# ZONING ORDINANCE

## Town of

## HOLDEN, MAINE

Adopted June 11, 2008
Amended June 8, 2009
Amended December 21, 2009
Amended January 19, 2021
Amended January 10, 2022
Amended April 11, 2023
Amended October 15, 2024
Amended February 10, 2025
Amended September 15, 2025

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# ARTICLE 1: GENERAL PROVISIONS

## 101 TITLE

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

## 102 AUTHORITY

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

## 103 PURPOSES

The purposes of this Ordinance are as follows:

### 103.1 COMPREHENSIVE PLAN IMPLEMENTATION

To implement the policies and recommendations of the Holden Comprehensive Plan;

### 103.2 PRESERVATION OF THE TOWN CHARACTER

To preserve and protect the character of Holden by dividing the Town into neighborhood zones according to the use of land and buildings and the intensity of such uses;

### 103.3 PROTECTION OF THE GENERAL WELFARE

To assure the comfort, convenience, safety, health, and welfare of the present and future inhabitants of the Town of Holden;

### 103.4 PROTECTION OF THE ENVIRONMENT

To protect and enhance the natural, cultural, and historic resources of the Town from unacceptable adverse impacts and to integrate new development harmoniously into the Town's natural environment;

### 103.5 PROMOTION OF COMMUNITY DEVELOPMENT

To promote the development of an economically sound and stable community;

### 103.6 REDUCTION OF TRAFFIC CONGESTION

To lessen the danger and congestion of traffic on roads and highways, limit excessive numbers of intersections, driveways, and other friction points, minimize hazards, and insure the continued usefulness of all elements of the existing transportation system for their planned function;

### 103.7 BALANCING OF PROPERTY RIGHTS

To protect property rights and values by balancing the rights of landowners to use their land with the corresponding rights of abutting and neighboring landowners, to enjoy their property without undue disturbance from abutting or neighboring uses;

### 103.8 REDUCTION OF FISCAL IMPACT

To provide a means of evaluating development proposals to determine their fiscal impacts on the municipality's ability to provide and improve necessary public facilities and services; and

103.9 ESTABLISHMENT OF PROCEDURES AND STANDARDS

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

## 104 APPLICABILITY

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

## 105 CONFLICT WITH OTHER ORDINANCES

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

## 106 SEVERABILITY

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

## 107 AMENDMENTS TO ORDINANCE AND OFFICIAL ZONING MAP

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

107.1 INITIATION

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

107.1.1 The Planning Board, by majority vote;

107.1.2 The Town Council, through a request to the Planning Board; or

107.1.3 Any 5 qualified voters may begin initiative proceedings by a request in writing to the Town Clerk. The Clerk shall provide the appropriate petition blanks within 5 days of when they are requested. The complete text of the proposed amendment shall be included in the request. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain or have attached thereto throughout their circulation the full text of the proposed amendment. These 5 qualified voters shall be referred to as the Requesting Committee during the initiative procedure. The Requesting Committee shall have 30 days from the acceptance date of the request by the Town Clerk to cause the petitions to be signed by 5% of the number of votes cast in the Town at the last gubernatorial election but not fewer than 70 voters. Any voter of Holden may circulate the petition. The petition shall be signed only once by qualified voters of the Town and each voter's signature shall be followed by his/her address. An affidavit-of-the-circulator,

similar to that which is required in MRSA Title 30-A, Section 2102(3) (b)(3), as amended, will be required.

Petitioners may present their petitions to the Clerk at any time during the circulation period within 7 days after the petition circulation period ends, the clerk shall certify to the Town Council and notify the Requesting Committee that the petition has been signed by 5% of the total of qualified voters who cast votes in the last gubernatorial Election but not fewer than 70 voters.

Should fewer qualified voters than required by this Ordinance sign the petition in the specific time, the petition shall have no further force or effect, and all proceedings thereon shall be terminated. A request to initiate the same amendment may not be accepted by the Clerk until 120 days after the expiration of the previous filing period.

Upon receipt of certification, the Planning Board shall within 30 days hold a public hearing, notice of which shall be given at least 7 days in advance by publication in a newspaper having a circulation in the Town of Holden and by posting a notice at the Municipal Building and another public place in Holden, and shall within 60 days after said public hearing hold a municipal election for the purpose of submitting to vote the question of adopting such amendment.

Any such proposed amendment shall be examined by the town attorney before being circulated for signatures. The town attorney is authorized to edit the form of such proposed amendment for the purpose of avoiding repetitions, illegalities, and unconstitutional provisions, and to assure accuracy in its text and references, and clarity and precision in its phraseology, but he/she shall not materially change its meaning and effect. If the town attorney cannot edit or correct the proposed amendment, he/she shall so advise the requesting committee who may revise the proposed amendment. If not revised, the town attorney shall advise the voters at the public hearing of the shortcomings of the proposed amendment.

When an amendment to this Ordinance is proposed by other than the municipal officers or Planning Board, a fee of two hundred fifty dollars ($250 plus public hearing costs) shall accompany the proposal to cover the cost of review, hearings, and advertisements. This fee is non-refundable.

107.2 PROCESS OF ADOPTION

The process to be followed in adopting an amendment to this Ordinance or the Official Zoning Map is as follows:

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

107.2.2 The Planning Board shall, within thirty (30) days of receiving a proposed amendment, set a date to hold a public hearing on the proposed amendment;

107.2.3 Notice of the public hearing shall be posted in the municipal office at least fourteen (14) days before the public hearing. Notice must also be published at least two (2) times in a newspaper having general circulation in the community. The date of the first publication must be at least seven (7) days before the hearing. Notice must also be sent to the owner or owners of property to be rezoned and to the owners of all property abutting property to be rezoned at the owners' last known address. Notice also must be sent to a public drinking water supplier if the area to rezoned is within its source water protection area. This notice must contain a copy of the proposed conditions and restrictions with a map indicating property to be rezoned;

107.2.3 The Planning Board shall make its official report at a Town Council meeting occurring within sixty (60) days after the public hearing;

107.2.4 Enactment of a proposed amendment shall follow the procedure outlined in Article II, Section 2.13.6 of the "Charter for Holden, Maine, dated November 6, 2018, as amended.; and

107.2.5 Amendments adopted by the Town Council shall follow the procedure outlined in Article II, Section 2.07 of the "Charter for Holden, Maine, dated November 6, 2018, as amended.

107.3 NOTIFICATION OF STATE

The Commissioner of the Department of Environmental Protection shall be notified of amendments to this Ordinance or Zone Boundaries in shoreland areas as required by the Mandatory Shoreland Zoning Act, Title 38, M.R.S.A., Section 438-A, Sub-Section 3.

Such amendments shall not become effective unless approved by the Commissioner. If the Commissioner fails to act on an amendment within forty-five (45) days, it shall be deemed approved.

107.4 CONDITIONAL ZONING

An application for conditional zoning may be submitted for a use specifically allowed as set forth in the Schedule of Uses, Section 406. The provisions of State law, Title 30-A MRSA Section 4352, Subsection 8, and Article II, Sections 207.5, 2.13.5, Charter for Holden, Maine, dated November 6, 2001, as amended, and the following requirements shall govern all applications for conditional zoning.

107.4.1 DEFINITION. For the purposes of this Section, Conditional Zoning shall mean the process by which the Town of Holden may rezone property to permit the use of that property subject to conditions not generally applicable to other properties so zoned.

107.4.2 PROCEDURE.

107.4.2.1 APPLICATION. Persons requesting consideration under the provisions of this section shall submit a letter of request to the Code Enforcement Officer. The Code Enforcement Officer shall determine if the proposed project meets the mandatory conditions outlined in Section 107.4.4 below and shall then forward a copy of the application to the Planning Board with a written statement as to the application's compliance with Section 107.4.4.

107.4.2.2 PLANNING BOARD REVIEW. Except as otherwise noted in the following paragraphs, the Planning Board shall review the proposed application in accordance with the requirements of Section 107.2 and the requirements of Title 30-A MRSA Section 4352 (10).

107.4.2.3 PUBLIC HEARING. The Planning Board shall conduct a public hearing on any request for conditional zoning. Notice of this hearing must be posted in the municipal office at least fourteen (14) days before the public hearing. Notice must also be published at least two (2) times in a newspaper having general circulation in the community. The date of the first publication must be at least seven (7) days before the hearing.

Notice must also be sent to the owner or owners of the property to be rezoned and to the owners of all property abutting the property to be rezoned at the owners' last known address. Notice also must be sent to a public drinking water supplier if the area to rezoned is within its source water protection area. This notice must contain a

copy of the proposed conditions and restrictions with a map indicating the property to be rezoned.

107.4.2.4 OFFICIAL REPORT TO THE TOWN COUNCIL. The official report to the Town Council shall include Findings of Fact and a list of mandatory conditions and recommended discretionary conditions to apply to the property.

107.4.2.5 TOWN COUNCIL. The Town Council shall process the request for Conditional Zoning in accordance with the provisions of Article 2, Section 2.13.6 of the Charter for Holden, Maine, dated November 6, 2001, as amended. The proposed change shall contain the mandatory conditions set forth in Section 107.4.4 plus any discretionary conditions set forth in paragraph 107.4.5.

107.4.2.6 ENACTMENT. Enactment of the zone change under the terms of these provisions shall be considered an amendment to this Ordinance and the conditions approved as part of the Conditional zone change shall be binding upon the property regardless of whether the property is sold, leased or otherwise conveyed to parties other than the applicant.

107.4.3 FINDINGS OF FACT. When reviewing any proposal for conditional zoning, the Planning Board shall consider the following criteria in making its written recommendation to the Town Council. Before recommending approval, the Planning Board shall determine that the proposed conditional zoning meets the following criteria as well as the mandatory conditions:

107.4.3.1 That the proposed use shall meet all of the area, front yard, side yard, rear yard, and height requirements of the proposed zone; any of the discretionary conditions of this Section as applied shall be in addition to the zone's minimum requirements.

107.4.3.2 That the proposed use will not create unreasonable traffic congestion on contiguous or adjacent streets. The proponent of the zone change shall submit the following evidence:

107.4.3.2.1 The estimated peak-hour traffic to be generated by the proposed zone change;

107.4.3.2.2 Existing traffic counts on surrounding streets and roads;

107.4.3.2.3 Traffic accident data covering the most recent four-year period. Such data shall be by date, and shall indicate both personal and property damage by accident;

107.4.3.2.4 The capacity of surrounding roads and any improvements necessary to accommodate anticipated traffic generation, including traffic signals, signs, other directional markers as well as geometric road changes

107.4.3.3 That steps have been or will be taken by the applicant to provide and maintain adequate and appropriate utilities, sewage disposal, drainage, solid waste disposal, access, parking and loading and other necessary site improvements. The applicant shall submit materials, documents and plans which employ standard engineering methods to the Code Enforcement Officer for review not less than fifteen (15) work days prior to the public hearing. The Code Enforcement Officer shall provide a written commentary on the adequacy of the documents.

Copies of the Code Enforcement Officer's commentary shall be made available to the applicant and Planning Board not less than five working days prior to the public hearing.

107.4.3.4 That the proposed use(s) will conform to the general character of the neighborhood. In making such determination, the following shall be considered:

107.4.3.4.1 BUILDINGS AND STRUCTURES

107.4.3.4.1.1 The color and materials shall match or complement those used on nearby structures;

107.4.3.4.1.2 There shall be similarity or successful transition in scale, building form and proportion between the proposed structure/use and existing structures located within four hundred feet (400') thereof;

107.4.3.4.1.3 The proposed structure/use shall use plant materials, fencing, and walkways which are compatible with the character of the neighborhood in size, material and color.

