acreage. Net residential acreage as defined herein shall apply to the computation of development density and not to the permitability of building on any particular lot.

F. Density and Size of Subdivisions

In determining the allowable density of development within a subdivision, the Planning Board shall consider the "net residential acreage" as defined in this Ordinance and apply same to the density allowed in the subject zoning district.

Calculate the allowable number of lots by dividing the net residential acreage of the parcel of land by the minimum lot size of the district in which the development is located. The net residential acreage is calculated by taking the total area of the lot and subtracting, in order, the following:

1. Portions of the lot which, because of existing land uses or lack of access, are isolated and undevelopable for building purposes or for use in common with the remainder of the lot, as determined by the Planning Board.
2. Portions of the lot shown to be in the floodway as designated in the Flood Boundary and Floodway Map prepared by the Federal Emergency Management Agency.

3. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage, or subsoil conditions such as, but not limited to:
    - slopes in excess of 25%
    - organic soils
    - wetland soils
    - 50% of the poorly drained soils
4. Portions of the parcel subject to a right-of-way.
5. Portions of the parcel located in the Resource Protection Overlay District.
6. Significant wildlife habitats
7. Portions of the parcel covered by surface waters.
8. Portions of the parcel utilized for storm water management facilities.
9. Fifteen per cent (15%) of the remaining area of the parcel to account for roads.

G. Liquidation Harvesting

No division of land shall be approved if it is determined by the Planning Board that the parcel has been harvested in violation of rules of "Liquidation Harvesting", pursuant to 12 MRSA Section 8866, et. Seq ("Forest Practices").

H. Lots

1. All lots, save those in approved cluster subdivisions, shall conform to the minimum size and frontage as established by State law and by this Ordinance. No departure from such requirements shall be permitted except by variance.

2. The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

3. Side-lot lines shall be substantially at right angles or radial to street lines.

4. Odd shaped lots and spaghetti lots are prohibited. The ratio of lot length to width shall not be more than 5:1.

5. Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these standards.

6. Lot design shall permit the placement of wells and subsurface wastewater disposal areas in compliance with the Maine Well Drillers & Pump Installer Rules and the Maine Subsurface Wastewater Disposal Rules, if applicable.

I. Easements for Natural Drainage Ways.

Where a subdivision is traversed by a natural water course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course and such further width or construction, or both, as will assure that no flooding occurs and all storm water can be disposed of properly. Such easement or right-of-way shall be not less than thirty (30) feet in width.

J. Utilities.

1. The size, type and location of public utilities, such as, street lights, electricity, telephones, gas lines, fire hydrants, etc., shall be approved by the Board and installed in accordance with local practice.

2. Utilities shall be installed underground except as otherwise approved by the Board.

K. Erosion and Sedimentation Control

All activities which involve filling, grading, excavation or other similar activities which result in destabilized soil conditions shall comply with the following:

1. The site shall be developed so as to prevent soil erosion from entering waterbodies, wetlands, storm water drainage features, and adjacent land.

2. All temporary and permanent erosion control measures shall be designed in accordance with the current edition of "Maine Erosion and Sediment Control Best Management Practices", by the Maine Department of Environmental Protection.

3. Erosion control features shall be shown on the plan and provisions for maintenance shall be included.

L. Groundwater

Any subdivision proposed within a Sand and Gravel Aquifer shall be designed and constructed according to a plan which takes into account the impact of the development upon the aquifer. The plan developed by a professional engineer or qualified groundwater consultant will show that the proposed development will not have an adverse impact upon the aquifer.

M. Storm water

1. For subdivisions that require a DEP review under the Site Location of Development Act (SLDA), a storm water management plan shall be submitted which complies with the SLDA permit and the requirements of DEP Chapter 500 Storm water Regulations.

2. For subdivisions that do not require a SLDA permit, but require a DEP permit under the Storm water Law, a storm water management plan shall be submitted which complies with the requirements of DEP Chapter 500 Storm water Regulations.

3. For subdivisions outside of the watershed of a Great Pond, that neither requires a SLDA permit, nor a DEP permit under the Storm water Law, a storm water management plan shall be submitted which incorporates low impact development techniques on each individual lot, as described in the current edition of Maine Storm water Best Management Practices Manual.

4. For subdivisions within the watershed of a Great Pond, containing:
five or more lots or dwelling units created within any five-year period; or any combination of 800 linear feet of new or upgraded driveways and/or streets; a storm water management plan shall be submitted which complies with the Basic Standards of DEP Chapter 500 Storm water Management and the Phosphorous Standard of Chapter 500.

N. Landscaping

1. Street trees, esplanades and open green spaces may be required at the discretion of the Planning Board. Where such improvements are required, they shall be incorporated in the Final Plan and executed by the subdivider as construction of the subdivision progresses.

2. The subdivision design shall minimize the possibility of noise pollution either from within or without the development (from highway or industrial sources) by providing and maintaining a green strip at least twenty (20) feet wide between abutting properties that are so endangered.

O. Cluster Development

The purpose of these provisions is to encourage the preservation of the rural character of Fryeburg by preserving undeveloped land, including farm land, forest land, and other undeveloped lands. This is done by allowing an innovative type of development which permits homes to be built on lots which are smaller than normally allowed, but requires undeveloped land to be preserved. The overall density of a cluster development is no greater than an unclustered development.

1. Cluster developments must meet all requirements for a subdivision, the street construct and acceptance requirements, and all other applicable town ordinances, including the applicable Performance Standards of this Ordinance.
2. Each building must be an element of an overall plan for site development. The developer must specify the placement of buildings and the treatment of spaces, paths, roads, utility service, and parking, and in so doing must take into consideration all requirements of this subsection and of other relevant sections of this Ordinance.
3. A high-intensity soil survey must be submitted. No building may be constructed on soil classified as being very poorly drained.
4. Except for in-ground homes, no building may be located or constructed on slopes steeper than 25%.
5. No building may be located or constructed within 100 feet of any water body or wetland.
6. No lot may be smaller in area than 20,000 square feet.
7. The total area of undeveloped land within the development must equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required in the district.
8. The setback standards of the district in which the buildings are located apply.
9. No individual lot or dwelling unit may have direct vehicular access onto a public road existing at the time of development.
10. Shore frontage may not be reduced below the minimum normally required in the Shoreland Overlay District.
11. Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as access to it, must be a part of the undeveloped land.
12. That portion of the cluster development which abuts a street not in the cluster development and along the exterior boundaries of the cluster development must be designed as a continuous landscaped buffer area not less than 50 feet in width. This buffer area may contain no structures or streets other than driveways or streets providing access to the cluster development. The first 25 feet of the buffer strip, as measured from the exterior boundaries of the development, must contain natural vegetation.
13. The undeveloped land is that area which is not included in the residential lots, which equals at least the total area by which all of the lots the cluster development are reduced below the normal minimum lot size in the district. There may be no further subdivision of the undeveloped land. This undeveloped land may be used only for agriculture, forestry, conservation, or noncommercial recreation. However, easements for public utilities, or structures accessory to noncommercial recreation, agriculture, or conservation, may be approved by the Planning Board.

14. The undeveloped land must be shown on the development plan and with appropriate notation on the face thereof to indicate:

    a. That the undeveloped land may not be used for future building lots; and

    b. The final disposition of the undeveloped land, which may be:

        (1) dedicated to the Town for acceptance. The Planning Board must approve the language of the dedication and the uses allowed in the undeveloped land.

        (2) deeded to a land trust. The Planning Board must approve the land trust and the conditions of the deed.

        (3) retained by the applicant. The land may only be used for active agriculture or active forestry. The conditions of this use must be approved by the Planning Board and indicated on the development plan.

        (4) reserved for ownership by a homeowners' association made up of the owners of the lots in the cluster development. If any or all of the undeveloped land is to be reserved for use by the residents in a homeowners association, a homeowners' association must be formed and the bylaws of the homeowners' association must specify maintenance responsibilities. The bylaws must be submitted to the Planning Board for its approval prior to approval of the development plan. Covenants for mandatory membership in the association, setting forth the owners' rights and interest and privileges in the association and the undeveloped land must be included. The homeowners' association has the responsibility of maintaining the undeveloped land and any common facilities. The developer must maintain control of the undeveloped land and be responsible for its maintenance until development sufficient to support the association has taken place.

Article VIII - Design Standards

A. Monuments

1. Permanent monuments shall be set at all corners and angle points of the subdivision boundaries and at all street intersections and points of curvature.

2. Monuments shall be stone or iron post with engineer's cap, located in the ground at final grade level, and indicated on the Final Plan. If stone monuments are set, drill holes, one half inch (1/2") deep shall locate the point or points described above.

B. Street Signs

1. Streets that join or are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, or bare phonetic resemblance to the names of existing streets within the municipality and shall be subject to the approval of the E911 Addressing Officer.

C. Water Supply

1. A public water supply system, with fire hydrants, shall be installed at the expense of the subdivider, or if service to each lot by a public water system is not feasible, the Board shall allow individual wells to be used, which shall likewise by installed at the expense of the subdivider, unless subdivider is only selling lots, not developing them.

2. The Planning Board may require the subdivider shall demonstrate by engineering reports prepared by a civil engineer registered in the State of Maine that the proposed subdivision will not result in an undue burden on the source.

3. The water supply shall be designed and installed in accordance with requirements of the Maine Department of Health and Human Services.

D. Fire Suppression

The subdivision shall be designed so that the Town of Fryeburg Fire Department shall have unrestricted access to all developed areas within the subdivision and adequate provisions are made for a supply of water for fire suppression, whether though public water hydrants, underground storage reservoirs, ponds with dry hydrants, or some other means. The applicant shall submit evidence that the fire protection measures proposed for the subdivision have been reviewed and approved by the Fire Chief.

E. Sewage Disposal

If a private sewage disposal system is proposed, the subdivider shall submit locations and results of tests to ascertain subsurface soil and ground water conditions, depth to maximum ground water level, location and results of percolation tests for review and approval under the State of Maine Subsurface Wastewater Disposal Rules.

F. Road Design and Construction

If a new street/road is proposed, then it must be designed and constructed in accordance with Section 23.

Article IX - Improvement Guarantees

A. Before the submission of a Final Plan the subdivider shall provide the Town with improvement guarantees if road construction, offsite improvements, utilities, common water and/or sewer, recreational land, phosphorus or storm water controls or drainage work is planned.

The subdivider shall provide performance guarantees for an amount adequate to cover the total construction costs. The subdivider shall file with the Planning Board a proposed improvement guarantee, a plan by a professional engineer for the required improvements, and estimates to complete the required work by at least two contractors.

The Planning Board shall determine whether the form, amount and duration of the improvement guarantee are sufficient. The Planning Board shall not grant final approval until it has received a sufficient guarantee. No plan shall be approved by the Planning Board as long as the subdivider is in default on a previously approved Plan.

The burden of submitting improvement guarantees in compliance with this Ordinance shall at all times remain with the subdivider.

B. Types of Guarantees:

1. Escrow Account: A cash distribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the subdivider, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant except for any portion of the interest earned which was needed in addition to the principal of the escrow account to pay for completion of the required improvements.

2. Performance Bond: The subdivider shall obtain a subdivision bond from a surety bonding company authorized to do business in the State of Maine. The performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents shall specifically reference the project for which approval is sought. The duration of the bond shall be for a period of time acceptable to the Planning Board.

3. Letter of Credit: An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the street and may not be used for any other project or loan. The letter of credit shall be deposited with the Planning Board and shall certify the following:

a. That the creditor does guarantee funds in an amount equal to the estimated costs of completing all improvements required.
b. In case of failure on the part of the subdivider to complete the specified improvements satisfactorily within the required time period, the creditor shall pay to the Town of Fryeburg immediately, and without further action, such funds as are necessary to finance the proper completion of these improvements, up to the credit limit stated in the letter;
c. That the letter of credit is valid for the period of time required by the Planning Board. During that time, the letter may not be withdrawn or reduced in amount except with the approval of the Planning Board.

C. Contents of Guarantee: The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default, and the Town shall have access to the funds to finish construction.

D. Release of Guarantee: Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

E. Reduction of Guarantee: The Planning Board may release, at their discretion, the guarantee subject to the following provisions:
1. The project is 90% complete as determined by the Planning Board.
2. There are no deficiencies in the project.
3. A cash bond performance guarantee is agreed to for one-hundred fifty percent (150%) of the remaining cost of the project.

F. Default: If, upon inspection, it is found that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, the Code Enforcement Officer shall so report in writing to the Board of Selectmen, the Planning Board, and the subdivider or builder. The Planning Board shall inform the subdivider in writing of the Town's intent to exercise its rights against the improvement guarantee. They shall cause the incomplete or unsatisfactory work to be completed and to be paid for from the improvement guarantee assets. Any guarantee assets unused in the completion of the unsatisfactory or incomplete work, and associated costs, shall be returned to the subdivider at the discretion of the Planning Board.