107.4.3.4.2 PRESERVATION OF LANDSCAPE. The landscape shall be preserved in its natural state, insofar as practicable, in accordance with the requirements of Section 527 PRESERVATION AND ENHANCEMENT OF THE LANDSCAPE, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.

107.4.3.4.3 SETBACKS AND SCREENING. The proposed use(s) shall meet the requirements of Section 504 of this Ordinance, BUFFERING AND SCREENING, so as to minimize any adverse impact on land uses in the neighborhood.

Determination of the adequacy of visual screening shall be based on line of sight observations from existing structures. Upon request of the Planning Board the applicant for the zone change shall present an accurate vertical and horizontal control map depicting existing buildings and structures adjacent to the proposed conditional zone change, and proposed improvements in the proposed zone change area.

107.4.3.4.4 PARKING/LOADING. Off-street parking areas for more than three (3) vehicles and loading spaces as may be required shall meet the requirements of Section 504 of this Ordinance, BUFFERING AND SCREENING.

107.4.3.4.5 The extent, uses, character, and value of existing development in the neighborhood.

In making a determination that the proposed use will be in keeping with the use, character and value of existing development, the Planning Board, at the expense of the applicant, may engage the services of qualified professionals such as architects and landscape architects to help them in making their determination. The choice of professionals shall be at the sole discretion of the Planning Board.

107.4.3.5 That there would be no significant adverse effect resulting from the proposed zone change and use(s) authorized upon the public health, safety and general welfare of the neighborhood.

107.4.4 MANDATORY CONDITIONS. Any zone change adopted pursuant to this Section shall:

107.4.4.1 Be consistent with the Comprehensive Plan and the Zoning and Subdivision Ordinances and other land use ordinances of the Town of Holden;

107.4.4.2 Be consistent with the existing and permitted uses within the original zone(s); and

107.4.4.3 Only include conditions and restrictions that relate to the physical development or operation of the property.

107.4.5 DISCRETIONARY CONDITIONS. Any zone change adopted pursuant to this Section may include reasonable conditions or restrictions relating to one or more of the following:

107.4.5.1 Limitations on the number and type of authorized uses of the property;

107.4.5.2 Limitations on the height and lot coverage;

107.4.5.3 Increased setbacks and side yards for any structure or structures built on the property;

107.4.5.4 The installation, operation and maintenance of physical improvements for the convenience of the general public, including but not limited to, off-street parking lots, traffic control devices, fencing, shrubbery, screening and landscaping;

107.4.5.5 The creation, operation and maintenance of open space areas or buffer zones;

107.4.5.6 The dedication or conveyance of property for public purposes, including but not limited to streets, scenic and conservation easements, parks and utility systems;

107.4.5.7 The maintenance and preservation of architecture and land deemed by the Holden Planning Board to have historical, environmental, or aesthetic significance or value to the community.

107.4.6 FEES. Any costs, including reasonable attorney fees, postage, printing, publishing and toll telephone calls incurred by the Town in processing the application for conditional zoning and for administering its provisions shall be paid by the applicant whether or not the zoning change receives approval.

107.4.7 EXPIRATION. Conditional zoning changes enacted by the Town Council shall expire, and the property shall revert to its prior zoning status, unless work on the project is commenced within twelve (12) months of the date of enactment and substantially completed within twenty-four (24) months of that date, provided that the Town Council may act to extend the conditional zoning at any time.

107.4.8 FUTURE VILLAGE ZONE. The Conditional Zoning provisions of Section 107.4 may be used for the creation of up to two (2) new Village Center zones within any 10-year period provided that the Planning Board finds that the request for conditional rezoning complies with all of the preceding provisions of Section 107.4 and that the proposed village development:

107.4.8.1. Is in keeping with the vision set forth in the State Planning Office "The Great American Neighborhood;

107.4.8.2. Is based on a comprehensive design plan showing new streets, walkways, open spaces, public spaces such as a town square or village green, fire station, community center, etc.

107.4.8.3. Is not limited to strip development along existing town roads;

107.4.8.4. Will be located on soils appropriate for the use;

107.4.8.5. Is in reasonable proximity to Route 1A;

107.4.8.6. Will utilize parallel access roads when adjacent to Route 1A or the I-395 Connector; and

107.4.8.7. Will provide for water, sewer, storm drainage and other infrastructure.

## 108 ANNUAL ADMINISTRATIVE REVIEW

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

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

108.2 Enhance the implementation of the purposes of this Ordinance contained in Section 103 above.

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

## 109 EFFECTIVE DATE

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

## 110 REPEAL OF PRIOR ORDINANCE

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

# ARTICLE 2: NON-CONFORMITY

## 201 NON-CONFORMITY DEFINED

A legally existing (grandfathered) non-conforming lot, structure, sign, or use that lawfully existed immediately prior to the enactment of the Ordinance, or any subsequent amendment hereto, and which, as a result of the enactment or subsequent amendment, fails to comply with any of the requirements of this Ordinance. Such requirements shall include, but are not limited to, the use restrictions and lot standards for the zone in which it is located, or any Land Use Standards set forth in Articles 5 and 6. An illegal non-conformity is any lot, structure, sign, or use that fails to comply with any of the requirements of this Ordinance or its amendments.

## 202 GENERAL PROVISIONS

The following provisions apply to non-conformities generally:

### 202.1 NORMAL REPAIR AND MAINTENANCE

The normal upkeep and maintenance of non-conforming structures including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as Federal, State, or local building and safety codes may require are permitted.

### 202.2 TRANSFER OF OWNERSHIP

Any legal non-conformity may be transferred and the new owner may, subject strictly to the requirements of this Section, continue such non-conformity, provided, however, that nothing contained herein shall be construed to permit any person or entity to occupy or use any lot or structure or to continue any use in violation of any other Federal, State, or Municipal statute, ordinance, or regulation.

### 202.3 ILLEGAL NON-CONFORMITY

Any illegal non-conformity shall cease or be corrected immediately. Any continuation of an illegal non-conformity is a violation of this Ordinance.

### 202.4 BURDEN OF PROOF RELATED TO ESTABLISHING LEGAL NON-CONFORMITY

The burden of establishing that any non-conformity is a legal non-conformity shall, in all cases, be upon the owner of such non-conformity and not upon the Town of Holden.

### 202.5 CONVERSION TO CONFORMITY ENCOURAGED

All non-conformities shall be encouraged to convert to conformity whenever possible and, when required by this Ordinance, shall convert to conformity.

### 202.6 REVERSION TO NON-CONFORMITY PROHIBITED

Once converted to conformity, no lot, structure, or use shall revert to non-conformity.

## 203 NON-CONFORMING STRUCTURES

The following provision shall apply to non-conforming structures:

### 203.1 EXPANSION OF NON-CONFORMING STRUCTURES

A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority identified in Article 4, as that for a new structure, if such addition or

expansion does not increase the non-conformity of the structure. Such expansion is further limited as follows:

203.1.1 After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by thirty percent (30%) or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 203.3, and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989, had been expanded by 30% in floor area and volume since that date.

203.1.2 Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 203.2, Relocation, below if;

203.1.2.1 the completed foundation does not extend beyond the exterior dimensions of the structure except for expansion in conformity with Section 203.1, above; and

203.1.2.2 the foundation does not cause the structure to be elevated by more than three (3) additional feet as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

203.1.3 No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream or wetland.

203.2 RELOCATION OF NON-CONFORMING STRUCTURES

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 a manner that causes the system to be less 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 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 setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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

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

203.2.2 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.

203.3 RECONSTRUCTION OR REPLACEMENT OF NON-CONFORMING STRUCTURES:

Any non-conforming structure which is located less than the required setback from a water body, tributary stream or wetland, or from the property line, or which otherwise fails to meet the dimensional requirements of the Ordinance, and which is removed, or damaged or destroyed, regardless of cause, by more than fifty percent (50%) of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced within eighteen (18) months of the date of said damage, destruction, or removal, provided that such reconstruction or replacement is in compliance with the water body, tributary stream, wetland, or property line setback requirements to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 203.1, above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume 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 for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replaced in accordance with Section 203.2, above.

Any structure which is located less than the required setback from a water body, tributary stream, wetland, or property line and which is removed by 50% or less of the market value, or damaged or destroyed by fifty percent (50%) or less of the market value of the structure, excluding normal maintenance and repairs, may be repaired or reconstructed in place within eighteen (18) months of such damage or destruction, with a permit from the Code Enforcement Officer.

In determining whether the building reconstruction or replacement meets setbacks to the "greatest practical extent" the Planning Board or its designee shall consider in addition to the criteria in Section 203.2 above, the physical condition and type of foundation present, if any. It is not the intent of this Section to require the destruction of functional concrete or block foundations in order to meet setback requirements.

203.4 CHANGE OF USE OF A NON-CONFORMING STRUCTURE IN THE SHORELAND AREA

The use of a non-conforming structure in the Shoreland Area may not be changed to another use unless the Planning Board after receiving a written application determines that the new use will not have a greater adverse impact on the water body, tributary stream or wetland, or on the property on which it is located or on adjacent properties and resources than the existing use.

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

# ARTICLE 2: NON-CONFORMITY

## 204 EXISTING NON-CONFORMING MOBILE HOMES

Notwithstanding any other provision of this Ordinance, the lawful use of a mobile home as a single-family dwelling, in any zone, which use legally existed on the date of the enactment of this Ordinance may be continued, except that the mobile home shall not be:

204.1 Rebuilt, altered, or repaired after being damaged in excess of fifty percent (50%) of its replacement cost at the time of destruction as determined by the Code Enforcement Officer, except that such mobile home may be replaced as provided in the exception contained in Section 204.2 below, or may be rebuilt or repaired to its original condition if the mobile home had, before destruction, been certified or excluded as provided in said exception; or

204.2 Replaced with a different mobile home, unless the new mobile home is certified, pursuant to 42 U.S.C. Sub-Section 5415, as amended, as conforming to all applicable Federal manufactured home construction and safety standards, or is excluded from the coverage of 42 U.S.C. Sub-Section 5401 et seq. Any mobile home lawfully used as a single-family dwelling may be improved by the addition of a foundation or by other new construction, alteration, or repair, subject to the requirements of any applicable building code or other law, and subject to the other provisions of Articles 5 and 6.

## 205 NON-CONFORMING USES

The following provisions shall apply to non-conforming uses:

205.1 EXPANSION

Expansion of non-conforming uses is prohibited.

205.2 RESUMPTION PROHIBITED

A lot, building, or structure in or on which a non-conforming use ceases to be actively pursued for a period exceeding one (1) year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use.

205.3 CHANGE OF USE

An existing non-conforming use may not be changed to another non-conforming use.

## 206 NON-CONFORMING LOTS OF RECORD

206.1 NON-CONFORMING LOTS OF RECORD

A single, vacant parcel of land, the legal description or dimensions of which are recorded on a document or map on file at the Penobscot County Registry of Deeds at the effective date of this Ordinance or any amendment, and which, as a result of the enactment or respective amendment of this Ordinance, does not meet the lot area, frontage, and/or width requirements of the Zone in which it is located, and which does not adjoin another parcel in common ownership, may be built upon, without the need for a variance, subject to the following:

206.1.1 Such building or construction shall be a use that is allowed in the zone and meet all other requirements of this Ordinance.

206.1.2 No construction shall be commenced until the owner demonstrates to the satisfaction of the Code Enforcement Officer that there is reasonable access to the site for emergency vehicles.

206.1.3 Such building shall be limited to single-family dwellings and accessory structures, except:

206.1.3.1 In the Village Center Zone, the General Commercial Zone, the Limited Commercial Zone, and in the Community Service/Institutional Zone, where such building shall be limited to the permitted uses.

Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals.

206.2 CONTIGUOUS BUILT LOTS

If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the Subsurface Wastewater Disposal Rules are complied with.

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

206.3 CONTIGUOUS LOTS - VACANT OR PARTIALLY BUILT

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

# ARTICLE 3: ESTABLISHMENT OF ZONES

## 301 ZONES ESTABLISHED

For the purposes of this Ordinance, the Town of Holden is hereby divided into the following Zones:

**Growth Zones**

301.1 General Commercial Zone (GC).
301.2 Limited Commercial Zone (LC).
301.3 Community Service/Institutional Zone (CS/I).
301.4 Village Center Zone (VC)
301.5 High Density Residential Growth Zone (R1G)

**Rural Zones**

301.6 High Density Residential Zone (R1).
301.7 Low Density Residential Zone (R2).
301.8 Rural Resource/Residential Zone (R3).
301.9 Shoreland Residential Zone (R4).
301.10 Resource Protection Zone (RP).
301.11 Stream Protection Overlay Zone (SP)
301.12 Aquifer Protection Overlay Zone (AP)
301.13 Telecommunications Overlay Zone (TC)

## 302 STANDARDS ESTABLISHING ZONES

**Growth Zones**

302.1 GENERAL COMMERCIAL ZONE (GC)

The General Commercial Zone is established to provide locations for business activities requiring large scale buildings, large outdoor display areas and wholesale areas, and extensive site development providing employment and service beyond the immediate neighborhood or community.

302.2 LIMITED COMMERCIAL ZONE (LC)

The Limited Commercial Zone is established to provide locations for the traditional retail and service needs of the local community and adjacent neighborhoods. The scale of commercial development in these areas is intended to be in keeping with the residential character of these areas. The intent is to limit larger outdoor display areas and wholesale businesses.

302.3 COMMUNITY SERVICE/INSTITUTIONAL ZONE (CS/I)

The Community Service/Institutional Zone is established to provide locations for a range of public, semi-public, and institutional activities, as well as limited private retail and service uses, all established to serve the local community or neighborhood. Such uses should be compatible with the traditional village setting and of a scale in keeping with the residential development of these areas.

302.4 VILLAGE CENTER ZONE (VC)

The Village Center Zone is established to encourage a new Town/Village Center as shown on the Zoning Map. The minimum lot size and frontage requirements are smaller in order to encourage a greater density of development than in other parts of the community, and uses are limited to those which would be compatible with a traditional village center.

302.5 HIGH DENSITY RESIDENTIAL GROWTH ZONE (R1G)

The High Density Residential Growth Zone is established to encourage high density residential growth within the center of the community. The R1G Zone is the same as the R1 Zone except that in the RIG Zone, an additional dwelling is allowed in the same structure without an increase in the required minimum lot size (see Section 508 of this Ordinance).

**Rural Zones**

302.6 HIGH DENSITY RESIDENTIAL ZONE (R1)

Encompassing most of the older residential neighborhoods and located within convenient reach of the business facilities, the R-1 Zones are expected to contain most of the multi-family or apartment type dwellings likely to be needed by the community. However, in harmony with the established neighborhoods, the predominant land use will probably continue to be single-family residences. As in the R-2 Zones, certain additional uses which contribute to balanced neighborhoods and enhance the attractiveness of the community are permitted.

302.7 LOW DENSITY RESIDENTIAL ZONE (R2)

The R-2 Zone is established as a zone primarily for single-family dwellings. Other uses permitted in the zone are those which are harmonious with the traditional pattern and character of these residential neighborhoods.

302.8 RURAL RESOURCE/RESIDENTIAL ZONE (R3)

Encompassing most of the area outside the settled areas, the R-3 Zones are intended for the kinds of uses which have traditionally predominated in rural New England, forestry and farming, farm residence, and a scattering of varied uses not inconsistent with a generally open, non-intensive pattern of land use.
The minimum lot size requirement is high in order to prevent over-development where a full range of Town services cannot be provided economically.

302.9 SHORELAND RESIDENTIAL ZONE (R4)

The Shoreland Residential Zone is established to provide locations for recreational residences in shorefront areas. Such areas are intended for limited non-permanent habitation.

302.10 RESOURCE PROTECTION ZONE (RP)

The Resource Protection Zone includes:

302.10.1 Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands and wetlands associated with great ponds, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF& W or the Department as of December 31, 2008. For the purposes of this paragraph, "wetlands associated with great ponds" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond, and have a surface elevation at or below the water level of the great pond during the period of normal high water. "Wetlands associated with great ponds" are considered to be part of that great pond.

302.10.2 Shoreland areas of two (2) or more contiguous acres with sustained slopes of twenty percent (20%) or greater.

302.10.3 Shoreland areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not sufficiently connected to a water body during the period of normal high water.

302.11 STREAM PROTECTION OVERLAY ZONE (SP)

The land within seventy-five feet (75'), horizontal distance, of the normal high-water line of a stream. Land uses and activities in the Stream Protection Overlay Zone must comply with the Shoreland Standards of Article 6 of this Ordinance, in addition to the standards applicable to the Zone which is overlayed.

302.12 AQUIFER PROTECTION OVERLAY ZONE (AP)

The Aquifer Protection Overlay Zone applies as an overlay zone to the land within the boundaries of the Town's identified sand and gravel aquifers, plus the land within 500 feet of those aquifers. In addition to uses prohibited in the underlying district, specific additional uses that could adversely impact the aquifer are prohibited, and there are additional requirements for other uses requiring Site Plan Review.

302.13 TELECOMMUNICATIONS OVERLAY ZONE (TC)

The Telecommunications Overlay Zone is the only zone outside of the General Commercial Zone in which telecommunications towers are permitted. By limiting towers to these zones, the Ordinance seeks to comply with the requirements of the Federal Telecommunications Act of 1996, while preserving the scenic beauty of the Town. Certain landscaping, buffering, fencing, and aesthetic requirements apply as additional requirements for Site Plan Approval of telecommunications towers in the Telecommunications Overlay Zone.

## 303 OFFICIAL ZONING MAP

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

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

## 304 INTERPRETATION OF ZONE BOUNDARIES

Where uncertainty exists as to boundary lines of Zones as shown on the official "Zoning Map of Holden, Maine," the following rules of interpretation shall apply:

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

304.2 Boundaries indicated as approximately following property lines shall be construed as following property lines;

304.3 Boundaries indicated as approximately following shore lines of any lake or pond shall be construed as following the normal high water mark;

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

304.5 Boundaries indicated as being the extension of property lines shall be construed to be extensions of such property lines;

304.6 Boundaries indicated as approximately following the center lines of streams, rivers, or other continuously flowing water courses shall be construed as following the channel center line of such watercourses;

304.7 Boundaries indicated as being parallel to or extension of features listed above shall be so construed. Distances not specifically indicated on the official map shall be determined by the scale of the map; and

304.8 Where physical or cultural features existing on the ground are at variance with those shown on the official map, or in other circumstances where uncertainty exists with respect to the location of a boundary, the Code Enforcement Officer shall interpret the zone boundaries.

# ARTICLE 4: SCHEDULE OF USES AND ZONE OVERLAY REQUIREMENTS

## 401 ACTIVITIES DESCRIBED

A matrix listing the uses permitted in the various Zones, under this Ordinance begins on page 4-2.

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

Non-Commercial Recreational Activities
Resource Management Activities
Resource Extraction Activities
Residential Activities
Institutional Activities
Commercial Activities
Industrial Activities
Transportation and Utilities

## 402 SYMBOLS USED IN SCHEDULE OF USES

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

### 402.1 ZONE SYMBOLS

| *SYMBOL* | *DESCRIPTION* |
|---|---|
| R1 | High Density Residential Zone |
| R1G | High Density Residential Growth Zone |
| R2 | Low Density Residential Zone |
| R3 | Rural Resource/Residential Zone |
| R4 | Shoreland Residential Zone |
| GC | General Commercial Zone |
| LC | Limited Commercial Zone |
| CS/I | Community Service/Institutional Zone |
| RP | Resource Protection Zone |
| VC | Village Center Zone |

### 402.2 PERMIT REQUIRED SYMBOLS

| *SYMBOL* | *DESCRIPTION* |
|---|---|
| Y | Use Allowed Without a Permit. |
| C | Use Requiring a Building Permit from the Code Enforcement Officer pursuant to Article 7 of this Ordinance. |
| P | Use Requiring Site Plan Review and Approval of the Planning Board pursuant to Article 8 of this Ordinance. |
| N | Use Prohibited Within the Zone. |
| SP | Special Exception Permit |

## 403 USES SUBSTANTIALLY SIMILAR TO PERMITTED USES MAY BE PERMITTED

### 403.1 USES ALLOWED WITHOUT A PERMIT

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

### 403.2 USES REQUIRING A BUILDING PERMIT FROM THE CODE ENFORCEMENT OFFICER

Uses substantially similar to those requiring the review and approval of the Code Enforcement Officer under this Ordinance, but which are not listed in the Schedule of Uses, may be permitted by the Code Enforcement Officer.

403.3 USES REQUIRING SITE PLAN REVIEW AND APPROVAL OF THE PLANNING BOARD

Uses substantially similar to those requiring site plan review and approval of the Planning Board under this Ordinance, but which are not listed in the Schedule of Uses, may be permitted by the Planning Board.

## 404 USES SUBSTANTIALLY SIMILAR TO PROHIBITED USES ARE PROHIBITED

Uses substantially similar to any uses listed as a Prohibited Use in the Schedule of Uses, as determined by the Code Enforcement Officer, shall be prohibited.

## 405 COMPLIANCE WITH LAND USE STANDARDS REQUIRED

All uses permitted must occur and be maintained in compliance with the applicable requirements and land use standards contained in Articles 5 and 6.

## 406 SCHEDULE OF USES

| ACTIVITIES/ZONES | R1 R1G | R2 | R3 | R4 | GC | LC | CSI | RP | VC |
|---|---|---|---|---|---|---|---|---|---|
| **406.1 NON-COMMERCIAL RECREATIONAL ACTIVITIES** | | | | | | | | | |
| a) Accessory structures and uses that are essential for the exercise of a use listed above | C | C | C | C | C | C | C | C | C |
| b) Individual private campsites[1] | N | N | C[2] | C | N | N | N | N | N |
| c) Motorized vehicular traffic on existing roads and trails, and snowmobiling | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| d) Non-permanent docking and mooring structures | C | C | C | C | C | C | C | C | C |
| e) Permanent docking or mooring structures | P | P | P | P | P | P | P | P | P |
| f) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent camping, canoe portaging, cross country skiing, and snowshoeing | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| g) Trails, provided they are constructed and maintained so as to avoid sedimentation of water bodies | Y | Y | Y | C | Y | Y | Y | C | Y |

FOOTNOTES:

1 Provided that such sites are not used by more than 10 persons at one time and are not used for more than 60 days in any one calendar year.