Article X – Time Limit

A. Completion Deadline

All required improvements within a subdivision shall be completed within two years of final subdivision approval. The improvement guarantee must provide performance protection to the Town during said two year period plus at least six months following the expiration of the two year period. The additional six month period is required as protection to the Town in the event the subdivider fails to complete the required improvements or fails to complete them satisfactorily.

B. Extension

The Planning Board may extend the completion deadline for two additional years at one-year increments only where the subdivider presents substantial reason for doing so. No request for extension shall be considered until at least six months prior to the original or extended completion deadline. Before extending the initial deadline or the initial extension, the Planning Board shall require that the improvement guarantee be extended in duration to cover the extended period of time plus an additional six month period. Before extending the initial deadline or the initial extension, the Planning Board shall review the form and amount of the improvement guarantee to make certain it remains adequate.

Article XI – Inspection and Certification

A. Notification of Construction: At least five (5) days prior to commencing construction, the applicant shall notify the Code Enforcement Officer in writing of the day and time when construction is proposed to commence.

B. A qualified independent inspecting agency and/or official will be retained by the contractor/developer. The inspecting official shall assure that all municipal specifications, requirements and conditions of approval shall be met during the construction and shall assure the satisfactory completion of improvements required by the Planning Board. Test reports and inspection reports documenting this shall be sent to the Code Enforcement Officer immediately upon completion.

C. Noncompliance With Plan: Upon a finding that the improvements have not been constructed in accordance with the approved plans and specifications, the inspecting official shall so report in writing to the Board of Selectmen, Planning Board, Code Enforcement Officer and applicant. The Town shall take any steps necessary to assure compliance with approved Plans.

D. Modification During Construction: If at any time it appears necessary or desirable to modify the required improvements before or during construction of the required improvements, the design official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The design official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board of Selectmen, Planning Board and Code Enforcement Officer. Revised plans shall be filed with the Planning Board

for the record. For major modifications, such as relocation of rights-of-way, changes in grade by more than 1%, etc. the applicant shall submit to the Planning Board an amended application for review and approval.

E. Inspections Required: For road construction, the following inspections are required by a third party inspector before work may continue:

- Stumping and grubbing;
- Erosion Control measures;
- Sub-grade preparation, and drainage;
- Application of the base gravel;
- Application of final grade;
- Hot top, and seeding.

F. Certification: Upon completion of the improvements, the subdivider shall file the following with the Code Enforcement Officer:

1. A sworn statement from the subdivider's engineer that all required improvements are completed in strict compliance with all applicable construction standards and the approved subdivision plan and that the engineer knows of no defects from any cause in the improvements;

2. A sworn statement from the subdivider that the improvements are free and clear of any encumbrance or lien and that the subdivider knows of no defects from any cause in the improvements.

ARTICLE XII - WAIVERS

A. Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with these standards or where there are special circumstances of a particular Plan, it may waive these standards so that substantial justice may be done and the public interest secure; provided that such waivers will not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, or the Land Use Ordinance, where such exist.

B. Where the Planning Board finds that, due to special circumstances of a particular Plan, the provision of certain required improvements is not requisite in the interest of public health, safety, and general welfare, or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.

C. Waivers may only be granted by a unanimous vote of the Planning Board, present and voting, upon a written finding that the purpose and intent of the Ordinance will be maintained without the applicant meeting the specific standard.

ARTICLE XIII- APPEALS

A. An appeal of the Planning Boards Final Subdivision Approval shall be taken directly to Superior Court.

SECTION 22
BUILDING REQUIREMENTS

A. Foundations

All buildings shall be built on stone, or masonry foundations, or on masonry posts, or on wooden posts which have been commercially treated with preservatives under pressure.

B. Exterior Finish

1. All buildings shall be finished on their exterior walls, above the foundation with clapboards, novelty siding, wood or asphalt shingles, brick, stone, natural log, or other equivalent materials. Tar paper is prohibited as an exterior finish.
2. The exterior siding of a building, including paint and/or varnish, where applicable shall be completed within 18 months after the outside studding is in place.

C. Roof Covering

Every roof on any building hereafter erected shall be covered with a roofing of masonry, tile, slate, metal, asbestos, prepared asphalt, or saturated felt shingles which have been surfaced with granulated slate built-up roofing with asphalt, slag or gravel or other approved fire resistant material.

D. Chimneys

1. All chimneys shall be constructed of masonry, extend at least two feet above the highest point of the roof through which they project, and shall rest on an adequate foundation extending at least four feet below ground level, if practicable, but in no event less than three feet below ground level. Prefabricated chimneys, though not of masonry, shall be acceptable if they are approved by the National Board of Fire Underwriters.
2. All chimneys shall include a clean-out at or near their bases, and all masonry chimneys shall be tile lined or have a refractory lining.

E. Damaged Property

Buildings damaged or destroyed by fire or other causes so as to constitute a hazard to the safety or health of the community in the judgment of the Code Enforcement Officer shall be repaired or demolished within six months of the date of such casualty. In the event of damage or destruction so extensive as to necessitate substantial replacement or rebuilding, rather than repair, application for a building permit may be made at any time after the date of such casualty, to be issued subject to all other applicable provisions of the ordinance.

SECTION 23
STREET STANDARDS

A. Purpose

The intent of this Section is to establish standards for the design and construction of new streets in Town. The street standards are designed to promote the health and safety of the residents of the Town, to provide safe and convenient pedestrian and vehicular traffic, and to minimize the long term street maintenance and repair costs. All new subdivision street construction shall meet the provisions of this Ordinance.

B. Administration

This Section shall be administered by the Planning Board and Code Enforcement Officer.

C. Applicability

This Section shall apply to the construction of all new subdivision streets within the town, or the reconstruction or lengthening of any subdivision street for which approval by the Planning Board was granted after June 23, 2009. No street should be accepted by the Town as a way unless it meets the provisions of the Ordinance

Nothing in this Ordinance shall be construed to prevent the design and construction of streets which meet higher standards, use improved methods, or higher quality materials.

Public streets that are being reconstructed or lengthened by the Town Public Works Department and their contractors are exempt from the requirements of Section 23. Public streets that are being constructed, reconstructed or lengthened by the State of Maine and their contractors are exempt from the requirements of Section 23.

D. Street Construction Application Procedures

Prior to the construction of any new subdivision street, or the reconstruction or lengthening of an existing subdivision street for which approval by the Planning Board was granted after June 23, 2009, the applicant shall request to be placed on the Planning Board's agenda, at least 14 days in advance of the meeting by contacting the Code Enforcement Officer (CEO) and submitting 10 copies of the completed application form and plans, as well as the required fee. The CEO shall forward it to the Planning Board and the procedures outlined in Section 2.F (Land Use Authorization Review Procedure by the Planning Board) will be followed.

Streets proposed as part of a subdivision shall be submitted to the Planning Board as an integral part of the Subdivision Application.

An application fee shall be paid to the Town of Fryeburg upon submission of a street construction application. The Board of Selectmen has the authority to review and revise the

application fee. The application fee will be waived if the street is being reviewed as part of the Subdivision Application.

1. Submission Requirements

    a. Name of applicant
    b. Name of record owners of the land which the proposed street is to be located
    c. A statement of any legal encumbrances on the land which the proposed street is to be located
    d. The anticipated starting and completion dates of each major phase of construction
    e. A statement indicating the nature and volume of traffic expected to use the proposed street.

2. Plans Requirements: The plans submitted as part of the application shall be prepared by a Registered Land Surveyor or a Professional Engineer and shall include the following information.

    a. Plan scale (All streets and roadway plan and profile drawings shall be drawn to a scale of 1"=50' horizontal and 1"=5' vertical
    b. North arrow
    c. A plan and profile and typical cross section view of proposed streets
    d. The starting and ending point with relation to established roads, streets, and any planned or anticipated future extensions of the streets (All terminal points and centerline alignment shall be identified by survey stationing.)
    e. The roadway and roadway limits with relation to existing buildings and established landmarks.
    f. Dimensions, both lineal and angular, necessary for locating boundaries and necessary for locating subdivisions, lots, easements, and building lines.
    g. The lots, if any, laid out and showing the names of all owners of abutting property.
    h. All natural waterways, watercourses, and wetlands in or on land contiguous to the proposed street.
    i. The kind, size, location, profile and cross section of all existing and proposed drainage ways and structures and their relationship to existing natural waterways.
    j. A soil erosion and sedimentation control plan showing interim and final control provisions.
    k. Curve data for all horizontal and vertical curves shall be the centerline radius, arc length, beginning and end curve points.
    l. All centerline gradients shall be shown and expressed as a percent.
    m. All curve and property line radii of intersections.
    n. The limits and location of any proposed sidewalks and curbing.
    o. The location of all existing and proposed overhead and underground utilities to include but not limited to: storm drains, telephone and electrical line poles, underground vaults, and street lights.
    p. The name of each proposed new road or street.
    q. Lines or dots in the center line of the proposed road at intervals of every fifty feet, beginning at the intersection of the existing street.

r. A note stating that the approval by the Planning Board of a Street Construction Plan shall not be deemed to constitute or be evidence of any acceptance by the town of any street.

E. Street Design Standards

1. These design standards shall be met by all streets and shall control the roadways, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.

2. All streets shall be designed to provide safe pedestrian and vehicular travel.

3. The arrangement, character, extent, width, grade, and location of all streets shall be considered in relation to existing or planned streets, topographical conditions, public convenience and safety, and the proposed use of the land to be served by the street. Grades of the streets shall conform as closely as possible to the original topography.

4. All lots in a subdivision shall have frontage on streets designed and constructed in accordance with this ordinance.

5. The Board may require the reservation of a 66 foot wide easement connecting the new street with an external boundary to provide a logical continuation of the street to an abutting site. This future connection will allow for safe and efficient traffic circulation where future subdivision is possible. All easements proposed under this regulation must be deeded to the Town.

6. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in this ordinance) the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements.

7. Any new street serving 15 dwelling units or more shall have at least 2 street connections with existing public streets for fire, rescue, and safety reasons. This shall not apply in the Village Residential and Village Commercial zoning districts. The Planning Board will consider granting a waiver if the Board determines that conditions particular to the parcel justify a waiver based on the following conditions:

    a. There is too little street frontage on existing public streets to reasonably allow for the creation of 2 street connections.
    b. The shape and physical conditions of the parcel do not permit 2 street connections.

8. The following design standards apply according to street classification:

Description	Arterial	Collector	Minor	Privately Owned Street[1]	Industrial/ Commercial	Mobile Home Park
Minimum right-of-way width	66 feet	66 feet	66 feet	66 feet	66 feet	23 feet
Minimum pavement width/travelway width	34 feet	24 feet	20 feet	20 feet	34 feet	20 feet
Sidewalk width[4]	5 feet	5 feet	5 feet	5 feet	5 feet	N/A
Minimum grade	.5 percent	.5 percent	.5 percent	.5 percent	.5 percent	.5 percent
Maximum grade	8 percent	8 percent	10 percent[2]	10 percent[2]	8 percent	10 percent
Minimum centerline radius	800 feet	200 feet	150 feet	150 feet	800 feet	150 feet
Minimum tangent between curves of reverse alignment	300 feet	200 feet	100 feet	100 feet	300 feet	100 feet
Roadway crown	1/4"/ft.	1/4"/ft.	1/4"/ft.	1/4"/ft. [3]	1/4"/ft.	1/4"/ft.
Minimum angle of street intersections	90 degrees	90 degrees	90 degrees	90 degrees	90 degrees	90 degrees
Maximum grade within 75 feet of intersection	3 percent	3 percent	3 percent	3 percent	3 percent	3 percent
Minimum curb radii at intersections	30 feet	20 feet	15 feet	15 feet	15 feet	15 feet
Minimum r-o-w radii at intersections	20 feet	10 feet	10 feet	10 feet	20 feet	10 feet
Minimum width of shoulders (each side)	3 feet	3 feet	3 feet	3 feet	5 feet	3 feet

[1] Standards for Privately-owned streets in Cluster Subdivisions as provided for in Section 21 shall not be required to meet minimum right-of-way width or minimum pavement width/Travel way width contained herein.
[2] The maximum 10% grade maybe increased to 12% for not more than 100 feet, as measured from the end of a vertical curve to the beginning of the next vertical curve, within any 1,000 feet of road length.
[3] When privately owned streets will be gravel the roadway crown shall be 1/2"/ft.
[4] When required per Section 23.E.14

9. The centerline of the roadway shall be the centerline of the right-of-way.

10. Dead End Streets: In addition to the design standards above, dead-end streets shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii: Property line 65 feet and outer edge of pavement 50 feet. Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac. When not in a wooded area it shall be grassed, landscaped, or kept in a natural state. A use of a hammer-head turn-around may be permitted as an alternative to a cul-de-sac turn-around, with Planning Board approval. In the case of a

hammer-head turn-around, the width shall be 30 feet wide and 60 feet long, measured from the center line of the abutting street and shall be located at least 50 feet from the end of the travel way. The Board may require the reservation of a 20-foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a 66-foot easement in line with the street to provide continuation of the road where future subdivision is possible.