2 Private individual campsites, located on lots containing another permitted residential use, shall be considered accessory uses in this Zone under Section 406.1.g.

| ACTIVITIES/ZONES | R1 R1G | R2 | R3 | R4 | GC | LC | CSI | RP | VC |
|---|---|---|---|---|---|---|---|---|---|
| **406.2 RESOURCE MANAGEMENT ACTIVITIES** | | | | | | | | | |
| a) Accessory structures and uses that are essential for the exercise of a use listed above | C | C | C | C | C | C | C | C | C |
| b) Commercial agricultural management activities, including fertilizer application | Y | Y | Y | P | Y | Y | Y | P | N |
| c) Commercial forest management activities, not including timber harvesting and land management roads | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| d) Emergency operations conducted for the public health, safety, or general welfare, such as resource protection, law enforcement, and search and rescue operations | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| e) Fire prevention activities | C | C | C | Y | C | C | C | Y | C |
| *f) Land management roads* | C | C | C | Y | C | C | C | P | C |
| g) Mineral exploration to discover or verify the existence of mineral deposits, including the removal of specimens or trace quantities, provided such exploration is accomplished by methods of hand sampling, including panning, hand test boring, diggings, and other non-mechanized methods which create minimal disturbance and take reasonable measures to restore the disturbed area to its original condition | Y | Y | Y | Y[1] | Y | Y | Y[1] | Y | Y |
| h) Non-commercial structures for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected by the district in which it is located | C | C | C | C | C | C | C | P | C |
| j) Soil and water conservation practices | C | C | C | Y | C | C | C | Y | C |
| j) Surveying and other resource analysis | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| k) Wildlife and fishery management practices | Y | Y | Y | Y | Y | Y | Y | Y | Y |

FOOTNOTES:

[1] Requires permit from Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

| ACTIVITIES/ZONES | R1 R1G | R2 | R3 | R4 | GC | LC | CSI | RP | VC |
|---|---|---|---|---|---|---|---|---|---|
| **406.3 RESOURCE EXTRACTION ACTIVITIES** | | | | | | | | | |
| a) Accessory structures and uses that are essential for the exercise of a use listed above | C | C | C | C | C | C | C | C | C |
| b) Clearing or removal of vegetation for activities other than timber harvesting[2] | Y | Y | Y | Y | Y | Y | Y | C[1] | Y |
| c) Commercial timber harvesting and production of commercial forest products, in compliance with the applicable Land Use Standards regarding Timber Harvesting in Article 6 and under the supervision of a registered professional forester | Y | Y | Y | P | Y | Y | Y | P | P |
| d) Filling, grading, draining, dredging, or alteration of water table or water level, not including individual wells | C | C | C | C | C | C | C | N | C |
| e) Mineral extraction affecting an area of less than 1 acre in size | N | N | C | N | C | C | C | N | N |
| f) Mineral extraction affecting an area 1 acre or greater in size | N | N | P | N | P | P | P | N | N |
| g) Production of commercial agriculture products, in compliance with the applicable Land Use Standards regarding Agriculture in Article 6 | Y | Y | Y | P | Y | Y | Y | P | P |
| h) Temporary Storage Enclosures | N | N | N | N | P | P | P | N | N |
| **406.4 RESIDENTIAL ACTIVITIES** | | | | | | | | | |
| a) Accessory apartments | C | C | C | N | C | C | C | N | C |
| b) Accessory structures and uses that are essential for the exercise of a use listed above | C | C | C | C | C | C | C | C | C |
| c) Home Occupations | C | C | C | N | P | P | P | N | C |
| d) Low Impact Use as Defined | N | N | N | N | P | P | P | N | P |
| e) Mobile Home, including driveways | C | C | C | C | C | C | C | SP | C |
| f) Mobile Home Park | P | N | N | N | P | N | N | N | N |
| g) Multi-Family Dwelling: 2 family Duplexes, including driveways | C | C | N | N | N | N | N | N | C |

FOOTNOTES:

1 In RP not allowed within 75 feet, horizontal distance, of the normal high water mark of great ponds, except to remove safety hazards.

2 Provided such clearing in shoreland areas meets the requirements of Section 604.

| ACTIVITIES/ZONES | R1 R1 G | R 2 | R 3 | R 4 | G C | L C | C SI | R P | V C |
|---|---|---|---|---|---|---|---|---|---|
| **406.4 RESIDENTIAL ACTIVITIES** (continued) | | | | | | | | | |
| h) Multi-Family Dwelling: 3 or more families, including apartments, grouped houses, and row houses, including driveways | P | P | N | N | N | N | N | N | P |
| i) Nursing/Convalescent Home, Congregate Housing, and Boarding Care Facilities | P | P | P | N | P | P | P | N | P |
| j) Residential back lot development[1] | P | P | P | N | N | N | N | N | N |
| k) Seasonal Single-Family Detached Dwelling, including driveways | C | C | C | C | C | C | C | S P | C |
| l) Temporary Storage Enclosures | N | N | N | N | P | P | P | N | N |
| m) Year-Round Single-Family Detached Dwelling, including driveways | C | C | C | C | C | C | C | N | C |
| **406.5 INSTITUTIONAL ACTIVITIES** | | | | | | | | | |
| a) Accessory structures and uses that are essential for the exercise of a use listed above | C | C | C | C | C | C | C | C | C |
| b) Cemetery | P | P | P | P | N | P | P | N | N |
| c) Churches | P | P | N | N | P | P | P | N | P |
| d) Conference Centers | N | N | N | N | P | P | P | N | P |
| e) Day Care Centers | P | P | P | N | P | P | P | N | P |
| f) Fraternal Orders and Service Clubs | P | N | N | N | P | P | P | N | P |
| g) Government Facilities and Grounds | P | P | P | N | P | P | P | N | P |
| h) Hospital | N | N | N | N | P | P | P | N | N |
| i) Medical Center | N | N | N | N | P | P | P | N | P |
| j) Museum | N | N | N | N | P | P | P | N | P |
| k) Private Schools | P | P | N | N | P | P | P | N | P |
| l) Public Schools | P | P | N | N | N | P | P | N | P |
| m) Research and Development Facility | N | N | N | N | P | P | P | N | P |
| n) Summer Youth Camp | N | N | P | P | N | P | P | N | N |

Footnote:
[1] Provided such residential back lot meets the requirement of Section 529

| ACTIVITIES/ZONES | R1 R1G | R2 | R3 | R4 | GC | LC | CSI | RP | VC |
|---|---|---|---|---|---|---|---|---|---|
| **406.6 COMMERCIAL ACTIVITIES** | | | | | | | | | |
| a) Accessory structures and uses that are essential for the exercise of a use listed above | C | C | C | C | C | C | C | C | C |
| b) Automobile and Engine Repair | N | N | N | N | P | P | N | N | N |
| c) Automobile Convenience Market and Service Station | N | N | N | N | P | P | N | N | N |
| d) Automobile Sales Lot | N | N | N | N | P | P | N | N | N |
| e) Banks, Credit Unions, and similar Financial Institutions | N | N | N | N | P | P | P | N | P |
| f) Cocktail Lounge | N | N | N | N | P | P | N | N | N |
| g) Commercial Complex (e.g. shopping malls) | N | N | N | N | P | P | N | N | P |
| h) Commercial Greenhouse and Nurseries | N | N | P | N | P | P | N | N | P |
| i) Commercial indoor recreation activities and uses, not elsewhere listed, and as defined herein | N | N | N | N | P | P | P | N | P |
| j) Commercial kennels | N | N | N | N | P | P | N | N | N |
| k) Commercial outdoor recreation activities and uses, not elsewhere listed, and as defined herein | N | N | N | N | P | P | P | N | N |
| l) Commercial Parking Garage/Parking Lot | N | N | N | N | P | P | P | N | P |
| m) Conversion of Residential Use to Business | N | N | N | N | P | P | P | N | P |
| n) Funeral Parlors | N | N | N | N | P | P | N | N | N |
| o) General Contractors, Construction, Plumbing, and Heating Contractors | N | N | N | N | P | P | N | N | P |
| p) Hardware Stores | N | N | N | N | P | P | P | N | P |
| q) Health Spas, Fitness Clubs, Gymnasiums, etc. | N | N | N | N | P | P | P | N | P |
| r) Large Outdoor Displays as defined herein | N | N | N | N | P | N | N | N | N |
| s) Laundry/Drycleaning Establishment | N | N | N | N | P | P | P | N | P |
| t) Liquor Store | N | N | N | N | P | P | N | N | P |
| u) Non-Industrial Lumber Yard | N | N | N | N | P | P | N | N | N |
| v) Professional Offices and Office Building | N | N | N | N | P | P | P | N | P |

| ACTIVITIES/ZONES | R1 R1G | R 2 | R 3 | R 4 | G C | L C | C SI | R P | V C |
|---|---|---|---|---|---|---|---|---|---|
| **406.6 COMMERCIAL ACTIVITIES** (Continued) | | | | | | | | | |
| w) Radio and TV Studios and Offices | N | N | N | N | P | N | N | N | N |
| x) Recreational vehicles, boats, mobile homes, farm machinery, and equipment sales | N | N | N | N | P | P | N | N | N |
| y) Repair Service (other than auto and engine) | N | N | N | N | P | P | P | N | P |
| z) Retail Establishments | N | N | N | N | P | P | P | N | P |
| aa) Restaurant | N | N | N | N | P | P | P | N | P |
| bb) Roadside Stands[1] | C | C | C | N | C | C | C | N | C |
| cc) Services Businesses | N | N | N | N | P | P | P | N | P |
| dd) Stables | N | N | P | N | P | P | N | N | N |
| ee) Take Out Food Services | N | N | N | N | P | P | N | N | P |
| ff) Temporary Storage Enclosures | N | N | N | N | P | P | P | N | P |
| gg) Theater | N | N | N | N | P | P | N | N | P |
| hh) Transient Accommodations I:Bed and Breakfast | C | C | C | N | P | P | P | N | P |
| ii) Transient Accommodations II: Motels, Hotels, and Inns - maximum of 25 Rooms | P | N | N | N | P | P | N | N | P |
| jj) Transient Accommodations III:Motels, Hotels, and Inns - more than 25 rooms | P | N | N | N | P | P | N | N | N |
| kk) Transient Accommodations IV: Campgrounds | N | N | P | N | P | P | P | N | N |
| ll) Upholstery Shop | N | N | N | N | P | P | P | N | P |
| mm) Veterinary Clinic | N | N | N | N | P | P | P | N | P |

Footnote:
[1] Provided that they meet the parking requirements of Section 522

| ACTIVITIES/ZONES | R1 R1G | R2 | R3 | R4 | GC | LC | CSI | RP | VC |
|---|---|---|---|---|---|---|---|---|---|
| **406.7 INDUSTRIAL ACTIVITIES** | | | | | | | | | |
| a) Accessory structures and uses that are essential for the exercise of a use listed above | C | C | C | C | C | C | C | C | C |
| b) Automobile Junk Yards | N | N | N | N | P | N | N | N | N |
| c) Bulk Oil and Fuel Tank Storage, except for on-site heating purpose | N | N | N | N | P | N | N | N | N |
| d) Food Processing and Freezing | N | N | N | N | P | N | N | N | N |
| e) Light Manufacturing Assembly Plant | N | N | N | N | P | P | N | N | N |
| f) Lumber Yard and Building Materials | N | N | N | N | P | P | N | N | N |
| g) Newspaper and Printing Facility | N | N | N | N | P | N | N | N | N |
| h) Other Processing and Manufacturing Facilities | N | N | N | N | P | N | N | N | N |
| i) Self Storage Units | N | N | N | N | P | P | N | N | N |
| j) Sewage Collection and Treatment Facilities | P | P | P | P | P | P | P | N | P |
| k) Temporary Storage Enclosures[1] | N | N | N | N | C | C | C | N | C |
| l) Transportation Facility and Terminal Yard | N | N | N | N | P | N | N | N | N |
| m) Warehousing and Storage Facility | N | N | N | N | P | N | N | N | N |

FOOTNOTES:

[1] One may be permitted as an accessory structure by the Code Enforcement Officer per lot. Sections 508, 533.4, 533.5, and 533.6.

| ACTIVITIES/ZONES | R1 R1G | R 2 | R 3 | R 4 | G C | L C | C SI | R P | V C |
|---|---|---|---|---|---|---|---|---|---|
| **406.8 TRANSPORTATION AND UTILITIES** | | | | | | | | | |
| a) Accessory structures and uses that are essential for the exercise of a use listed above | C | C | C | C | C | C | C | C | C |
| b) Airports | N | N | N | N | N | N | N | N | N |
| c) Auxiliary Public Utility Structures | P | P | P | P | P | P | P | P | P |
| d) Essential Services | | | | | | | | | |
| Roadside distribution lines (34.5kV and lower) | C | C | C | C | C | C | C | C[2] | C |
| Non-roadside or cross-country distribution lines involving ten poles or less | C | C | C | C | C | C | C | P[2] | C |
| Non-roadside or cross-country distribution lines involving eleven or more poles | P | P | P | P | P | P | P | P[2] | P |
| Other essential services as defined | P | P | P | P | P | P | P | P[2] | P |
| e) Major utility facilities, such as transmission lines, but not including service drops; | P | P | P | P | P | P | P | P | P |
| f) Public and Private road construction projects, other than land management roads, which are part of projects requiring Planning Board Review | P | P | P | P | P | P | P | P | P |
| g) Service drops, as defined, to allowed uses | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| h) Temporary Storage Enclosures | N | N | N | N | P | P | P | N | P |
| i) Transmitter, Communication, Radio, and TV Towers | N | N | P[1] | N | P | N | N | N | N |

FOOTNOTES:

[1] Only in the Telecommunications Overlay Zone

[2] See further restrictions in Section 608

# ARTICLE 4: SCHEDULE OF USES AND ZONE OVERLAY REQUIREMENTS

## 407 AQUIFER PROTECTION OVERLAY ZONE

### 407.1 INTENT

To protect the groundwater resources of the Town from adverse development or land use practices (such as but not limited to the disposal or storage of solid wastes, sludge, subsurface waste disposal, road salting materials, gas or other petroleum products) that might reduce the quality and quantity of water that is now, and in the future will be, available for use by the Town, its citizens and businesses.