11. Grades, Intersections, and Sight Distances

    a. Grades of all streets shall conform in general to the terrain so that the cut and fill are minimized while maintaining the grade standards above.

    b. All changes in grade shall be connected by vertical curves to provide for the minimum site distances below.

       Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning (measured from ten feet behind the edge of the shoulder at a height of 3 ½ feet to the top of an object 4 ½ feet above the pavement) shall be based upon the posted speed limit and conform to the table below.

Posted Speed Limit (MPH)	25	30	35	40	45	50	55
Sight Distance (feet)	200	250	305	360	425	495	570

       Where necessary, corner lots shall be cleared of all growth and site obstructions including ground excavation to achieve the required visibility.

12. Access Control

    a. Where a subdivision of more than 4 lots abuts an arterial street, no residential lot may have vehicular access directly onto the arterial street. This requirement shall be noted on the plan and in the deed of any lot with frontage on the arterial street.

    b. Where a lot has frontage on two or more streets, the access to the lot shall be from the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.

    c. Any lot created in a subdivision of 4 lots or less after the adoption of this standard, may not have access to Route 302, 5, or 113 unless the Planning Board determines that conditions particular to the parcel justify the granting of a waiver to this standard. A waiver may be granted, based on the following conditions:

1. There is too little street frontage to reasonably allow for the creation of a new street
2. The shape and physical conditions of the parcel do not permit access to or the creation of a new street
3. Proper sight distance will be maintained

13. Sidewalks:

The Board will require that concrete sidewalks be installed within all subdivisions located in the Village Residential, Village Commercial, Outlying Village Residential, Residential Commercial, and General Commercial zoning districts.

Where sidewalks exist adjacent to any proposed subdivision, the Board will require that sidewalks be installed connecting to existing sidewalks

The Board may require that sidewalks be installed within subdivisions of more than 5 lots located in the Rural Residential zoning district. The Board will consider factors including, but not limited to, the location of the subdivision, proximity to existing sidewalks, the layout of the subdivision, and the potential for pedestrian traffic to determine if sidewalks will be required. The Board will consider alternatives (e.g. bituminous asphalt, gravel) to concrete sidewalks provided a suitable construction plan is provided.

When installed, sidewalks shall meet these minimum requirements:

a. Sidewalks may be located adjacent to the curb or shoulder but it is recommended to locate sidewalks a minimum of 2 ½ feet from the curb facing or the edge of the shoulder, if the street is not curbed.

b. Construction of concrete sidewalks:

1. The crushed aggregate base shall be no less than 6 inches thick
2. The concrete shall be a 4000 psi mix with 5-7% air entrainment, reinforced with 6 inch square number 10 wire mesh or contain reinforcing fiber mesh, and shall be no less than 4 inches thick.

14. Common driveways: Common driveways may serve two single family dwelling units. The Code Enforcement Officer shall review and approve all plans for common driveways. Adequate provisions shall be taken to minimize erosion and sedimentation. Common driveways shall comply with the Street Design and Street Construction Standards to the greatest extent practical as determined by the CEO.

a. The following design standards shall apply to common driveways:
    1. Minimum travel width- 12 feet
    2. Minimum angles of street intersections- 75 degrees
       Maximum grade within 30 feet of intersections- 2 percent

F. Street Construction Standards

1. Minimum thickness of material after compaction:

	Arterial	Collector	Minor	Privately Owned Street[1]	Industrial Commercial	Mobile Home Parks
Aggregate Sub-base Course	36"	24"	18"	18"	24"	18"
Crushed Aggregate Base Course	4"	3"	3"	3"	4"	3"
Hot Bituminous Pavement: Total Thickness	6"	3 ¼ "	3 ¼ "	3 ¼ "	5 ½ "	3 ¼ "
Pavement Surface Course Thickness	2"	1 ¼ "	1 ¼ "	1 ¼ "	1 ½ "	1 ¼ "
Pavement Base Course Thickness	4	2"	2"	2"	4"	2"

[1] The Board will consider waiving the Hot Bituminous Pavement requirement if the applicant presents written documentation stating the reasons for qualifying for a waiver under Section 23.L. It is not the intention of the Planning Board to grant waivers of the other construction standards.

2. Preparation

   a. Before any clearing has started on the right-of-way, the centerline and side lines of the new street shall be staked or flagged at 50-foot intervals.

   b. Before grading is started, the width necessary for travelway, shoulders, sidewalks, drainageways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders, and tree stumps protruding above the natural profile of the land shall be removed from the travelway, shoulders, sidewalks, and drainageways.

   c. All organic materials shall be removed to a depth of 2 feet below the subgrade of the roadway. Rocks exceeding 12 inches in any dimension shall also be removed to a depth of 2 feet below the subgrade of the roadway. On soils which have been identified as not suitable for roadways, the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below. The Board may require the use of geotextile in areas of soft clay soils or other unsuitable soils in the subgrade.

   d. Side slopes shall be no steeper than a slope of 3 feet horizontal to 1 foot vertical and shall be graded, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan.

e. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

3. Bases and Pavement

a. Sub-base: The aggregate shall conform to MDOT Specification (Maine Department of Transportation, Standard Specifications for Highways and Bridges) 703.06(c) Type D.

b. Base: The aggregate shall conform to MDOT Specification 703.06(a) Type A. The Aggregate for the base shall contain no particles of rock exceeding 2 inches in any dimension.

c. Placing Base and Subbase: The maximum compacted thickness of any aggregate base or subbase course layer shall not exceed 12 inches. When layers are constructed of differently graded aggregate, fine grading of the lower layer will not be required. Each layer of aggregate shall be placed over the full width of the section except when existing traffic or other conditions restrict operations over the full width of the section. The material as spread shall be well mixed with no pockets of fine or course material. Segregation of large or fine particles will not be allowed

d. Shaping, Compacting, and Stabilizing: Each layer shall be compacted to a density of not less than 95% of the maximum density as determined in accordance with AASHTO T180, Method C or D. Field density tests, confirming 95% or greater density, will be performed by a qualified independent testing company at the expense of the contractor or developer. Copies of the test results will be forwarded to the Code Enforcement Office upon completion. The surface, compaction, and stability shall be satisfactorily maintained until the pavement course has been placed.

e. Pavement Joints: Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.

f. Curbs and Gutters: Street curbs and gutters shall be installed as required by the Board. Curbs shall be vertical except when sloped curbs are specifically allowed by the Board.

g. Pavements:

1. Pavement shall be Hot Mix Asphalt as specified in Section 403 of the latest revisions of the Maine Department of Transportation, Standard Specifications for Highways and Bridges, or
2. Minimum standards for the base layer of pavement shall meet MDOT Specification for Type 19 mm nominal maximum size. The pavement may be placed between April 15 and November 15, provided the air

temperature in the shade at the paving location is 35° or higher and the surface to be paved is not frozen or unreasonably wet.

3. Minimum standards for the surface layer of pavement shall meet MDOT Specification for Type 9.5 mm nominal maximum size. The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is 50° or higher.

G. Additional Improvements and Requirements

1. Storm Drainage: Adequate provision shall be made for disposal of all stormwater collected in streets and areas tributary to the street system. A stormwater management plan shall be submitted which complies with the requirements of DEP Chapter 500 Stormwater Regulations, as applicable. Road drainage facilities shall be sufficient to prevent water damage or impairment from normal rain flow or surface water.

2. Erosion Control: The procedures outlined in the erosion and sedimentation control plan shall be implemented during site preparation, construction, and clean-up stages.

3. Cleanup: Following street construction, the developer or contractor shall conduct a through clean-up of stumps and other debris from the entire street right-of-way. If onsite disposal of the stumps and debris is proposed, the site shall be indicated on the plans and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

4. Street Signs: Streets that join or are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, or bare phonetic resemblance to the names of existing streets within the municipality and shall be subject to the approval of the E911 Addressing Officer.

H. Performance Guarantees

1. Types of Guarantees: Upon approval of the application for street construction, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs taking into account the time-span of the construction schedule and the inflation rate for construction costs.

    a. Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner for the establishment of an escrow account;

    b. A performance bond payable to the Town issued by a surety company approved by the Board of Selectmen;

    c. An irrevocable letter of credit from a financial institution establishing funding for the construction from which the Town may draw if construction is inadequate approved by the Board of Selectmen; or an offer of conditional approval limiting the number of units built or lots sold until all required improvements have been

constructed. The conditions and amount of performance guarantee shall be determined by the Planning Board with the advice of the Road Commissioner and Board of Selectmen.

2. Contents of Guarantee: The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default, and the Town shall have access to the funds to finish construction.

3. Escrow Account: A cash distribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the subdivider, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant except for any portion of the interest earned which was needed in addition to the principal of the escrow account to pay for completion of the required improvements.

4. Performance Bond: A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents shall specifically reference the project for which approval is sought.

5. Letter of Credit: An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the street and may not be used for any other project or loan.

6. Release of Guarantee: Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

7. Default: If, upon inspection, it is found that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, the Code Enforcement Officer shall so report in writing to the Board of Selectmen, the Planning Board, and the subdivider or builder. The Board of Selectmen shall take any steps necessary to preserve the Towns rights.

I. Inspection

1. Notification of Construction: At least five (5) days prior to commencing street construction, the applicant shall: Notify the Code Enforcement Officer in writing of the day and time when construction is proposed to commence.

2. Inspection: A qualified independent inspecting agency and/or official will be retained by the contractor or developer. The inspecting official shall assure that all municipal specifications, requirements and conditions of approval shall be met during the construction and shall assure the satisfactory completion of improvements required by the Planning Board. Test reports and inspection reports documenting this shall be sent to the Code Enforcement Officer immediately upon completion.

3. Noncompliance With Plan: Upon finding that the improvements have not been constructed in accordance with the approved plans and specifications, the inspecting official shall so report in writing to the Board of Selectmen, Planning Board, Code Enforcement Officer and applicant. The Town shall take any steps necessary to assure compliance with approved Plans.

4. Modification During Construction: If at any time it appears necessary or desirable to modify the required improvements before or during construction of the required improvements, the design engineer is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The design engineer shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board of Selectmen, Planning Board and Code Enforcement Officer. Revised plans shall be filed with the Planning Board for the record. For major modifications, such as relocation of rights-of-way, changes in grade by more than 1%, etc. the applicant shall submit to the Planning Board an amended application for review and approval.

J. Waivers

1. Where the Board finds that hardships may result from strict compliance with this Ordinance, or where there are special circumstances of a particular plan, it may waive any provision of this Ordinance provided that such waiver will not have the effect of nullifying the purpose of this Ordinance, or any other ordinance or law.

2. In granting any waiver, the Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived.

3. The Board may waive the requirement to post bond and grant approval of the Plan on the condition that no lot within a subdivision shall be sold and that no permit to build shall be issued by the Town of Fryeburg until all street and utility requirements have been installed and completed at the developers expense in accordance with all applicable provisions of the approved plan.

K. Town Acceptance of Streets

The approval by the Planning Board of a Street Construction Plan shall not be deemed to constitute or be evidence of any acceptance by the town of any street, shown on such Plan. The Planning Board shall require the Plan to be endorsed with appropriate notes to this effect. A request to have a street accepted by the Town shall follow the procedure outlined in the Town of Fryeburg Street Acceptance policy.

J. Appeals

An appeal may be taken within 30 days from the Planning Boards decision on the application.

SECTION 24
FLOODPLAIN MANAGEMENT

A. Purpose and Establishment

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

Therefore, the Town of Fryeburg, 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 this Floodplain Management Section.

It is the intent of the Town of Fryeburg, 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.

The Town of Fryeburg has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352 and 4401-4407 and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Fryeburg 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 Section establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Fryeburg, Maine.

The areas of special flood hazard, Zones A, AO, AH, and AE for the Town of Fryeburg, Oxford County Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Oxford County dated July 7, 2009 with accompanying "Flood Insurance Rate Map," dated July 7, 2009 Panels: 1163, 1164, 1168, 1310, 1326, 1327, 1328, 1329, 1331, 1332, 1333, 1334, 1336, 1337, 1338, 1339, 1341, 1342, 1343, 1344, 1355, 1361, 1363, 1451, 1452, 1453, 1454, 1456, 1457, derived from the county wide digital flood insurance rate map entitled "Digital Flood Insurance Rate Map, Oxford County," which are hereby adopted by reference and declared to be a part of this Ordinance.

B. Permit Required

Before any construction or other development (as defined in Section 24.M), including the placement of manufactured homes, begins within any areas of

special flood hazard established in Section 24.A, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. 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 Fryeburg, Maine.

C. Application for Permit

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

1. The name, address and phone number of the applicant, owner and contractor;

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

3. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and the dimensions of the lot;

4. A statement of the intended use of the structure and/or development;

5. A statement of the cost of the development including all materials and labor;

6. A statement as to type of sewage system proposed;

7. Specification of dimensions of the proposed structure and/or development;

[Items 8-11 apply only to new construction and substantial improvements.]

8. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:

    a. base flood at the proposed site of all new or substantially improved structures, which is determined:

        (1) in Zones AE, AO, and AH, from data contained in the "Flood Insurance Study – Oxford County, Maine" as described in Section 24.A; or

        (2) in Zone A:

            i. from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information

obtained pursuant to Section 24.F.11 and Section 24.H.4; or

ii. or in the absence of all other data,

iii. or in the absence of all other data described in Section 24.H.a.2.a, to information to demonstrate that the structure shall meet the elevation requirements in Section 24 F.6.d.2, Section 24 F.7.d.1 or 2, or Section 24 F.8.d.2;

b. highest and lowest grades at the site adjacent to the walls of the proposed building;
c. lowest floor, including basement; and whether or not such structures contain a basement; and,
d. level, in the case of non-residential structures only, to which the structure will be floodproofed;

9. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Section 24.F;

10. A written certification by a professional land surveyor, registered professional engineer or architect that the elevations shown on the application are accurate;

11. The following certifications as required in Section 24.F by a registered professional engineer or architect :

a. a Floodproofing Certificate, to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Section 24.C.8.d.; Section 24.F.7.; and other applicable standards in Section 24.F;
b. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Section 24.F.11.b.1;
c. a certified statement that bridges will meet the standards of Section 24.F.13.;
d. a certified statement that containment walls will meet the standards of Section 24.F.14.;

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

13. A statement of construction plans describing in detail how each applicable development standard in Section 24.F will be met.

D. Application Fee and Expert's Fee

A non-refundable application fee shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application. The fees are annually set by the Board of Selectmen.

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.

E. Review of Flood Hazard Development Permit Application

The Code Enforcement Officer shall:

1. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Section 24.F (Development Standards) have, or will be met;

2. Utilize, in the review of all Flood Hazard Development Permit applications:

   a. The base flood data and floodway data contained in the "Flood Insurance Study – Oxford County, Maine," as described in Section 24.A.
   b. In special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other sources, including information obtained pursuant to Section 24.C.8.a2; Section 24.F.11; and Section 24.H.4, in order to administer Section 24.F;
   c. When the community establishes a base flood elevation in a Zone A by methods outlined in Section 24.C.8.a2, the community shall submit that data to the Maine Floodplain Management Program.

3. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Section 24.A;

4. 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. 1344;

5. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

6. If the application satisfies the requirements of this ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:

   a. 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 the time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a professional land surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Section 24.F. Following review of the Elevation Certificate data, which 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; or,
   b. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Section 24.F.7.a.(1)(2) and (3). The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
   c. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, or renovations, whose value is less than 50 percent of the market value of the structure. Minor development also includes, but is not limited to: accessory structures, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, wharfs, piers, towers, fencing, and pipelines.

7. Maintain, as a permanent record, copies of all Flood Hazard Development Permits issued Applications, corresponding permits issued, and data

relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Section 24.I, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Section 24.C., F., and G.

F. Development Standards

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

1. All Development- All development shall:

    a. be designed or modified and adequately anchored to prevent floatation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
    b. use construction materials that are resistant to flood damage;
    c. use construction methods and practices that will minimize flood damage; and,
    d. 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.

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

3. 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.

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

5. All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of any watercourse.

6. New construction or substantial improvement of any residential structure located within:

    a. Zones AE, AO, and AH shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.

b. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
c. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
   (1) At least one foot higher than the depth specified in feet on the applicable Flood Insurance Rate Map, or
   (2) At least three feet if no depth number is specified.
d. Zone A shall have the lowest floor (including basement) elevated:
   (1) to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 24.C.8.a2; Section 24.E.2; or Section 24.H.4, or,
   (2) in the absence of all data described in Section 24.6.d.1., to at least two feet above the highest adjacent grade to the structure.

7. New construction or substantial improvement or any non-residential structure located within:

   a. Zones AE, AO, AH shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
      (1) be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
      (2) have structural components capable or 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 Section 24.C.11 and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
   b. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures
   c. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
      (1) At least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
      (2) At least three feet if no depth number is specified; or,
      (3) together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and floodproofing standards of Section 24 F.1
   d. Zone A shall have the lowest floor (including basement) elevated:

(1) to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 24.C.8.a(2); Section 24.E.2; or Section 24.H.4; or,
(2) In the absence of all data described in Section F.7.d.1, at least two feet above the highest adjacent grade to the structure; or,
(3) together with attendant utility and sanitary facilities meet the floodproofing standards of Section 24.F.7.a.1, 2, and 3.

8. New or substantially improved manufactured homes located within:

a. Zones AE, AO, and AH shall:

(1) be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation; and,
(2) be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
(3) be securely anchored to an adequately anchored foundation system to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
(i) 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,
(ii) 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).
(iii) all components of the anchoring system described in Section 24.F.8.3.(i) & (ii) shall be capable of carrying a force of 4800 pounds.

b. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from proposed structures.
c. Zone AO shall have the lowest floor (including basement) of the manufactured home elevated above the high adjacent grade:
(1) At least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
(2) At least three feet if no depth number is specified; and,
(3) Meet the anchoring requirements of Section 24 F.8.a.3
d. Zone A shall:

(1) be elevated on a permanent foundation, as described in Section 24.F.8.a, such that the lowest floor is at least one foot above the base flood elevation utilizing information obtained pursuant to Section 24.C.8.a(2), Section 24.E.2; or Section 24.H.4 and
(2) in the absence of all data as described in Section F.8.d.1, to at least two feet avove the highest adjacent grade to the structure; and,
(3) meet the anchoring requirements of Section 24.F.8.a.3.

9. Accessory structures, as defined in Section 24.M, located within Zones A, AO, AH, and AE, shall be exempt from the elevation criteria required in Section 24.F.6 and 7 above, if all other requirements of Section 24.F and all of the following requirements are met. Accessory Structures shall:

a. Have unfinished interiors and not be used for human habitation
b. Have hydraulic openings, as specified in Section 24.F.12.b, in at least two different walls of the accessory structure
c. Be located outside the floodway
d. When possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
e. Have only ground fault interrupt electrical outlets. The electrical service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

10. Recreational vehicles located within:

a. Zones A, AO, AH,and AE, shall either:
(1) be on the site for fewer than 180 consecutive days,
(2) be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
(3) be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in Section 24.F.8.a.

11. Floodways

a. In Zones AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community’s Digital Flood Insurance Rate Map, Oxford County, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not

result in any increase in flood levels within the community during the occurrence of the base flood discharge.

b. In Zones A and AE riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Section 24.F.11.c 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 development and anticipated development:
   (1) will not increase the water surface elevation of the base flood more than one foot at any point within the community
   (2) is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.

c. In Zones A and AE riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be 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.

12. New construction or substantial improvement of any structure in Zones A, AO, AH, and AE that meets the development standards of Section 24.F, including the elevation requirements of Section 24.F.6, 7, or 8 and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

    a. Enclosed areas are not "basements" as defined in Section 24.M; and,
    b. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of flood water. Designs for meeting this requirement must either:

        (1) be engineered and certified by a registered professional engineer or architect; or,
        (2) meet or exceed the following minimum criteria:

            i. 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;
            ii. the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
            iii. openings may be equipped with screen, 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,

c. The enclosed area shall not be used for human habitation; and,
d. The enclosed areas are useable solely for building access, parking of vehicles, or storage.

13. New construction or substantial improvement of any bridge in Zones A, AO, AH, and AE shall be designed such that :

a. When possible, the lowest horizontal member (excluding the pilings or columns) is elevated to at least one foot above the base elevation, and
b. A registered professional engineer shall certify that: The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Section 24.F.11 and the foundation and superstructure attached thereto are designed to resist floatation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood

14. New Construction or substantial improvement of any containment wall located within:

a. Zone A, AO, AH, and AE shall:
   (1) Have the containment wall elevated to at least one foot above the base flood elevation
   (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 designs 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 in Section 24.C.
b. Zones AO and AH shall have adequate drainage paths around containment walls on slopes, to guide floodwater away from the proposed walls.
c. Zone AO shall have the top of the containment wall elevated above the highest adjacent grade:
   (1) At least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
   (2) At least three feet if no depth number is specified; and,
   (3) Shall meet the requirements of Section 24 F.14.a.2 and 3.

15. New construction or substantial improvement of wharves, piers, and docks are permitted in zones AE and A, in and over water and seaward of the mean high tide if the following requirements are met:

    a. Wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
    b. For commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

G. 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:

1. For new construction or substantial improvement of any structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by:

    a. a professional land surveyor,
    b. a registered professional engineer or architect, for compliance with Section 24.F.6, 7, or 8.

2. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of the Section.

3. Within 10 working days, the Code Enforcement Officer shall:
    a. review the Elevation Certificate and the applicant's written notification; and,
    b. upon determination that the development conforms with the provisions of this Section, shall issue a Certificate of Compliance.

H. 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 five or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

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

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

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

4. All proposals include base flood elevations, flood boundaries and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

5. Any proposed development plan must include a condition of plan approval requiring that structures on lots in the development having any portion of its land within the Special Flood Hazard Area be constructed in accordance with Section 24.F 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.

I. Appeals and Variances

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

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

2. Variances shall be granted only upon:

   a. a showing of good and sufficient cause; and,
   b. 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 of public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,

c. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
d. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
   (1) that the land in question cannot yield a reasonable return unless a variance is granted; and,
   (2) that the need for a variance is due to the unique circumstances of the property and not the general conditions in the neighborhood; and,
   (3) that the granting of a variance will not alter the essential character of the locality; and,
   (4) that the hardship is not the result of action taken by the applicant or a prior owner.

3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.

4. 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:

   a. other criteria of Section 24.I and Section 24.F.11 are met; and,
   b. 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.

5. Variances may be issued by a community for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

   a. the development meets the criteria of Section 24.I.1 through 4; and,
   b. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

6. Any applicant who meets the criteria of Section 24.I.1 through 5 shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

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

b. such construction below the base flood level increase risks to life and property; and,
c. 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.

7. Appeal Procedure for Administrative and Variance Appeals

a. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
b. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
c. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
d. The person filing the appeal shall have the burden of proof.
e. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
f. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit
g. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

J. Enforcement and Penalties

1. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Section pursuant to Title 30-A MRSA Section 4452.

2. The penalties contained in Title 30-A MRSA Section 4452 shall apply to any violation of this Section.

3. 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:

a. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
b. a clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance;
c. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
d. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
e. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

K. Validity and Severability

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

L. Conflict with other Ordinances

This Section 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 Section imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Section shall control.

M. Definitions for Section 24

Unless specifically defined below, words and phrases used in this Section shall have the same meaning as they have at common law and to give this Section 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.

Accessory Structure – means a structure that is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.
Adjacent Grade – means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
Area of Shallow Flooding – means a designated AO or 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 per cent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Section 24.A.

Base Flood – means the flood having a one per cent chance of being equaled 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.

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 Section.

Code Enforcement Officer – A person certified under Title 30-A MRSA, § 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

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, disposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

Elevated Building – means a non-basement building

a. built, in the case of a building in Zones A and AE, to have the tope of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
b. 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 cases of Zones A and AE, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Elevation Certificate – an official form (FEMA Form 81-31, 02/06, 03/09 as amended) that:

a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
b. 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.

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 definition of flood or 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 Section, 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), North American Vertical Datum (NAVD), 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 unfurnished 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 Section 24.F.

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 include park trailers, travel trailer, 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, North American Vertical Datum (NAVD), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.

Minor Development – means all development that is not new construction or a substantial improvement, such as repairs, maintenance, or renovations, whose value is less than 50 percent of the market value of the structure. It includes, but is not limited to: accessory structures as provided for in Section 24.F.10, mining, dredging, filling, grading, paving, excavation, drilling operations,

storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, towers, fencing, and pipelines.

National Geodetic Vertical Datum – The national vertical datum, a standard established in 1929 which is used by the National Flood Insurance Program. NGVD is based upon mean sea level in 1929 and has also been called "1929 Mean Sea Level".

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

North American Vertical Datum – means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries, such as Canada and Mexico, and was established to replace NGVD because of all of the constant movement of the earths crust, glacial rebound, and subsidence and the increasing use of satellite technology.

100-year flood – see Base Flood.

Recreational Vehicle – means a vehicle which is:

a. built on a single chassis;
b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
c. designed to be self-propelled or permanently towable by amotor vehicle; and
d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway –

a. 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
b. when not designated on the community's Digital Flood Insurance Rate Map, it 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 per cent 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:

a. Any project for improvement of a structure to correct existing violations of state of 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
b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

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.

N. Abrogation

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

SECTION 25
DEFINITIONS AND WORD USAGE

A. Construction of Terms

1. In this Ordinance, certain terms or words are to be interpreted as follows:
   a. The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual or any other legal entity;
   b. The present tense includes the future tense, the singular number includes the plural, and the plural includes the singular;
   c. The word "must" is mandatory, and the word "may" is permissive. The use of "may" as in "no buildings may be built," or "buildings may not be built," means that permission is not granted to build buildings and thus they are not allowed to be built;
   d. The words "used" or "occupied" include the words "intended," "designed," or "arranged to be used or occupied;"
   e. The word "building" includes the word "structure," and the word "dwelling" includes the word "residence;"
   f. The word "lot" includes the word "plot" or "parcel."
2. In case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text controls.
3 Terms not defined have the customary dictionary meaning.