### 407.2 LOCATION

407.2.1 OVERLAY ZONE. Aquifer Protection Overlay Zone shall apply to the land within the Town's sand and gravel aquifers plus the land within 500 feet of these aquifers. The Aquifer Protection Overlay Zone embraces and overlays other provisions and zones set forth in this Ordinance and as such its requirements are in addition to the requirements of the underlying zone. Where the provisions of the Aquifer Protection Zone conflict with or impose a higher standard than the provisions of any underlying zones, the provisions of the Aquifer Protection Overlay Zone shall prevail.

407.2.2 IDENTIFICATION OF AQUIFER BOUNDARIES. The boundaries of the Aquifer Protection Overlay Zone shall be as delineated on the Zoning Map of Holden, Maine.

407.2.3 BOUNDARY DISPUTES. When the official boundaries of the Aquifer Protection Overlay Zone as delineated on the Zoning Map are disputed due to lack of sufficient detail on the available map, the landowner or agent may submit hydrogeologic evidence to support the claim. The evidence shall be prepared by a Geologist, Certified in the State of Maine.

### 407.3 PROHIBITED USES

In addition to those uses prohibited in the underlying Zone, the following uses are prohibited.

- asphalt/tar processing
- automobile graveyards
- below ground storage of petroleum products or chemicals for new uses
- biological laboratories and chemical laboratories
- car or truck washes
- chemical manufacture
- chemical warehousing
- chemical reclamation
- coal storage
- dry cleaners
- electrical equipment or electronic circuit manufacture
- fuel oil distribution
- furniture stripping/painting/finishing
- industrial waste storage, impoundment or disposal
- injection wells
- junk and salvage yards
- laundromats
- meat packers
- metal plating, finishing or polishing
- mobile home parks
- oil pipelines
- paper mills
- paint shops

- pesticides/herbicides and fertilizer manufacture and warehousing
- pharmaceutical manufacture
- photo processing
- plastic and fiberglass manufacture and fabrication
- printing
- rubber manufacture and fabrication
- septage and recreational vehicle waste receiving stations for commercial use
- slaughter houses
- sludge and septage storage, disposal or processing
- sludge and septage spreading
- snow dumps
- solid and hazardous waste storage, disposal or processing
- solid or hazardous waste transfer sites
- tanneries
- textile mills
- truck terminals
- uncovered salt piles
- uncovered sand/salt piles
- wood treatment processors

407.4 GROUNDWATER IMPACT ANALYSIS

For projects requiring Site Plan Review, the Planning Board shall require submittal by the applicant of a Groundwater Impact Analysis. The Analysis shall be prepared by a State of Maine Certified Geologist with experience in hydrogeology. The Analysis shall contain the following components unless waived by a specific vote of the Board. (The Board expects the detail of this Analysis to vary with the intensity of the development.)

407.4.1 A map showing: (1) soil types and (2) surficial geology on the property (3) the recommended sites for subsurface waste disposal systems and wells in the development; and (4) direction of ground water flow.

407.4.2 The relationship of surface drainage conditions to ground water conditions.

407.4.3 Documentation of existing ground water quality for the site.

407.4.4 A nitrate analysis or other contaminant analysis as applicable including calculation of levels at the property line(s) and wells on the property.

407.4.5 For water intensive uses, analysis of the effects of aquifer drawdown on the quantity and quality of water available for other water supplies or potential water supplies.

407.4.6 The Planning Board may require installation and regular sampling of water quality monitoring wells for any use or proposed use deemed to be a significant actual or potential source of pollutants or excessive drawdown. The number, location and depth of monitoring wells shall be determined as part of the Hydrogeologic Study, and wells shall be installed and sampled in accordance with "Guidelines for Monitoring Well Installation and Sampling" (Tolman, Maine Geologic Survey, 1983). Water quality sample results from monitoring wells shall be submitted to the Code Enforcement Officer with evidence showing that contaminant concentrations meet the performance standard for pollution levels.

407.4.7 A list of assumptions made to produce the required information.

407.5 CONDITIONS/STANDARDS

In addition to the Site Plan Review Standards, the following standards shall be met:

407.5.1 Sanitary Waste Water Disposal

407.5.1.1 No use including home occupations shall dispose of other than normal domestic waste water on-site. Disposal of waste water shall be in strict compliance with the State Plumbing Code and other relevant state and local laws, rules and ordinances.

407.5.1.2 No more than 900 gallons per day of sanitary waste shall be discharged to any one subsurface wastewater disposal system.

407.5.2 PETROLEUM STORAGE: For above ground or indoor storage, an impermeable diked area shall be provided; the diked areas must be roofed to prevent accumulation of rainwater in the diked area and shall be properly ventilated. There shall be no drains in the facility. All concrete, whether walls or pads, shall be reinforced concrete and shall be designed by a Professional Engineer Registered in the State of Maine. Where required by the Maine Department of Environmental Protection a "Spill Prevention Control & Countermeasure Plan (SPCC)" shall be prepared and submitted to the Code Enforcement Officer.

407.5.3 EXCAVATION OR MINING FILL, SAND, GRAVEL AND OTHER MINERALS: Excavation shall not be allowed below five feet above the average seasonal high water. The water table shall not be artificially lowered by ditches, trenches, pumping or other methods.

## 408 TELECOMMUNICATIONS TOWERS

408.1 LOCATION OF TELECOMMUNICATIONS OVERLAY ZONE

The Telecommunications Overlay Zone shall encompass the land as shown on the Zoning Map of Holden, Maine.

408.2 ADDITIONAL REQUIREMENTS

The following requirements apply to Site Plan Approval of telecommunications towers. These requirements are established in addition to the performance standards of Article 5. Where the performance standards of Article 5 and this section conflict, this section controls.

408.2.1 Towers shall be of galvanized steel finish or be painted a neutral color, so as to minimize their visual presence.

408.2.2 All telecommunications towers, guys and any accessory structures, shall maintain the required setbacks as undisturbed vegetative buffers, except for the access road. The Planning Board may require additional plantings in the buffer area to maximize the effectiveness of the buffer area. The size, spacing, and types of plantings shall be subject to Planning Board approval. Towers must be set back a distance equal to the height of the tower from any off-site residential structure.

408.2.3 All structures at the tower site shall use materials, colors, textures, screening and landscaping that will cause the tower and all related structures to blend into the natural environment to the maximum possible extent.

408.2.4 Towers shall not be lighted unless required by state and federal law. If lighting is required, the Planning Board may select the lighting scheme it deems most appropriate from the alternatives acceptable under the law.

408.2.5 Road access to the tower site shall be a minimum width necessary to allow safe and reasonable access to the site.

408.2.6 A security fence of not less than eight feet (8') in height above finished grade shall surround the tower. Access to the tower shall be through a locked gate.

408.2.7 Co–location of telecommunications equipment on an existing tower or a single new tower shall be encouraged prior to the approval of a new telecommunications towers.

408.3 VARIANCES FROM HEIGHT REQUIREMENTS FOR TELECOMMUNICATIONS TOWERS

408.3.1. All telecommunications towers located outside of the General Commercial Zone are subject to a height limit of one hundred twenty feet (120'). The Zoning Board of Appeals may grant a variance to that height limit subject to the procedures and criteria for variances and Article 12 of this ordinance, except that the term "undue hardship" shall mean that denying the variance shall have the effect of prohibiting all personal wireless services within the Town of Holden, and no alternate sites, towers or structures are available to provide such services. See Article 13 for the definition of "personal wireless services."

408.3.2 Telecommunication Towers and antennas within the General Commercial Zone shall be exempt from lot area, coverage, height and frontage requirements of the General Commercial Zone, and shall be located no closer than 2,500 feet from any other telecommunication towers. Additional Screening from abutting property owners may be required. Where visible to abutting properties or public right of ways, such buildings and structures must be architecturally similar to the surrounding buildings or structures.

408.4 REMOVAL OF ABANDONED ANTENNAS AND TOWERS.

Any antenna or tower that is not operated during continuous period of twelve (12) months shall be considered abandoned regardless of the intent of the owner or operator, and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the Code Enforcement Officer notifying the owner of such abandonment. If such antenna or tower is not removed within said ninety (90) days, the Code Enforcement Officer may initiate action to remove such antenna or tower at the owner's expense.

# ARTICLE 5: LAND USE STANDARDS

## 501 GENERAL

### 501.1 PURPOSE

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

### 501.2 GENERAL STANDARDS

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

Shoreland Standards are included in Article 6, which applies to land uses within two hundred fifty feet (250') of the normal high-water line of any great pond or river, within two hundred fifty feet (250') of the upland edges of a wetland, and seventy five feet (75') from a stream. These shoreland standards are those mandated by the State of Maine as part of the Mandatory Shoreland Zoning Law (Title 38, MRSA, Sections 435-446).

In reviewing applications submitted pursuant to this Ordinance, the Code Enforcement Officer or the Planning Board shall consider the following performance standards prior to issuing final approval. In all instances the burden of proof shall be upon the applicant.

## 502 ACCESS TO THE SITE

### 502.1 CAPACITY OF OFF-SITE ROADS

Vehicular access to the site shall be on roads which have adequate capacity to accommodate the additional traffic generated by the development. Intersections on major access routes to the site within one-half (1/2) mile of any entrance road which are functioning at a Level of Service of C or better prior to the development shall function at a minimum at Level of Service C after development. If any intersection is functioning at a Level of Service D or lower prior to the development, the project shall not reduce the current Level of Service.

The Planning Board may approve a development not meeting this requirement if the applicant demonstrates that:

502.1.1 A public agency has committed funds to construct the improvements necessary to bring the level of access to the required standard; or

502.1.2 The applicant will assume financial responsibility for the improvements necessary to bring the level of service to the required standard and will guarantee the completion of the improvements within one (1) year of approval of the project.

### 502.2 VEHICULAR ACCESS

The following standards apply to design and construction of vehicular access to properties provided that if there is a conflict between these standards and access management rules adopted by the Maine Department of Transportation, the stricter standard shall prevail:

502.2.1 Each property shall be provided with vehicular access to the property by abutting private or public ways, provided that along Route 1A, owners of adjacent properties shall be encouraged to construct a single shared driveway meeting the standards of this Ordinance (see Section 502.3.4). Private right-of-ways shall be protected by permanent easements.

502.2.2 The following criteria shall be followed for entrances and/or driveways to any use other than single and two-family dwellings:

502.2.2.1 All entrance and exit driveways shall be located and designed in profile and grading to afford safety to traffic, provide for safe and convenient ingress and egress, to and from the site, and to minimize conflict with the flow of traffic.

502.2.2.2 The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated to be attracted daily.

502.2.2.3 Provision shall be made for convenient and safe emergency vehicle access to all buildings and structures at all times.

502.2.2.4 For a distance of twenty feet (20') from the intersection of any two (2) streets along street lines no wall, fence, sign, or other structure and no hedges, trees, or other growth shall be planted or erected in such a manner as to materially impede vision between a height of two and one-half (2 1/2) and ten feet (10') above street level.

502.2.2.5 Any exit driveway or driveway lane shall be so designed in profile and grading and so located as to provide the following minimum sight distance measured in each direction. The measurements shall be from the driver's seat of a vehicle standing on that portion of the exit driveway with the front of the vehicle a minimum of ten feet (10') behind the curbline or edge of shoulder.

| Allowable speed (Miles per hour) | Medium Volume Driveways (Feet) | High Volume Driveways (Feet) |
|---|---|---|
| 25 | 250 | 300 |
| 35 | 350 | 480 |
| 40 | 400 | 580 |
| 45 | 450 | 710 |
| 50 | 500 | 840 |
| 55 | 550 | 990 |

*NOTE:* *Medium Volume Driveways - Driveways with a traffic volume of less than 1,500 vehicle trips per day or less than 150 vehicle trips per peak hour.*

*High Volume Driveways - Driveways with a traffic volume of 1,500 or more vehicle tips per day and more than 150 vehicle trips per peak hour.*

502.2.2.6 Where a site occupies a corner of two (2) intersecting roads, no driveway entrance or exit shall be located with fifty feet (50') of the point of tangency of the existing or proposed curb radius of that site. Access to the lot shall be provided across the frontage and to the street where there is less potential for traffic congestion and for hazards to traffic and pedestrians.

502.2.2.7 The intersection of any access drive or proposed street shall function at a Level of Service of C following development if the project will generate four hundred (400) or more vehicle trips per twenty-four (24) hour period or at a level which shall allow safe access into and out of the project if less than four hundred (400) trips are generated. Projects generating four hundred (400) or more vehicle trips per twenty-four (24) hour period shall provide two (2) or more separate points of vehicular access into and out of the site. (see Section 502.3.4)

502.2.2.8 In all Zones where two (2) or more driveways connect on a single site to any one (1) road, a minimum clear distance of one hundred feet (100') measured along the right-of-way shall separate the closest edges of any two (2) such driveways, unless the driveways are one way only, then the minimum clear distance shall be no less than fifty feet (50'). (see Sections 502.3.3 and 502.3.4)

502.2.2.9 Angles. Driveways used for two-way operation shall intersect the road at an angle of or as near to ninety (90) degrees as site conditions will permit and in no case less than sixty (60) degrees. Driveways used by vehicles in one (1) direction of travel (right-turn only) shall not form an angle smaller than forty-five (45) degrees with the road, unless acceleration and deceleration lanes are provided.

502.2.2.10 Dimensions. The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated. The required maximum and minimum dimensions for driveways are indicated below. Driveways serving large volumes of daily traffic or traffic of over fifteen percent (15%) truck traffic shall be required to utilize high to maximum dimensions.

| | One-Way Operation Driveways* Width (Feet) | Two-Way Operation Driveways* Width (Feet) |
|---|---|---|
| Three (3) to ten (10) dwelling units | 10 to 15 | 15 to 25 |
| Ten (10) dwelling units or more | 15 to 25 | 20 to 35 |
| Commercial and Industrial | 15 to 30 | 25 to 35 |
| *All driveways shall be five feet (5') wider at the curbline and this additional width shall be maintained for a distance of twenty feet (20') into the site. | | |

502.2.2.11 Grades. Driveways shall not have a grade in excess of ten percent (10%) over the entire length. For all driveways entering onto Routes 1A, the grade shall not be more than three percent (3%) for the first one hundred feet (100') from the road. Driveways shall not be located where visibility is limited because of curves or topography.

502.2.2.12 Stacking or Queuing Space Standards for Drive-Through Businesses: Stacking or queuing spaces shall be located on-site and shall not be located within the required setbacks. Stacking or queuing spaces shall not interfere with the stall and aisle space requirements as described in the off-street parking and loading.

502.2.2.12.1 Banks or other Commercial Uses. There shall be a minimum of eight (8) spaces.

502.2.2.12.2 Drive-up Restaurant. There shall be eleven (11) spaces for the drive-up window, with a minimum of five (5) of these spaces for the ordering station.

502.3 HIGHWAY ACCESS – ROUTE 1A

The following provisions shall apply to all properties which abut and/or have frontage on Route 1A:

502.3.1 Buffer Strip: Access to the highway shall be controlled in the interest of public safety. Each building or group of buildings and its parking or service areas shall be physically separated from the highway or street by a buffer strip as required by Section 504. Such buffer strips shall be landscaped as required in Section 504.

502.3.2 All lots of record legally existing at the time of the adoption of this Ordinance shall be allowed one (1) direct access to Route 1A provided that the access meets the minimum sight distance specified in Section 502.2.2.5.

502.3.3 Additional driveway entrances or exits for developments of two (2) or more permitted uses may be permitted provided that the two (2) access points are not closer than four hundred feet (400') and they both can meet the minimum sight distances specified in Section 502.2.2.5.

502.3.4 Shared driveways shall be encouraged for adjacent sites with frontage on Route 1A in order to minimize the number of driveways along Route 1A. The lot size and road frontage requirement may be reduced by a total of 25 percent when the developer agrees to provide a common driveway to the site.

502.3.5 Parallel frontage roads shall be encouraged for adjacent sites with frontage on Route 1A in order to minimize the number of driveways along Route 1A. The lot size and road frontage requirement may be reduced by a total of 50 percent when the developer agrees to serve the site by a frontage road parallel to and within 1,000 feet of Route 1-A , provided that the developer documents that the resulting lots are of sufficient size to install a well meeting the required separation distance from the subsurface waste water disposal system and a subsurface waste water disposal system meeting the requirements of Maine's Subsurface Waste Water Disposal Rules and the requirements of Maine's Minimum Lot Size Law.

502.4 EMERGENCY VEHICLE ACCESS

Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

502.5 ACCESS TO BACKLAND – Route 1A

In the GC, LC, CS/I and VC Zones, where the applicant owns the land in back of the parcel to be developed or for which development approval is sought, the applicant shall retain a fifty foot (50') right-of-way to the land in back of the parcel unless the applicant can determine that another legal access point exists. The applicant shall not be required to provide an additional fifty feet (50') of frontage to meet this requirement, but may deduct the fifty (50') feet from the frontage requirement of the zone in which the land is located.

## 503 BED AND BREAKFAST

"Bed and Breakfast" accommodations shall be permitted in the private, year-round residence of the host family who live on the premises provided that:

503.1 The maximum number of guests at any time is six (6) persons, not including children under the age of twelve (12);

503.2 The maximum number of guest rooms is three (3);

503.3 Breakfast is the only meal provided by the host family;

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

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

## 504 BUFFERING AND SCREENING

All projects requiring Site Plan Review under this Ordinance shall provide buffer strips and/or screening in accordance with the following standards:

504.1 BUFFER STRIPS

Buffer strips of the following specified widths are required for the following areas and/or purposes:

504.1.1 Along any water body within or adjacent to the project, where the Board determines it desirable and necessary, to protect such waterbodies from sedimentation and surface runoff. Such buffer strips shall be a minimum of seventy-five feet (75') in width.

504.1.2 Along any property line of any lot located in the General Commercial (GC), Limited Commercial (LC), Village Center (VC) and Community Service/Institutional (CS/1) Zones abuts a High Density Residential (R1), High Density Residential Growth (R1G), Low Density Residential (R2), or Rural Resource/Residential (R3), or Shoreland Residential (R4) Zone. Such buffer strips shall be a minimum of twenty-five feet (25') in width if the adjacent lot is undeveloped, and fifty feet (50') if the adjacent lot is developed and there is no buffer strip on the adjacent lot.

If there is a buffer strip on the adjacent lot and the applicant for Site Plan Approval provides the Board with some form of guarantee that the adjoining buffer strip will remain undeveloped, the Board may reduce the required buffer strip by the width of the encumbered adjoining buffer strip.

504.1.3 Along on-site roads running parallel to an off-site road, where the Board determines it desirable and necessary, to prevent driver confusion particularly at night. Such buffer strips shall be a minimum of fifty feet (50') in width.

504.1.4 Along any property line which abuts Route 1A, where the Board determines it desirable and necessary, to protect and enhance scenic character and provide visual separation between the highway and adjacent uses. Such buffer strips shall be a minimum of fifty feet (50') in width, provided that in the village center zone, such buffer strips may be a minimum of twenty-five feet (25') in width.

504.1.5 Along any property line, where the Board determines it desirable and necessary, to shield incompatible uses from one another. Such buffer strips shall be a minimum of twenty-five feet (25') in width.

504.1.6 Along any property line, where the Board determines it desirable and necessary, to block prevailing winds to stop wind-borne debris from leaving the site. Such buffer strips shall be a minimum of twenty-five feet (25') in width.

504.1.7 Along any property line, where the Board determines it desirable and necessary, to prevent any proposed lighting from interfering with residential properties or with safe driving. Such buffer strips shall be a minimum of twenty-five feet (25') in width.

504.1.8 Along any property line, where the Board determines it desirable and necessary, of all exposed storage and service areas, sand and gravel extraction operations, utility buildings and structures, automobile salvage and junk yards, parking areas, garbage collection areas, and loading and unloading areas, to minimize their visual impact on adjoining traveled ways and properties. Such buffer strips shall be a minimum of twenty-five feet (25') in width.

504.1.9 Where a potential safety hazard to children would be likely to arise, and physical screening sufficient to deter small children from entering the premises is determined by the Board to be desirable and necessary, a buffer strip shall be required.

504.1.10 In areas between important wildlife habitats to provide adequate space for the movement of wildlife from one area to another. Such buffer strips shall be as recommended by the Maine Department of Inland Fisheries and Wildlife.

504.2 SCREENING

Screening, within the required buffer strips, in the form of natural or man-made barriers, existing vegetation or new plantings, if suitable existing vegetation and natural features does not exist, is required as follows:

504.2.1 RETENTION OF NATURAL FEATURES IN BUFFER STRIPS. Natural features in buffer strips shall be maintained wherever possible. When natural features such as topography, gullies, stands of trees, shrubbery, rock outcrops do not exist or are insufficient to provide the required screening, other kinds of screening shall be considered.

504.2.2 CLASSIFICATION OF SCREENS

Screening shall be classified as follows:

504.2.2.1 SCREENING WITH AN OPAQUE SCREEN. A visual screen that is opaque, from the ground to a height of at least six feet (6') with semi-opaque visual barrier from above the opaque barrier to a height of at least twenty feet (20'). The purpose of this screen is to exclude all visual contact between uses and create a strong impression of spatial separation. Such screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, existing vegetation, or appropriate combinations thereof.

504.2.2.2 SCREENING WITH A SEMI-OPAQUE SCREEN. A visual screen that is opaque, from the ground to a height of three feet (3') with semi-opaque visual barrier from above the opaque barrier to a height of at least twenty feet (20'). The purpose of this screen is to partially block visual contact between uses and to create a strong separation of spaces. Such screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, existing vegetation, or appropriate combinations thereof.