B. Definitions

In this Ordinance the following terms have the following meanings unless a contrary meaning is specifically prescribed:

Accessory Dwelling Unit: A self-contained dwelling unit located within, attached to or detached from a single-family dwelling located on the same lot. An accessory dwelling unit must be a minimum of 190 square feet.

Accessory Use or Structure: A use or structure of a nature customarily incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, may not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or common wall is considered part of the principal structure.

Activity: The specific use or uses to which a premise is put.

Administrative Warrant: An Administrative Inspection Warrant, issued by a District Court Judge or other judge as may be appropriate, authorizing the Code Enforcement Officer or his duly recognized designate, to inspect particularly described premises for particularly described purposes authorized by law.

Adult Business: Any business a portion of which consists of selling, renting, leasing, exhibiting, displaying, or otherwise dealing in material or devices of any kind which appeal to prurient interests and which depict or describe specific human sexual activities.

Adult Use Cannabis: As that term is defined in 28-B M.R.S. 102(1).

Adult Use Cannabis Cultivation Facility: As that term is defined in 28-B M.R.S. 102(1).

Adult Use Cannabis Licensee: As that term is defined in 28-B M.R.S. 102(1).

Adult Use Cannabis Operation: As that term is defined in 28-B M.R.S. 102(1).

Adult Use Cannabis Product: As that term is defined in 28-B M.R.S. 102(1).

Adult Use Cannabis Products Manufacturing Facility: As that term is defined in 28-B M.R.S. 102(1).

Adult Use Cannabis Store: As that term is defined in 28-B M.R.S. 102(1).

Adult Day Care Home: A licensed program of care and activities, maintained or carried out on a regular basis by a person or combination of people in a private dwelling or other facility, for a fee, for any part of a day, for six or fewer adults, 19 years of age or older, who are not blood relatives of the provider and are coming to the facility for the express purposes of participating in such a program.

Adult Day Care Center: Same definition as for adult day care home except that the facility shall serve more than six consumers and provide a minimum level of services which includes activities, supervision, meals and if requested, supervision with assistance. Other services may also be provided.

Adventure Park: A commercially operated park, offering forms of entertainment such as roller coasters, rides, zip lines, rock climbing walls, games, or similar.

Affordable Housing Development: (1) For rental housing, a development in which a household whose income does not exceed 80% of the area median income can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs; and (2) for owned housing, a development in which a household whose income does not exceed 120% of the area

median income can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs. For purposes of this definition, “housing costs” means: (a) for a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and (b) for an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner’s insurance, condominium fees, and homeowners’ association fees.

Agent: Anyone having written authorization signed by a property owner to act in behalf of that property owner.

Aggrieved Party: A person whose land is directly or indirectly affected by the grant or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted.

Agriculture: Any public or private use of land or structures for propagation, production, management, maintenance, harvesting, processing and/or sale of produce and/or animals, including but not limited to farming, and livestock husbandry, forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, fruits and vegetables, Christmas trees, nursery stock and ornamental and green house products; but specifically excluding the operation of a commercial slaughterhouse or other commercial processing of animal by-products. Agriculture does not include forest management and timber harvesting activities or medical cannabis or adult use cannabis cultivation.

Agricultural Fair: An exhibition that is designed to promote education and encourage improvement in agriculture and which is licensed by the State.

Airport: A tract of land where aircraft take off and land. An airport includes those facilities for public as well as private use.

Alteration: Any change, addition, or modification in construction, other than cosmetic or decorative, or any change in the structural members of buildings such as bearing walls, columns, beams, or girders.

Altered Structure: A change in either the intensity of use, such as the addition of bathrooms, kitchens, bedrooms, or the duration of the use, such as conversion from seasonal to year round use.

Alternative Tower Structure - shall mean clock towers, bell steeples, light poles and water towers, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Animal Boarding: A place that houses and provides shelter and food for animals for compensation from the animals owners.

Animal Care Facility: The use of a building or land for the diagnosis, care, and treatment of ailing or injured animals, which may include overnight accommodations.

Animal Husbandry: The growing and/or raising of livestock and/or poultry for commercial purposes.

Antenna - Any exterior apparatus designed for commercial transmission of telephonic, radio, or television, or similar communications through the sending and/or receiving of electromagnetic waves.

Aquaculture: The cultivation of aquatic animals and plants.

Aquifer: A permeable geologic formation, either rock or sediment, that when saturated with groundwater is capable of transporting water through the formation.

Archaeological and Historic Resources: Any area, site, or building which is listed on the National Register of Historic Places, or is identified in the Fryeburg Comprehensive Plan as an archaeological or historic resource.

Area Median Income: The midpoint of a region's income distribution calculated on an annual basis by the U.S. Department of Housing and Urban Development ("HUD"). For purposes of this definition, "region" is the HUD-designated metropolitan area that includes the Town of Fryeburg.

Area of Special Flood Hazard: The land in the floodplain having one percent or greater chance of flooding in any given year, as specifically identified in the flood insurance studies conducted by the Federal Emergency Management Agency.

Arterial Highway or Street: A major street which carries traffic between municipalities and through Fryeburg. The following streets are Arterial Streets: U.S. Route 302, and State Routes 5 and 113.

Assisted Living Facility: See "residential care facility".

Athletic Field: A developed recreational area that contains fields for competitive sports, and may contain bleachers or grandstands.

Automobile Graveyard: A place, not enclosed in a building, used to store three or more unserviceable, discarded, worn-out, or junked motor vehicles or parts thereof, other than temporary storage by an establishment or place of business which is engaged primarily in doing motor vehicle repairs to make the motor vehicles serviceable.

Automobile Impound Facility: A parcel of land or building that is used for the storage of wrecked motor vehicles usually awaiting insurance adjustment or transport

to a repair shop and where motor vehicles are kept for a period not exceeding 21 days.

Awning Sign: A roof like structure made of plastic or canvas that serves as a shelter over a window, doors, storefront, or deck, and which is used to advertise, display, or attract attention to a person, institution, organization, business, product, service, or event.

Bakery: An establishment primarily engaged in the retail sale of baked products for consumption offsite. The products may be prepared either on or offsite. Such a use may include incidental food service.

Banner: A temporary sign made of cloth, flexible plastic, or canvas material

Bar/Tavern/Pub: An area primarily devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages. The term includes meeting halls of non-profit organizations if they are licensed to serve alcoholic beverages.

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

Base Density: The maximum number of dwelling units allowed on a lot not used for affordable housing development based on the applicable minimum lot size and buildable area in the zoning district where the lot is located.

Bed and Breakfast: Any residential structure in which rooms are offered and rented to the public for periods typically less than 30 days and in which one meal per day is available and only to the occupants. There shall be no provisions for cooking in any individual guest room. The building must also be occupied by the resident manager or owner.

Best Management Practices: Common sense operational procedures as outlined in Section Sixteen for handling, storage, and disposal of regulated substances and procedures which are designed to minimize the impact of certain activities or land use on groundwater quality and quantity.

Board of Appeals: A Board appointed by the municipal officers consisting of five regular and two associate members charged with: (1) hearing administrative appeals of the Code Enforcement Officer; (2) hearing administrative appeals of the Planning Board; and (3) hearing requests for variances.

Board of Assessors: Board of Selectmen.

Boarding House: Any residential structure in which rooms or rooms and meals are provided for compensation for a period of at least one week. Meals may be available

only to the occupants. The building must also be occupied by the resident manager or owner. There may be no provisions for cooking in any individual guest room.

Bottle Club: A place where social activities occur in which members, guests, or patrons provide their own alcoholic beverages, and where no alcoholic beverages are sold. The term includes meeting halls of non-profit organizations if members and/or guests provide their own alcoholic beverages.

Brew Pub: A restaurant that prepares handcrafted beer as an accessory use intended for consumption on the premises. Production capacity shall be limited to not more than 5000 barrels per year. Such accessory use may occupy up to 30 percent of the gross floor area of the restaurant.

Bulk Chemical Storage: Storage of a chemical or chemicals in a container or containers larger than those intended for normal homeowner or retailer purposes. Proper, non-commercial, homeowner use of chemicals is not included.

Bulk Fuel Storage: Storage of a fuel in a container or containers designed for wholesale distribution or mass consumption.

Building: A structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, goods or property of any kind.

Building Height: The vertical distance between the highest point of the roof (excluding any Roof-Mounted Solar Energy System) and the average grade of the ground adjoining the building. For ground-mounted Solar Energy Systems, the vertical distance between the highest point of any system component and the average original (prior to construction) grade of the ground at the point where the system component is fixed to the ground.

Building Permit: The approval required from the Town of Fryeburg prior to constructing, erecting, placing, moving, demolishing, or altering a structure when the value is in excess of $1000.

Business: Any commercial, industrial or other establishment rendering services to the general public.

Business Cluster: A group of two or more businesses on the same property and/or within the same structure.

Business Sign: An attached or free standing structure which directs attention to a business or profession conducted on the premises.

Café: An establishment primarily engaged in the sale of coffee or tea and sometimes other non-alcoholic beverages, simple meals or snacks, with a facility to consume them on the premises. May contain areas where people can gather for conversation, games, or musical entertainment, or use computers.

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

Cannabis: As that term is defined in 28-B M.R.S. 102(1).

Cannabis Cultivation or cultivate: As that term is defined in 28-B M.R.S. 102(1).

Cannabis Cultivation area: As that term is defined in 28-B M.R.S. 102(1).

Cannabis Extraction: As that term is defined in 28-B M.R.S. 102(1).

Cannabis Operation: As that term is defined in 28-B M.R.S. 102(1).

Cannabis Plant: As that term is defined in 28-B M.R.S. 102(1).

Cannabis Product: As that term is defined in 28-B M.R.S. 102(1).

Cannabis Social Club: A facility that purchases adult use cannabis products from a manufacturing facility sells adult use cannabis products to consumers for consumption on the premises of the cannabis social club.

Cannabis Store: As that term is defined in 28-B M.R.S. 102(1).

Cannabis Testing Facility: As that term is defined in 28-B M.R.S. 102(1).

Canoe Livery: A business engaged in the rental of canoes or kayaks and may include the shuttling of the canoes/kayaks and customers to and from a destination. The business may also include associated training or lessons in the use of the canoes/kayaks and or the sale of accessory supplies related to canoeing and kayaking.

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

Caregiver: A person or an assistant of that person that provides care for a qualifying patient in accordance with Maine Medical Use of Cannabis Act.

Catering Service: An establishment that serves and supplies food to be consumed off premises.

Cemetery: Land used or dedicated to the burial of the dead, including earth interments, mausoleums, columbaruims, and related maintenance facilities or a combination thereof.

Certificate of Completion: The approval required from the Town of Fryeburg prior to occupying or using a building or structure.

Change of Use: A change from one Land Use Category in the Land Use Table to another, or the addition of a new use category to an existing use category.

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

Child Care Facility: A building or group of buildings used to house children overnight, with supervision and meals but not necessarily with medical care.

Cluster Development: A development method and/or layout in which building lots are reduced in size and buildings sited closer together than is allowed under non-clustered requirements, provided that the total development density does not exceed that which could be constructed on the site under conventional, non-clustered requirements. The cluster development must be developed in accordance with the applicable standards of this Ordinance and the Subdivision Section of this Ordinance.

Cocktail Lounge: An establishment that is made up of a bar and includes areas dedicated for the use of stages, dance floors, pool tables, and standing areas.

Code Enforcement Officer: A person appointed by the Board of Selectmen to administer and enforce this Ordinance and other land use Ordinances and regulations as authorized by this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like where applicable.

Co-Location - The location of more than one telecommunications facility (use) on a tower or alternative tower structure.

Collector Street: A street servicing at least 15 lots or dwelling units, or street which serves as a feeder to arterial streets and collector of traffic from minor streets.

Commercial and Industrial Street: A street servicing commercial or industrial uses.

Commercial and Industrial Uses: Those uses in Land Use Categories 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 26, 27.

Commercial Firewood Processing: A place where firewood is delivered, cut and split, and from which it is sold for commercial purposes.

Commercial Greenhouse: A building or group of buildings, whose sides and/or roof are made largely of glass or other sunlight transmitting material, used to grow plants and/or produce for sale (except for adult use or medical use cannabis).

Common Driveway: A vehicle accessway serving 2 dwelling units.

Community Activity Center: A building which is used for meetings, recreation, and similar uses by the general public, and not operated for profit.

Community Living Facility: A housing facility for eight or fewer mentally handicapped or developmentally disabled persons which is approved, authorized, certified, or licensed by the State.

Community Water System: A water system that provides water for human consumption through pipes or other constructed conveyances at least 15 service connections or serves an average of at least 25 people for at least 60 days a year as regulated by 10-144 C.M.R. Ch. 231, *Rules Relating to Drinking Water.*

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

Comparable Sewer System: Any subsurface wastewater disposal system that discharges over 2,000 gallons of wastewater per day as regulated by 10-144 C.M.R. Ch. 241, *Subsurface Wastewater Disposal Rules*.

Congregate Care Facility: A building or group of buildings containing private apartments and central dining facilities and within which supportive services, including medical or social services, are provided to the residents. Such facilities include only those certified by the State of Maine Department of Human Services.

Constructed: Includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, and the like, associated with construction, are considered a part of that construction.

Construction: Includes building, erecting, moving or any physical operations on the premises which are required for construction. Excavation, fill, paving and the like shall be considered part of construction.

Contractors Storage Yard: A portion of a lot upon which a construction contractor maintains its principal office and allows for storage and maintenance of equipment and materials customarily used in the trade carried on by the construction contractor.

Contaminate: To have unwanted chemicals or bacteria mixed into a water system formerly void of such substances.

Contractor sign: A temporary sign identifying a construction contractor.

Correctional Facility: A building or group of buildings used to house persons who are awaiting trial or persons who have been confined by the courts.

Cottage/Cabin: A small dwelling for vacation use. A cottage or cabin rental facility would consist of 2 or more cottages or cabins in which overnight lodging is offered to the general public for compensation.

Craft and Flea Market: The sale of merchandise where vendors may rent tables and/or display space.

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

Day Care Center: An establishment, licensed by the Maine Department of Human Services, where 13 or more children under the age of six are cared for in return for compensation.

Day Care Home: An establishment, licensed by the Maine Department of Human Services, where more than three, but fewer than 13, children under the age of six are cared for in return for compensation.

Deck: An uncovered structure with a floor, elevated above ground level.

Deli: An establishment primarily engaged in the retail sale of cooked or prepared foods ready for serving such as cheeses, cold cooked meats, and salads.

Decorative Changes: Repainting or re-siding; removing or replacing trim, railings, or other non-structural architectural details; or the addition, removal, or change of location of windows and doors.

Decibel (dB): The practical unit of measurement for sound pressure level. The number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals); abbreviated dB.

Development: A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

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.

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

Distribution Center: A use where goods are received and/or stored for delivery to the ultimate customer at remote locations.

Drive-thru: An establishment that dispenses products or services to customers who remain in vehicles

Driveway: A private entrance from a street or street right-of-way to a building or buildings on abutting grounds. The driveway itself shall not constitute the means of legal access to a lot.

Dry Cleaner: An establishment where garments, and the like, are cleaned by using solvents and not soap and water.

Dwelling: A fixed structure containing one or more dwelling units.

Dwelling, Single-family: A building containing only one dwelling unit for occupancy by not more than one family.

Dwelling, Two-family: A building containing only two dwelling units (excluding dwelling units that are considered accessory apartments), for occupancy by not more than two families.

Dwelling, Multi-family: A building containing three or more dwelling units, such buildings being designed for residential use and occupancy by three or more families living independently of one another, with the number of families not exceeding the number of dwelling units. This definition is not meant to include single or two family dwellings.

Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one (1) family at a time, and containing cooking, sleeping, and toilet facilities. The term shall include manufactured housing, mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time period rented. The term shall not include recreational vehicles or so-called park model mobile homes provided they are registered with the State Division of Motor Vehicles and have all tires placed on the ground and are not used as a dwelling on the same lot for more than 120 days per year.

Earth: Topsoil, sand, gravel, clay, peat, rock, or other similar materials.

Easement: A right or privilege, less than fee simple ownership, that a person may have in another's land, such as a right-of-way.

Edible Cannabis product: As that term is defined in 28-B M.R.S. 102(1).

Educational Campus: The grounds, including buildings and amenities, of a school.

Engineered System: A subsurface waste water disposal system designed, installed, and operated as a single unit to treat 2,000 gallons per day or more; or any system designed to treat waste water which has characteristics significantly different from domestic waste water.

Erect: Includes build, construct, assemble, affix, attach, create, paint or draw.

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

Excavation: Any removal of earth material from its original position.

Existing Public Street: Roads which are maintained by the Town of Fryeburg and the State of Maine.

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

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

Exterior Siding that is Residential in Appearance: Siding materials such as clapboards, shingles, and shakes, including synthetic or metal siding manufactured to closely resemble clapboards, shingles, and shakes. This term also includes masonry, wood board-and-batten, and "Texture 1-11" exterior plywood.

FAA - The Federal Aviation Administration.

FCC - The Federal Communications Commission

Family: One or more persons occupying a premises and living as a single housekeeping unit.

Fair: A gathering of buyers and sellers at a particular time and place for trade; a competitive exhibition, usually of farm products; or a sale of a collection of articles for charitable purposes.

Farmers' Market: The multiple vendor display and sale of farm products including fresh fruits, vegetables, nursery plants, and other farm products, and may also involve the accessory sales of other unprocessed food stuffs, and home processed food products such as jams, jellies, pickles, sauces, and baked goods.

Farm stand – Major: A building used for the sale of fresh fruits, vegetables, nursery plants, and other farm products and may also involve the accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces, baked goods and homemade crafts. The floor area devoted to the sale

of these accessory items shall not exceed 50% of the total sales area. No commercially processed or packaged foodstuffs or handicrafts shall be sold at the stand.

Farm Stand - Minor: The seasonal, incidental sale of fresh fruits, vegetables, nursery plants, and other farm products which were produced on the premises or other land in the same control as the Farm Stand.

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

Fitness/Health Club Facility: A facility where members (or the general public for a fee) use equipment or space for the purpose of physical exercise.

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.

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 definition of flood or 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.

Floor Area, Gross: The sum, in square feet, of the floor areas of all portions of a building enclosed by exterior walls.

Flowering Cannabis: As that term is defined in 28-B M.R.S. 102(1).

Foot-candle: The basic unit of illuminance. One foot-candle is equivalent to the illuminance produced on 1 square foot of a surface area by a source of 1 candle at a distance of 1 foot.

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

Forest Management Operations: Timber cruising and other forest resources evaluation activities, insect and disease control, timber stand improvement, pruning, regeneration of forest stands and other similar associated activities, but not timber harvesting or construction or creation of roads.

Forested Wetland: A freshwater wetland dominated by woody vegetation that is six meters (approximately 19.7 feet) tall or taller.

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

Frontage: The linear distance measured along the front lot line which separates the lot from the street, road, or right-of-way.

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

Functionally Water-Dependent Uses: Those uses that require, for their primary purpose, location of submerged lands or that require direct access to, or location in, inland waters and that cannot be located away from these waters. These uses include, but are not limited to, commercial and recreational fishing and boating facilities, shoreline structures necessary for erosion control purposes and uses that primarily

provide general public access to inland waters. Recreational boat storage facilities are not considered to be a functionally water dependent use.

Function Hall: A building or portion of a building used for the purpose of hosting a function, such as a conference, party, banquet, reception, or other social event.

Garage Sale: See Yard Sale.

Gateway Area: The entrance to the Village, the roadways that lead to town. As defined in the Comprehensive Plan: Route 302 from Menotomy Road and Battleground Road east to the Bridgton Town Line; Route 302 east from the New Hampshire Line to the Commercial Zone; Route 5 from Brownfield Town Line north to the Industrial Zone; Route 113 from the New Hampshire Line to Weston's; Route 5 from Fairgrounds north to Lovell Town Line, excluding the Outlying Residential-Commercial District.

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

Great Pond: See Water Body; Great Pond.

Ground Cover: Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of a forest floor.

Ground Sign: An outdoor sign which is directly supported, and physically separated from any other structure.

Groundwater: The water contained within the interconnected pores, cracks or fractures located below the water table of a confined or unconfined aquifer. Also, the water contained within the earth's surface that has penetrated from precipitation and from infiltration by streams, ponds and lakes.

Groundwater Extraction: The removal of more than 10,000 gallons per day of groundwater or spring water as part of a residential, commercial, industrial or land excavation operation.

Habitable Space: Any space in a residential dwelling unit usable for living purposes, which includes working, sleeping, eating, cooking, or recreation, or any combination thereof. A space used only for storage is not a habitable space.

Hanging Sign: A sign which is suspended from the underside of a horizontal plane surface and is supported by this surface, typically located on a porch or entryway.

Hazard Tree: A tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as but not limited to: hurricanes; hurricane force winds; tornadoes;

microbursts; or significant ice storm events. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails, Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

Hazardous Wastes: A waste substance or material, in any physical state, designated hazardous by the Maine Board of Environmental Protection pursuant to Title 38 M.R.S.A. Section 1301 *et seq*. It does not include waste resulting from normal household or agricultural activities.

Hazardous Waste Facility: A facility designed to treat, store or dispose of hazardous waste as defined in the Maine Hazardous Waste Management Rules, (Section 854).

Historically Significant Property: Those buildings and sites listed in Tables 8-1 and 8-2 of the 1994 Fryeburg Comprehensive Plan.

Home Occupation: An occupation or profession, carried on for monetary gain, which is carried on at the owner/operator's dwelling unit or structure accessory to a dwelling unit, is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

Hospital: An institution providing, but not limited to, overnight health services, primarily for in-patients, and medical or surgical care for the sick or injured, including as an integral part of the institution such related facilities as laboratories, out-patient departments, training facilities, central services facilities, and staff offices.

Hydric Soils: The following soils, as described and identified in the Soil Survey of Oxford County:

Searsport mucky
Vassalboro mucky peat
Vassalboro mucky peat, ponded
Wonsqueak mucky peat

Ice Cream Parlor: An establishment primarily engaged in the sale of single serve ice cream, frozen yogurt, or similar confections with a facility to consume on the premises.

Immature Cannabis Plant: As that term is defined in 28-B M.R.S. 102(1).

Industrial Campus: A single integrated development consisting of industrial uses with associated commercial uses and having integrated traffic circulation, parking, landscaping, and other similar facilities.

Industrial Waste: Wastes resulting from the processes employed in industrial manufacturing, trade, or business establishments.

Individual Private Campsite: An area of land which is not associated with a campground, but which is used for repeated camping by only one group not to exceed 10 individuals and which involves features which may include but not be limited to gravel pads, parking areas, fireplaces, or tent platforms.

Inherently hazardous substance: "Inherently hazardous substance" means any liquid chemical, compressed gas, carbon dioxide, or commercial product that has a flash point at or lower than 38 degrees Celsius or 100 degrees Fahrenheit, including, but not limited to, butane, propane and diethyl ether. "Inherently hazardous substance" does not include any form of alcohol or ethanol.

Junkyard: A place, not enclosed in a building, used to store:

1. Discarded, worn-out or junked plumbing, heating supplies, household appliances, and furniture;

2. Discarded, scrap and junked lumber; or

3. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber or plastic debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material.

Kennel: Any place, building, tract of land, abode, enclosure, or vehicle which, for compensation:

1. provides food and shelter for dogs for purposes not primarily related to medical care, or

2. engages in the breeding of more than two female dogs for the sale of their offspring.

Lagoon: An artificial enlargement of a water body, primarily by means of dredging and excavation.

Land Use Authorization: As required by this Ordinance, the approval from the appropriate review authority prior to the construction, operation, or expansion of a land use or activity.

Laundromat: An establishment where, for compensation, clothes and the like are washed with soap and water.

Licensee (cannabis): As that term is defined in 28-B M.R.S. 102(1).

Limited Access Area (Cannabis): As that term is defined in 28-B M.R.S. 102(1).

Livestock Keeping: The keeping of animals such as poultry, rabbits, goats, sheep, pigs, bees, cows, or horses for the use of the immediate household and not for commercial purposes. The term livestock keeping does not include cats, dogs, or other household pets.

Live Theater/Entertainment Establishment: An indoor or outdoor area devoted to the showing of plays, dance, musical, comedy, or other live performances and may include related services such as concessions.

Log Concentration Yard: A parcel of land used for the temporary storage of whole timber or sections of logs for later transportation to a wood processing facility. Such use may include equipment and machinery necessary for the operation.

Lot: An area of land under separate ownership, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the Oxford County Registry of Deeds.

Lot Area: The total horizontal area of land enclosed within the lot lines, except any area precluded by any regulation in this Ordinance.

Lot, Corner: A lot with at least two contiguous sides abutting upon a street.

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

Lot Lines: The lines bounding a lot as follows:

Front Lot Line: On a lot which abuts only one street, the line separating the lot from the street right-of-way. On a corner or through lot, the line separating the lot from either street right-of-way. On a back lot, the line separating the lot from the lot in front of, and closer to the street than, that lot.

Rear Lot Line: The lot line opposite the front lot line.

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

Lot of Record: A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file at the Oxford County Registry of Deeds.

Lot, Shorefront: Any lot abutting a great pond or river.

Lot, Through: Any interior lot having frontages on two more or less parallel streets, or between a street and a water body, or between two water bodies, as distinguished from a corner lot. All sides of through lots adjacent to streets and water bodies are considered as frontage, and front setbacks must be provided as required.