504.2.2.3 SCREENING WITH A BROKEN SCREEN. An intermittent visual screen from above the ground to a height of at least twenty feet (20'). The purpose of this screen is to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. Such screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, existing vegetation, or appropriate combinations thereof.

504.2.3 SUGGESTED SCREENING COMBINATIONS

The following suggested screening combinations are considered a minimum to achieve the above screen classifications:

504.2.3.1 SCREENING WITH AN OPAQUE SCREEN. Small trees planted twenty feet (20') on center in combination with a six foot (6') high evergreen hedge planted four feet (4') on center;

Large trees planted thirty-five feet (35') on center in combination with a six foot (6') high wooden fence; or Tall evergreen trees, stagger planted, with branches touching the ground

504.2.3.2 SCREENING WITH A SEMI-OPAQUE SCREEN. Small trees planted twenty feet (20') on center in combination with a three foot (3') high stone wall or wood fence;

Small trees planted twenty feet (20') on center on top of a three foot (3') high seeded earth berm; or

Large trees planted thirty-five feet (35') on center in combination with a three foot (3') high evergreen hedge planted three feet (3') on center.

504.2.3.3 SCREENING WITH A BROKEN SCREEN. Small trees planted twenty feet (20') on center; Small trees planted thirty feet (30') on center in combination with a split rail fence; or Large trees planted thirty-five feet (35') on center in combination with assorted shrubbery.

504.2.4 SCREENING REQUIRED

The screening required for various areas and purposes is as follows:

504.2.4.1 In any buffer strip established between lots located in any of the Commercial Zones designated as GC, LC, VC or CS/I which abuts any residential zone designated as R1, R1G, R2, or R3: Semi-Opaque Screening;

504.2.4.2 In any buffer strip established for the purpose of preventing driver confusion between on-site roads running parallel to an off-site road: Semi-Opaque Screening;

504.2.4.3 In any buffer strip established for the purpose of protecting or enhancing the scenic character along Route 1A: Broken Screening, provided that such Broken Screening shall include coniferous or deciduous trees with a minimum of two (2) inches diameter at breast height. Trees which die shall be replaced within one (1) growing season.

504.2.4.4 In any buffer strip established for the purpose of shielding incompatible uses from one another: Opaque or Semi-Opaque Screening;

504.2.4.5 In any buffer strip established for the purpose of blocking prevailing winds to stop wind-borne debris from leaving the site: Opaque or Semi-Opaque Screening;

504.2.4.6 In any buffer strip established for the purpose of preventing any proposed lighting from interfering with residential properties or with safe driving: Opaque or Semi-Opaque Screening;

504.2.4.7 In any buffer strip established for the purpose of deterring small children from entering areas with potential safety hazards: Opaque Screening; and

504.2.4.8 In any buffer strip established for the purpose of screening exposed storage and service areas, sand and gravel extracting operations, utility buildings and structures, automobile salvage and junk yards, parking areas, garbage collection areas, and loading and unloading areas, to minimize their visual impact on adjoining traveled ways and properties: Opaque Screening.

504.2.5 PLANT MATERIAL SPECIFICATIONS

Unless otherwise specifically indicated by the Planning Board, all plant material used for any screening required under this Ordinance shall meet the following minimum requirements:

504.2.5.1 All planting shall be of a type and species appropriate for the soil types, site conditions, and climatic conditions of the Town;

504.2.5.2 Plant material used for screening shall meet the following minimum size standards:

| PLANT TYPE | SIZE |
|---|---|
| Canopy Tree-Single Stem(Large Tree) | 2.5 inch caliper |
| Understory Tree(Small Tree) | 1.5 inch caliper |
| Evergreen Tree | 5-7 feet high |
| Deciduous Shrub | 24 inches high |
| Evergreen Shrub | 18 inches high |

504.2.5.3 Evergreen trees can be used as screening, provided they are planted properly. An evergreen screen requires two (2) or three (3) rows of staggered plantings. The rows should be five feet (5') apart and the evergreens planted four feet (4') on center.

504.2.6 MAINTENANCE OF BUFFERS AND SCREENING

Buffers and screening shall be located and maintained as follows:

504.2.6.1 Fencing and screening shall be so located within the property line to allow access for maintenance on both sides without intruding upon abutting properties.

504.2.6.2 Fencing and screening shall be durable and properly maintained at all times by the owner.

504.2.6.3 All buffer strips shall be maintained in a neat and sanitary condition by the owner.

## 505 CAMPGROUNDS

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

505.1 Each tent or shelter site shall contain a minimum of five thousand (5,000) square feet of suitable land in shoreland areas (i.e., within two hundred fifty feet (250'), horizontal distance, of the normal high water mark of any river, lake, pond, upland edge of a wetland, and seventy-five feet (75') of a stream), and twenty-five hundred (2,500) square feet of suitable land in inland areas, not including driveways and roads, for each site;

505.2 A minimum of two hundred (200) square feet of off-street parking plus maneuvering space shall be provided for each tent or shelter site;

505.3 The area intended for placement of the tent or shelter site, and utility and service buildings shall be set back a minimum of fifty feet (50') from the exterior lot lines of the camping area, and one hundred feet (100') from the normal high water elevation of any river, lake, pond, stream, and upland edge of a wetland; and

505.4 Screening shall be required to shield the campground from abutting areas.

## 506 CONSTRUCTION IN FLOOD HAZARD AREAS

When any part of a development is located in a Flood Hazard Area as identified by the Federal Emergency Management Agency, the plan shall indicate that all structures on lots in the development shall be constructed with their lowest floor, including the basement, at least one (1) foot above the one hundred (100) year flood elevation, and meet all other requirements of the Floodplain Management Ordinance for the Town of Holden, Maine. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

## 507 CONVERSIONS

Conversion of existing structures into multi-family dwelling units, in Zones permitting multi-family dwellings, may be permitted provided that:

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

507.2 Approval of conversion plans by the fire, electrical, and plumbing inspector(s) is required prior to issuance of a building permit.

507.3 Each dwelling unit shall be at least four hundred (400) square feet in area for one (1) bedroom units plus one hundred twenty (120) square feet for each additional bedroom.

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

# ARTICLE 5: LAND USE STANDARDS

## 508 DIMENSIONAL REQUIREMENTS

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

### 508.1 RESIDENTIAL ZONES

| DIMENSIONAL REQUIREMENTS | (R1)(R1G) HIGH DENSITY RESIDENTIAL AND HIGH DENSITY RESIDENTIAL GROWTH ZONES | (R2) LOW DENSITY RESIDENTIAL ZONE | (R3) RURAL RESIDENTIAL ZONE | (R4), (RP) SHORELAND RESIDENTIAL AND RESOURCE PROTECTION ZONES | (VC) VILLAGE CENTER ZONE |
|---|---|---|---|---|---|
| Minimum Lot Size (Residential)[4] | One (1) acre plus 10,000 square feet for each additional dwelling unit over one (1) (over 2 in the R1G Zone) in the same structure. | Two (2) acres plus 15,000 square feet for each additional dwelling unit over one (1) in the same structure. [1] | Three (3) acres Per Dwelling Unit.[1] | One (1) acre. Per Dwelling Unit.[1] | 40,000 sq. ft. abutting Route 1A, 20,000 sq ft. in all other areas[11] |
| Minimum Lot Size (Other Uses)[4, 5] | 60,000 sq. ft.[1] | 80,000 sq. ft.[1] | Three (3) acres.[1] | One (1) acre.[1] | 20,000 sq.ft.[1,8,11] |
| Maximum Lot Coverage[5] | 25 percent. | 20 percent. | 20 percent. | 20 percent. | 25 percent[8] |
| Minimum Front Yard[5, 6] | 30 feet.[2] | 30 feet.[2] | 30 feet.[2] | 15 feet.[2] | 25 feet[2] |
| Minimum Side Yard [5] | 20 feet.[2] | 20 feet.[2] | 20 feet.[2] | 20 feet.[2] | 10 feet[2, 14] |
| Minimum Rear Yard[5] | 20 feet.[2] | 20 feet.[2] | 30 feet.[2] | 30 feet.[2] | 10 feet[2, 14] |
| Maximum Height | 35 feet. | 35 feet. | 35 feet. | 35 feet. | 35 feet |
| Minimum Frontage[5,7] | 200 feet plus 25 feet for each dwelling unit over one (1) | 200 feet plus 25 feet for each dwelling unit over one (1) | 300 feet. | 200 feet. Per dwelling unit | 200 ft on Route 1A, 50 ft all other areas[12] |

### 508.2 COMMERCIAL AND COMMUNITY SERVICE/INSTITUTIONAL ZONES

| DIMENSIONAL REQUIREMENTS | (LC)[16] LIMITED COMMERCIAL ZONE | (GC)[16] GENERAL COMMERCIAL ZONE | (CS/I)[16] COMMUNITY SERVICE/INSTITUTIONAL ZONE |
|---|---|---|---|
| Minimum Lot Size[1, 5] | 40,000 sq.ft.[1, 13] | 40,000 sq. ft.[1,9, 13] | 40,000 sq. ft.[1] |
| Maximum Lot Coverage[5] | 20 percent. | 30 percent.[9] | 20 percent. |
| Minimum Front Yard [5, 6] | 40 feet.[2] | 50 feet.[2,9] | 40 feet.[2] |
| Minimum Side Yard [5] | 20 feet.[2] | 20 feet.[2] | 20 feet.[2] |
| Minimum Rear Yard[5] | 25 feet.[2] | 25 feet.[2] | 25 feet.[2] |
| Maximum Height[15] | 35 feet. | 35 feet.[10] | 35 feet. |
| Minimum Frontage[5] | 200 feet.[3, 13] | 200 feet.[3,9, 13] | 200 feet.[3] |

Footnotes:

1 Minimum lot size does not include the area of land excluded by Section 514 of this Ordinance.

2 Any building housing animals shall not be erected closer than seventy-five feet (75') to any property line in any zone.

[3] See additional frontage requirements for multiple uses on a single lot contained in Section 519.2.1 of this Ordinance.

[4] The Minimum lot size is required for each use or primary structure, except as noted above.

[5] Auxiliary Public Utility Structures. Notwithstanding the requirements of this Ordinance, Auxiliary Public Utility Structures as defined shall be exempted from the lot area, coverage, width and frontage requirements of the zone in which they are located, provided such structures shall be screened from a public or private street and from any residential district.

[6] Front-Yard Setbacks for Dwellings. The front-yard setback requirements of this ordinance for structures shall not apply to any lot where the average setback on developed lots located wholly or in part within 100 feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum setback required. In such cases the front-yard setback on such lot may be less than the otherwise required setback but not less than the average of the existing setbacks of the developed lots.

[7] The minimum frontage requirement shall not apply to a residential back lot in the R1, R2 and R3 Zones provided that such Residential Back Lot meets the requirements of Section 529. The frontage requirement for the original lot may be reduced by fifty feet (50') to accommodate the fifty-foot (50') right-of-way serving the residential back lot.

[8] The maximum gross floor area shall be twelve thousand (12,000) square feet provided that the maximum gross floor area for each business in a commercial complex shall be twelve thousand (12,000) square feet.

[9] The development standards for commercial subdivisions lots that are no closer than 50 feet from Route 1A and in the General Commercial Zone vary from the above Standards as follows:
Minimum lot size 30,000 square feet
Maximum lot coverage 40 percent
Minimum frontage 150 feet
Minimum front yard 30 feet

[10] The dimensional requirements for a telecommunications tower in the General Commercial Zone shall be subject to the requirements of Section 408.3.2.