Lot Width: On lots which do not have street frontage the horizontal distance between the side lot lines, measured at the minimum front setback line as established by this Ordinance.

Lumen: A unit used to measure the actual amount of light that is produced by a bulb. Lumen output is listed by the manufacturer on the packaging.

Manufactured Housing Unit: Mobile homes and modular homes.

Manufacturing or manufacture (Cannabis): As that term is defined in 28-B M.R.S. 102(1).

Mature Cannabis Plant: As that term is defined in 28-B M.R.S. 102(1).

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

Major Earthmoving Activity: Any operation which within any 12 month period removes more than 100 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and transports the product removed away from the extraction site or sells the product on-site.

Medical Use (cannabis): As that term is defined in 22 MRS Section 2422(8-A).

Medical Use Cannabis Cardholder: As that term is defined in 22 MRS Section 2422(8-A).

Medical Use Cannabis Licensee: A person permitted pursuant to this Ordinance to establish and operate a medical use cannabis operation

Medical Use Cannabis Operation: As that term is defined in 22 MRS Section 2422(8-A).

Medical Use Cannabis Product: As that term is defined in 22 MRS Section 2422(8-A).

Medical Use Cannabis Products Manufacturing Facility: As that term is defined in 22 MRS Section 2422(8-A).

Medical Use Cannabis Registered dispensary: As that term is defined in 22 MRS Section 2422(8-A).

Meteorological Tower – shall mean a structure designed to support the gathering of wind energy resource data and includes the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetery devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location relevant to siting a wind energy conversion system.

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

Mineral Extraction: An activity or process necessary for the extraction or removal of metallic minerals or overburden or for the preparation, washing, cleaning or other treatment of metallic minerals and includes the bulk sampling, extraction or beneficiation of metallic minerals, not including mineral exploration.

Minor Earth Moving Activity: The removal or filling of less than 100 cubic yards of material from or onto any lot within one year, unless located within 250 of any shoreline, or the removal or filling of material incidental to the construction, alteration, or repair of a building, or in the grading and landscaping incidental thereto, or the removal, filling, or transfer of material incidental to construction alteration or repair of a public or private way or essential service unless located within 250 feet if the shoreline.

Minor Street: A street servicing less than 15 lots or dwelling units.

Mobile Home: Structures which were constructed in a manufacturing facility, constructed on a permanent chassis, transportable in one or more sections, and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning, and electrical systems contained in the unit.

Mobile Home Park: A parcel of land under unified ownership designed and/or used to accommodate three or more mobile home units.

Modular Home: Structures which were constructed in a manufacturing facility, not constructed on a permanent chassis, transportable in one or more sections, and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning, and electrical systems contained in the unit.

Motel/Hotel/Inn: A building or group of buildings in which overnight lodging is offered to the general public for compensation. A Motel/Hotel/Inn may contain such accessory services as newsstands, personal grooming facilities, and restaurants.

Mother plant (Cannabis): As that term is defined in 28-B M.R.S. 102(1).

Motor Vehicle Sales: The use of a premise, or portion thereof, for the display, sale, or rental of more than 2 motor vehicles where service, not including substantial body work or painting is conducted as an accessory use.

Nadir: The lowest point.

Net Residential Acreage: The net residential acreage is calculated by taking the total area of the lot and subtracting, in order, the following:

a. Portions of the lot which, because of existing land uses or lack of access, are isolated and undevelopable for building purposes or for use in common with the remainder of the lot, as determined by the Planning Board.

b. Portions of the lot shown to be in the floodway as designated in the Flood Boundary and Floodway Map prepared by the Federal Emergency Management Agency.

c. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage, or subsoil conditions such as, but not limited to:

   (1) slopes greater than 20%

   (2) organic soils

   (3) wetland soils

   (4) 50% of the poorly drained soils

d. Portions of the parcel subject to a right-of-way.

e. Portions of the parcel located in the Resource Protection Overlay District.

f. Portions of the parcel covered by surface waters.

g. Portions of the parcel utilized for storm water management facilities.

h. Fifteen per cent (15%) of the remaining area of the parcel to account for roads.

Net residential acreage shall apply to the computation of development density and not to the permitability of building on any particular lot.

Noise: Sound.

Non-arterial Highway: Any street other than U.S. Route 302 and State Routes 5 and 113.

Non-conforming Use: Use of land or structures that is not permitted in the district in which it is located or which does not meet the performance standards prescribed for it by this Ordinance.

Non-conforming Structure: A structure that does not meet all of the following dimensional requirements: setbacks, height, footprint or and lot coverage, but which is allowed solely because it was in lawful existence at the time this ordinance or subsequent amendments took effect.

Non-conforming Lot of Record: A legally established building lot shown on a plan or deed recorded prior to the effective date of this Ordinance or amendment which does not meet the area, frontage, width or depth requirements of the district in which it is located.

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

Normal High Water Line: That line which is apparent because of visible markings, changes in the character of soil due to prolonged action of the water, or changes in the vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

Nursery Cultivation Facility (Cannabis): As that term is defined in 28-B M.R.S. 102(1).

Nursing Home: A facility, licensed by the State, which provides skilled nursing care and medical supervision to persons who are unable to care for themselves.

Official Business Directional Sign: A sign erected and maintained in accordance with the Maine Traveler Information Services Act, Title 23 M.R.S.A. Section 1906-1912, which points the way to public accommodations and facilities or other commercial facilities.

Outdoor Storage: Land area where goods and materials are stored in specific outdoor locations.

Passenger Transit Terminal: A facility or location where the principal use is the handling, receiving, and transfer of passenger traffic to other vehicles or modes of transportation.

Patio: An uncovered floor, usually made of concrete, brick, or other masonry material, which is not elevated above the surface of the ground.

Parking Space: An accessible area for the purpose of parking one automobile exclusive of drives, aisles or entrances, and meeting the Performance Standard in this Ordinance.

Place of Worship: A building or group of buildings used for the conduct of religious services.

Plant canopy (Cannabis): As that term is defined in 28-B M.R.S. 102(1)..

Playground: An area developed for recreational use primarily by children. It may contain sandboxes, slides, swings, climbing apparatus, and similar.

Plumbing Permit: A permit required for the installation of plumbing into a building and for the installation of a subsurface waste water disposal system or components.

Portable Storage Container: A non-self propelled, fully enclosed container that is designed or used to transport, ship, or store goods, materials, and equipment.

Potable: Safe for drinking as defined by the U.S. Environmental Protection Agency's (EPA) Drinking Water Standards and Health Advisories Table and Maine's interim drinking water standards for six different perfluoroalkyl and polyfluoroalkyl substances (PFAS), Resolve 2021 Chapter 82, *Resolve, To Protect Consumers of Public Drinking Water by Establishing Maximum Contaminant Level for Certain Substances and Contaminants*.

Premises/Premise: One or more parcels of land which are in the same ownership and/or lease, and are contiguous and are used for the same commercial purpose.

Principal Structure: The structure in which the primary use of the lot is conducted.

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

Privately Owned Street: A street which is not intended to be dedicated as a town road.

Projecting Sign: An outdoor sign which is attached to a wall and extends more than 18 inches at a 90 degree angle from the wall and clears the ground or sidewalk by at least 8 1/2 feet.

Propagation (cannabis): As that term is defined in 28-B M.R.S. 102(1).

Protected Natural Resource: Coastal sand dune systems, coastal wetlands, significant wildlife habitat, fragile mountain areas, freshwater wetlands, community public water system primary protection areas, great ponds and rivers, streams or brooks as defined by Title 38 M.R.S.A. § 480.B.

Public Facility: Any facility, including but not limited to buildings, property, recreation areas, and roads, which is owned, leased, or otherwise operated or funded by a governmental body or public entity.

Public Parks: Fryeburg public parks are Graustein Park, Bradley Park, Admiral Peary Park, Weston's Beach, Canal Bridge, Joseph Frye Homestead, Stark's Hill Rest Area, Baxter Memorial Park, Brownfield Bog Access, Skillings-Newman Memorial Park, Eastman Grove, Abraham Krasker Bog Pond Public Landing and Conservation Area, Jockey Cap, Town Forest and Nature Area.

Public Safety Facility: A place used to house or store public police, fire, or rescue equipment, and/or a building used as temporary living space for on-duty police, fire, or rescue personnel. Such uses may include accessory office uses.

Public Vantage Point: Any great pond, river, navigable stream, publicly accessible land protected by a conservation easement, public park, public property used by the general public for outdoor recreation, or property listed on the National Register of Historic Places.

Public Way: Any way designed for vehicular use and maintained with public funds.

Public Works Facility: A place used to house or store public highway equipment and/or materials. Such uses may include accessory office uses.

Qualifying patient: As that term is defined in 22 MRS Section 2422(8-A).

Reader Board Message Sign: A sign comprised of non-permanent letters, numerals, or symbols which allows a change in the signs message by adding or removing, or rearranging said letters, numerals, or symbols.

Reconstruction of a road: A process where greater than 660 lineal feet (1/8th mile) of a road way is removed down to it's base gravel, whereby necessary repairs can be made to improve its serviceability.

Recreational Facility: A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities.

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

Recycling Station: A building or area where the primary activity is the separation and temporary storage of recyclable materials prior to shipment to a permanent disposal site.

Registration Certificate (cannabis): As that term is defined in 28-B M.R.S. 102(1).

Registered Caregiver: As that term is defined in 28-B M.R.S. 102(1).

Registered Caregiver Cultivation Facility: A facility that cultivates, prepares and packages adult use cannabis and which may directly transfer the medical use cannabis to qualifying patients, but not via a registered caregiver retail store.

Registered Caregiver Retail Cannabis Store: A facility that offers for sale, to registered qualifying patients, medical use cannabis.

Registered Patient: As that term is defined in 22 MRS Section 2422(8-A).

Registry Identification Card: As that term is defined in 22 MRS Section 2422(8-A).

Repair: To take necessary action to fix normal damage or storm damage.

Replacement System: A subsurface sewage disposal system intended to replace: (1) an existing subsurface waste water disposal system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure; or (2) any existing overboard waste water discharge.

Reserve Frontage Street: A street which provides residential frontage other than that on a through traffic street.

Residential Use: Land use category 1 on the Land Use Table, in Section Five.

Residential Care: Care which is greater than that necessarily attendant upon mere eating and lodging services, but which is less than that attendant upon nursing home care or hospital care.

Residential Care Facility: A building or group of buildings where, for compensation, residential care is provided. This use does not include “nursing home” or “congregate care facility.”

Resource Based (as included in Land Use Category 2): The sale of products raised or grown on the premises.

Resource Protection Overlay District: See description in Section Twenty (20).

Restaurant: A place the primary use of which is to prepare and serve meals to the general public for compensation.

Right-of-Way: An easement allowing passage by vehicles and/or persons over another's property.

Riprap: Rocks that are irregularly shaped and at least six inches in diameter used for the purpose of erosion control and soil stabilization. Typically used on ground slopes of two units horizontal to one unit vertical or less.

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

Roof-Mounted Solar Energy System: A Solar Energy System of any size that is mounted on the roof of a legally existing building or structure.

Roof Sign: An outdoor sign which is affixed to a building and displayed above the eaves of that building.

River: See Water Body, River.

Sandwich Board Sign: A portable sign consisting of 2 panels of equal size, which are hinged at the top and placed on the ground so as to be self-supporting.

Sapling: A tree species that is less than 2 inches in diameter at 4.5 feet above ground level.

Sawmill: A mill or machine used for cutting logs into boards.

School: A place which offers an academic curriculum of college, professional, preparatory, high school, middle school, elementary, kindergarten, or nursery school instruction, or any combination thereof, and which may consist of amenities and facilities that are fundamental to the operation of a school such as dormitories, administration offices, and maintenance facilities. This does not include Special Purpose Schools.

School, Special Purpose: A place, typically commercially operated, where any specialized branch of knowledge such as art, fitness, dancing, gymnastics, music, automobile driving, business skills, not including horseback riding, is taught for compensation.

Seedling: A young tree species that is less than 4.5 feet in height above ground level.

Seedling (cannabis): As that term is defined in 28-B M.R.S. 102(1).

Self-storage facility: A building or group of buildings consisting of individual, self contained units leased to individuals, organizations , or businesses for self service storage of personal property with no commercial transactions permitted other than the rental of the storage units.

Setback: The horizontal distance between a structure and the property boundary. The terms street and road are to be considered synonymous with regard to frontline setback in all districts.

Front: The distance between the front lot line and the nearest part of the structure.

Side: The distance between the side lot line and the nearest part of the structure.

Rear: The distance between the rear lot line and the nearest part of the structure.

Street Right of Way: The distance between the street right of way and the nearest part of the structure.

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

Shoreland Overlay District: See description in Section Twenty.

Shoreland Zone: The land area which is required to be regulated by Title 38 M.R.S.A. Section 435.

Sign: An object, device, or structure, or part thereof, situated outdoors or displayed in a window, visible from a public way, freestanding or attached, which is used to advertise, identify, display, or attract and direct attention to an object, person, institution, organization, business, product, service, event, or location by any means including words, letters, figures, designs, symbols, images, colors, or illuminations.

Sign, Flashing: A sign whose illumination is not kept constant in intensity at all times when in use, and which exhibits changes in light, color, light direction, and/or animation. Illuminated signs which indicate the time and temperature are not considered as flashing signs.

Sign Area: The area of the smallest square, rectangle, triangle, circle, or combination thereof, which encompasses the facing of a sign, including copy, insignia, background, and/or borders. The structural supports of a sign are to be excluded in determining the signable area. Where a supporting structure bears more than one sign, all such signs on the structure are considered as one sign and so measured, unless it is a part of a business cluster.

Sign Permit: A permit issued by the Code Enforcement Officer for signs containing more than nine square feet of use.

Significant Wildlife Habitat:

1. The following areas to the extent that they have been mapped by the Department of Inland Fisheries and Wildlife or are within any other protected natural resource: habitat, as defined by the Department of Inland Fisheries and Wildlife, for species appearing on the official state or federal list of endangered or threatened animal species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; seabird nesting islands as defined by the

Department of Inland Fisheries and Wildlife; and critical spawning and nursery areas for Atlantic salmon as defined by the Department of Marine Resources; and

2. Except for solely forest management activities, for which "significant wildlife habitat" is as defined and mapped in accordance with section 480-I by the Department of Inland Fisheries and Wildlife, the following areas that are defined by the Department of Inland Fisheries and Wildlife and are in conformance with criteria adopted by the Department of Environmental Protection or are within any other protected natural resource:
    a. Significant vernal pool habitat
    b. High and moderate value waterfowl and wading bird habitat, including nesting and feeding areas
    c. Shorebird nesting, feeding and staging areas.

Small Wind Energy System: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100kW and which is intended to reduce on-site consumption of utility power.

Solar Energy System: An assembly of solar collectors (including solar photovoltaic technology such as solar panels or arrays) and associated footings, supports, mounting and stabilization devices, inverters, electricity storage equipment, transmission and distribution lines, and related infrastructure, which collects, converts, and stores solar energy into electrical energy, heats water, or produces hot air or other similar function and delivers such energy, heat, or other similar function for on-site or remote consumption. A Solar Energy System may be roof-mounted or ground-mounted.

Solar Energy System, Small-Scale: A ground-mounted Solar Energy System that occupies less than 3 acres of Solar Land Area.

Solar Energy System, Medium-Scale: A ground-mounted Solar Energy System that occupies 3 or more acres but less than 20 acres of Solar Land Area.

Solar Energy System, Large-Scale: A ground-mounted Solar Energy System that occupies 20 or more acres of Solar Land Area.

Solar Land Area: The aggregate area of land occupied by a Solar Energy System, including but not limited to: (i) solar panels and associated mounting hardware and equipment, (ii) all inter-panel space, and (iii) all impervious surfaces. Solar Land Area does not include parking lots, driveways, or roadways used to access the Solar Energy System or any areas adjacent to the Solar Energy System that are vegetated by grasses and must, by virtue of a legal instrument, be kept free of structures, trees, or shrubs in order for the Solar Energy System to collect sunlight.

Sound Pressure Level: The level of sound measured in dB units with a sound level meter which has a uniform ("flat") response over the band of frequencies measured.

Special Events: Circuses, fairs, carnivals, expositions, festivals, or other types of special activities that run for longer than one day but not longer than ten days, are intended to or likely to attract substantial crowds, and are unlike the customary or usual activities generally associated with the property where the special event is located.

Specified Sexual Activities: Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; or fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

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

Stream: See Water Body.

Street: Public and private ways such as alleys, avenues, highways, roads, and other rights-of-ways, as well as areas on a subdivision plan designated as rights-of-ways for vehicular access other than driveways, logging roads, or farm roads.

The term "street" does not include those which have been discontinued or abandoned.

Structure: Anything built, constructed or erected on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks and patios. Structures do not include fences, poles and wiring and other aerial equipment normally associated with service drops, including any guy wires and guy anchors; subsurface wastewater disposal systems as defined in Title 30-A Section 4201, subsection5; geothermal heat exchange wells as defined in Title 32, Section 4700-E subsection 3-c, or wells or water wells as defined in Title 32, Section 4700-E subsection 8.

Substantial Completion: Completion of 80% or more of a permitted structure or use measured as a percentage of estimated total cost.

Substantial Expansion: Floor space increase of 25% or new materials or processes not normally associated with the existing use.

Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or structural part of the building commences, whether or

not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or for any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historical Places.

Substantial Start: Completion of 30% of a permitted structure or use measured as a percentage of estimated total cost.

Subdivision: "Subdivision" as defined in Title 30-A M.R.S.A. Section 4401.

Subsurface Sewage Disposal System: A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or waste water on or beneath the surface of the earth. The term does not include any waste water discharge system licensed under 38 M.R.S.A. Section 414, any surface waste water disposal system licensed under 38 M.R.S.A. Section 413 Subsection 1-A, or any public sewer. The term does not include a waste water disposal system designed to treat waste water which is in whole or in part hazardous waste as defined in Title 38 M.R.S.A. Section 1301 *et seq.*

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

Telecommunications Facility - shall mean any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, and personal communications service (PCS) or pager services. Telecommunications Facilities shall be considered a principal use. Pre-existing accessory use towers/antennas shall be exempt from this definition.

Temporary Emergency, Construction, or Repair Dwelling: A residence that is:

1. Located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by the disaster, or

2. Located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in the residence when the work is completed, or

3. Located on a nonresidential construction site and occupied by persons having construction or security responsibility over such construction site.

Testing or test (cannabis): As that term is defined in 28-B M.R.S. 102(1).

Testing Facility (cannabis): As that term is defined in 28-B M.R.S. 102(1).

Threshold Height - shall mean the height, as defined above, below which a telecommunications facility does not need review and approval as a special exception, unless otherwise noted herein.

Tier 1 Adult Use Cannabis Cultivation Facility: As that term is defined in 28-B M.R.S. 102(1).

Tier 2 Adult Use Cannabis Cultivation Facility: As that term is defined in 28-B M.R.S. 102(1).

Tier 3 Adult Use Cannabis Cultivation Facility: As that term is defined in 28-B M.R.S. 102(1).

Tier 4 Adult Use Cannabis Cultivation Facility: As that term is defined in 28-B M.R.S. 102(1).

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

Time of Travel Boundary: A boundary beyond which groundwater will take more than a set period of time (i.e., 200 days) to travel to a given point (i.e., a pumping well).

Tower - shall mean any structure, whether freestanding or in association with a building or other permanent structure, that is designed and constructed primarily for the purposes of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and similar structures.

Tower Height - The distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna or wind turbine blade when the tip is at its highest point.

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

Tributary Stream: See Water Body.

Trucking Terminal: An area or building where trucks load and unload cargo and freight and where cargo and freight may be broken down or aggregated into smaller and larger loads for transfer to other vehicles or modes or transportation.

Unit: A measure of land use density. Each building with any non-dwelling unit (excluding accessory buildings for single-dwelling units) or use shall constitute one unit. Each dwelling unit shall constitute one unit. In cases where one building accommodates both non-dwelling units or uses and dwelling units, the total number of units shall be equal to the sum of one for all non-dwelling unit(s) in the building and one for each dwelling unit in the building.

Upland Edge: The boundary between upland and wetland.

Utility Corridor: Right-of-way, easement, or other corridor for transmission wires, pipes or other facilities for conveying energy, communication signals, fuel, water, wastewater, etc. Municipal water supply distribution mains, operational, or maintenance facilities, are excluded from restrictions in the Wellhead Protection Table.

Utility Facility: Any facility (not including an office building, business office, storage yard, or vehicle or equipment maintenance or repair facility) operated by an electrical utility, a telephone utility, a water district or private water company, a sanitary district, a sewer district or municipal sewer department, a cable television supplier, or any other utility. Such facilities include: sanitary sewer lines, water lines, pumping and pressure control stations, telephone equipment huts, telephone and electrical power transmission lines (including poles, cross connects, subscriber loop carriers, network interface equipment, distribution area interfaces, service drops, and similar structures), standpipes, reservoirs, wells and other water storage structures, electricity regulating substations, water treatment plants, electric generating plants, and electric transmission lines. Utilities do not include microwave, radio, television, or other telecommunication transmitters and towers. For the purposes of this Ordinance there are three classifications of utility facilities as follows:

Small Scale Utility Facility: A utility facility consisting of structures which cover no more than 200 square feet of land. Also in this classification are utility distribution lines.

Medium Scale Utility Facility: A utility facility consisting of structures other than utility transmission lines and utility distribution lines, which cover more than 200 square feet of land but less than 500 square feet of land.

Large Scale Utility Facility: A utility facility consisting of structures which cover 500 square feet or more of land. Also in this classification are utility transmission lines.

Utility Distribution Lines: Poles, wires, cables, conduits, pipes, ducts, instruments, and appliances used to deliver the service or products of a utility after it leaves transmission lines. Utility distribution lines distribute and/or deliver services or products to consumers or customers in quantities or intensities usable by the consumers or customers.

Utility Transmission Lines: Poles**,** wires, cables, conduits, pipes, ducts, instruments, and appliances which carry the service or products of a utility from point to point but do not deliver or distribute the service or product directly to the ultimate consumers or customers. As compared to utility distribution lines, utility transmission lines cover longer distances and carry the service or product in greater quantity or at greater intensity.

Vegetation: All live trees, shrubs, ground cover, and other plants.

Visible: Capable of being seen without visual aid by a person of normal visual acuity.

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

Wall Sign: An outdoor sign which is attached flat to, painted on, or pinned away from the wall and does not project more than 18 inches from the wall.

Wall Sign Area: The area of the sign or facade of a building up to the roof line, excluding windows, doors and major architectural features.

Warehousing: Storage, deposit, or stocking of merchandise or commodities in a structure or room.

Water Body:

Great Pond: Any body of water which in a natural state has a surface area in excess of ten acres, and any body of water artificially formed or increased which has a surface area in excess of 30 acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner. The following bodies of water are great ponds: Black Pond, Bog Pond, Cat Pond, Charles Pond, Clays Pond, Dead Lake, Horseshoe Pond, Hunt Pond, Kezar Pond, Lovewell Pond, Lower Kimball Pond and Pleasant Pond.

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

River: A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of 25 square miles to its mouth. The following bodies of water are rivers: the Saco River from the

Maine State line to the Brownfield town line; the Old Course of the Saco River from the confluence of the Charles River to the Saco River; the Kezar River from the confluence of Popple Hill Brook to the Old Course of the Saco River; the Kezar Outlet from the Lovell town line to the Old Course of the Saco River; the Charles River from Charles Pond to the Old Course of the Saco River; and the Cold River from the Stow town line to Charles Pond.

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

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

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

Waterfront: Abutting a water body.

Water-Oriented Uses: A use which by its nature of operation requires a waterfront location.

Wellhead: The specific location of a well (a hole or shaft dug or drilled to obtain water) and/or any structure built over or extending from a well.

Wellhead Protection Area: As defined by the U.S. Safe Drinking Water Act: The surface and subsurface area surrounding a water well or wellfield, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such well or wellfield.

Wetland: Freshwater swamps, marshes, bogs, and similar areas, other than forested wetlands, which are:

1. Of ten or more contiguous acres; or of less than tem contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a normal state, the combined surface area is in excess of ten acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition. Also see Forested Wetlands.

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

Wind Energy System – shall mean equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system.

Wind Tower – shall mean a monopole, freestanding, or guyed structure that supports a wind turbine generator.

Wind Turbine Height – shall mean the height above grade to the tip of the turbine blade when it reaches its highest elevation.

Wind Tower Farm: More than 1 wind tower located on a single lot for the purpose of creating energy for sale.

Woody Vegetation: Live trees or woody, non-herbaceous shrubs.

Written Certification (cannabis): As that term is defined in 22 MRS Section 2422(8-A).

Yard Sale: The activity of selling or offering to sell household or personal articles (such as, but not limited to, furniture, tools, or clothing) on the lot on which the owner of the articles resides, provided that such activity occurs on no more than 15 days in the aggregate during any calendar year commencing on or after January 1, 1997. Any such activity occurring on more than 15 days in the aggregate per calendar year shall constitute a retail store. Any such activity commenced prior to the adoption of this Ordinance shall not constitute a lawful non-conforming use under Section Four of this

Ordinance and can occur only as permitted pursuant to this definition. The term yard sale shall include garage sales, porch sales, tag sales, and the like.

Yurt: A soft-sided dwelling that is portable and self-supporting. A yurt rental facility would consist of 2 or more yurts in which overnight lodging is offered to the general public for compensation

Zone of Contribution: The area from which groundwater flows to a pumping well. Also, the entire area around a well that is recharging or contributing water to the well.