[11] 10,000 sq. ft. if served by public sewer and water and not on Route 1A

[12] Except for lots abutting Route 1A, the Planning Board may reduce frontage to zero and allow other types of access, governed by standards, as part of a site plan or subdivision and on an internal road created by the developer.

[13] See Section 502.3 for lot size and frontage reductions on Route 1A for shared driveways or parallel roads.

[14] The Planning Board may reduce side and rear lot setbacks to allow for the creation of a site plan or subdivision approved by the Planning Board.

[15] The Maximum Height of any structure may exceed 35 feet, provided the structure is set back the full height of the structure plus an additional 10 feet from all property lines. In no event, however, shall a structure exceed 50 feet in height.

[16] Any Use with an occupancy of 299 or more persons shall be connected to a municipal water line

## 509 DUST, FUMES, VAPORS, GASES, ODORS, GLARE, AND EXPLOSIVE MATERIALS:

509.1 Emission of dust, dirt, fly ash, fumes, vapors or gases which pose an unreasonable risk of harm to human health or the environment shall be prohibited.

509.2 No land use or establishment shall be permitted to produce unreasonable offensive or harmful odors perceptible beyond their lot lines, measured either at ground or habitable elevations.

509.3 No land use or establishment shall be permitted to produce unreasonable glare or brightness beyond its lot lines.

509.4 No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, unless they are stored in compliance with the requirements of the rules and Regulations adopted by the State of Maine.

# ARTICLE 5: LAND USE STANDARDS

## 510 EROSION AND SEDIMENTATION CONTROL

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

510.1 The procedures outlined in the erosion and sedimentation control plan, prepared and submitted by the applicant, shall be implemented during the site preparation, construction, and clean-up stages. The applicant is encouraged to use the siting, design and maintenance guidelines in the "Maine Erosion and Sedimentation Control Handbook for Construction: Best management Practices" by the Cumberland County SWcD and Maine DEP for meeting the requirements of this standard.

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

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

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

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

510.2.4 Whenever feasible, natural vegetation shall be retained, protected and supplemented;

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

510.2.6 Disturbed soils shall be stabilized as quickly as practicable;

510.2.7 Temporary vegetation or mulching shall be used to protect disturbed areas during development;

510.2.8 Permanent (final) vegetation and mechanical erosion control measures in accordance with the standards of the County Soil and Water Conservation District or the Maine Soil and Water Conservation Commission shall be installed as soon as practicable after construction ends;

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

510.2.10 The top of a cut or the bottom of a fill section shall not be closer than ten feet (10') to an adjoining property, unless otherwise specified by the Planning Board. Extraction operations (gravel pits, etc.) shall not be permitted within one hundred feet (100') of any property line in absence of the prior written agreement of the owner of such adjoining property;

510.2.11 During grading operations, methods of dust control shall be employed wherever practicable;

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

510.2.13 Any activity on a stream, watercourse or swale or upon floodway or right-of-way shall comply with the Natural Resource Protection Act, Title 38, MRSA, Sections 480-A and 480-S. Any such activity shall also be conducted in such a manner so as to maintain as nearly as possible the present state of the stream, watercourse, swale, floodway, or right-of-way for the duration of the activity and shall be returned to its original or equal condition after such activity is completed.

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

## 511 GROUNDWATER PROTECTION

The proposed site development and use shall not adversely impact either the quality or quantity of groundwater available to abutting properties or public water supply systems. Projects involving common on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater have demonstrated that the groundwater at the property line shall comply, following development, with the standards for safe drinking water as established by the State of Maine.

If a development will use or store petroleum products, pesticides, herbicides, fertilizer, road salt, solvents, acids or other materials with the potential to contaminate groundwater a groundwater protection plan shall be developed. The plan shall include but not limited to measures including: equipment design, operational procedures, preventive maintenance, construction techniques, personnel training, spill prevention, spill response, control and countermeasure plan, best management practices, runoff or infiltration control systems, and sitting considerations.

## 512 HOME OCCUPATIONS

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

512.1 Home occupations shall be carried out wholly within a dwelling unit or accessory structure to a dwelling unit.

512.2 No more than one other person who is not a family member residing in the dwelling unit shall be employed in a home occupation.

512.3 Home occupations shall be clearly incidental and secondary to the use of a dwelling unit (or building accessory thereto) for residential purposes.

512.4 In connection with a home occupation there shall be no exterior signs other than permitted by Section 530, no exterior storage of materials, and no other exterior indication of the home occupation or variance from the residential character of the premises.

512.5 A home occupation shall not create noise, dust, vibration, odor, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater degree or more frequent extent than that normally experienced in an average residential building in the zone in which located.

512.6 No goods, merchandise, or products shall be sold upon the premises, other than those totally produced, and or repaired, on the premises.

512.7 Home occupations providing (for a fee) professional, educational and/or personal services to groups of persons on the premises shall be limited to serving no more than six (6) persons at any one time, and to the generation of no more than two (2) additional non-family vehicles on-

site at any one time, with appropriate parking spaces provided for said non-family vehicles in addition to those required for the residence.

## 513 JUNKYARDS

No person or landowner shall allow any junkyard to be established, operated, maintained or suffered to exist without first obtaining site plan approval by the Planning Board, a non-transferable land use permit issued by the Council in accordance with State licensing and local requirements, and complying with the following provisions:

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

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

513.3 Junkyards shall be entirely screened from view by earth berms, plantings or fences which shall be well constructed and properly maintained at a minimum height of six feet (6') and sufficient to accomplish the complete screening from ordinary view. In addition, the following provisions apply to all junkyards, in the Town of Holden:

513.4 Upon arrival at the junkyard, all fuel, engine oil, radiator, battery, transmission, fluids, etc. shall be drained from all vehicles, and appropriate safety precautions, such as the removal of door and trunk locks, shall be taken to avoid injury and accidents;

513.5 No vehicles may remain intact in the yard for more than thirty (30) days, and complete processing of vehicles into salvage materials shall be accomplished within four (4) months;

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

513.7 No open burning of salvage material or junk shall be permitted on the premises. Waste fluids and unusable materials shall be disposed of in an environmentally sound manner. Each day that any person or landowner violates this section regarding junkyards shall be a separate violation of this ordinance.

## 514 LAND NOT SUITABLE FOR DEVELOPMENT

The following lands shall not be included in the calculations of lot area for the purpose of meeting the requirements of the minimum lot size requirements of this Ordinance:

514.1 Land which is situated below the normal high water mark of any water body;

514.2 Land which is located within the one hundred (100) year frequency flood plain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the developer shows proof through the submittal of materials prepared by a Registered Land Surveyor which shows that the property in question lies at least one foot (1) above the one hundred (100) year flood level. The elevation of filled or made land shall not be considered;

514.3 Land which is part of a right-of-way, or easement, including utility easements;

514.4 Land that has to be created by filling or draining a pond or wetland;

514.5 Land that has been determined to be a freshwater wetland, as defined in Title 38, M.R.S.A., Section 480-B, regardless of size.

This Section does not apply to existing single lots of record proposed to be utilized for single family residences only.

## 515 LIGHTING

All exterior lighting shall be designed to encourage energy efficiency, to ensure safe movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicular traffic and potential damage to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public. Lighting levels for a proposed development shall consider the light levels of adjacent properties when establishing the light level for the proposed development so that the proposed light level is compatible with these adjacent light levels.

## 516 MINERAL EXPLORATION AND EXTRACTION

The following requirements for mineral exploration and extraction activities shall apply in all Zones except as otherwise hereinafter provided:

516.1 The following requirements shall apply to mineral exploration activities:

516.1.1 All excavations, including test pits and holes, shall be promptly capped, refilled, or secured by other equally effective measures so as to reasonably restore disturbed areas and to protect the public health and safety;

516.1.2 Mineral exploration activities or associated access ways where the operation of machinery used in such activities results in the exposure of mineral soils, shall be located such that an unscarified filter strip of at least the width indicated below is retained between the exposed mineral soil and the normal high water mark of surface water areas:

| Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent) | Width of Strip Between Exposed Mineral Soil and Normal High Mark (Feet Along Surface of the Ground) |
|---|---|
| 0 | 25 |
| 10 | 45 |
| 20 | 65 |
| 30 | 85 |
| 40 | 105 |
| 50 | 125 |
| 60 | 145 |
| 70 | 165 |

The provisions of this section 516.1.2 apply only on a face sloping toward the water, provided, however, no portion of such exposed mineral soil on a back face shall be closer than twenty-five feet (25); the provisions of this subsection do not apply where access ways cross such waters;

516.1.3 Except when surface waters are frozen, access ways for mineral exploration activities shall not utilize stream channels bordered by Protection Zones except to cross the same by the shortest possible route; unless culverts or bridges are installed in accordance with this Ordinance, such crossings shall only use channel beds which are composed of gravel, rock or similar hard surfaces which would not be eroded or otherwise damaged;

516.1.4 Access way approaches to stream channels shall be located and designed so as to divert water runoff from the way in order to prevent such runoff from directly entering the stream;

516.1.5 In addition to the foregoing minimum requirements, when conducting mineral exploration activities and creating and maintaining associated access ways, provision shall be made to effectively stabilize all areas of disturbed soil so as to reasonably avoid soil erosion and sedimentation of surface waters. These measures shall include seeding and mulching if necessary to insure effective stabilization.

516.2 The following requirements shall apply to mineral extraction activities in all Zones:

516.2.1 No portion of any ground area disturbed by the extraction activity on a face sloping toward the water, shall be closer to the normal high water mark of a flowing or standing body of water than is indicated by the following table provided, however, no portion of such ground area on a back face shall be closer than fifty feet (50');

516.2.2 No portion of any ground area disturbed by the extraction activity shall be closer than fifty feet (50') from any public roadway or one hundred feet (100') from any property line in the absence of the prior written agreement of the owner of such adjoining property, or in Shoreland Areas as follows:

| Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent) | Width of Strip Between Exposed Mineral Soil and a line parallel and one hundred feet (100') upland from the upland edge of a wetland stream, or normal high water mark of any river, lake or pond.<br><br>(Feet Along Surface of the Ground) |
|---|---|
| 0 | 50 |
| 10 | 90 |
| 20 | 130 |
| 30 | 170 |
| 40 | 210 |
| 50 | 250 |
| 60 | 290 |
| 70 | 330 |

516.2.3 Within two hundred fifty feet (250') of any water body the extraction area shall be protected from soil erosion by ditches, sedimentation basins, dikes, dams, or such other control devices which are effective in preventing sediments from being eroded or deposited into such water body. Any such control device shall be deemed part of the extraction area for the purposes of Section 516.2.2, above;

516.2.4 A natural vegetative screen of not less than fifty feet (50') in width shall be retained between any facility intended primarily for public use, excluding privately owned roads and the mineral exploration or extraction activity; and

516.2.5 Within twelve (12) months following the completion of extraction operations at any extraction site, or when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

516.2.5.1 All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials originating on-site may be buried or covered on-site.

516.2.5.2 The final graded slope shall be two to one (2:1) slope or flatter.

516.2.5.3 Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the areas. Additional topsoil or loam shall be obtained from off-site sources, if necessary, to complete the stabilization project.

516.2.6 In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary including any reasonable form of performance guarantee such as a performance bond, to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources, including but not limited to wildlife habitat, fisheries, unusual natural areas, archaeological resources and historic sites.

516.3 The following requirements shall apply to topsoil, sand and gravel extraction in all Zones:

516.3.1 Topsoil shall be considered part of all developments, except mineral extraction, and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations;

516.3.2 Extraction shall not be allowed below three feet (3') above the average seasonal high water table. No ditches, trenches, pumping or other methods shall be used to lower the water table or permit more gravel extraction than could occur under normal conditions;

516.3.3 Access roads into and around the pit shall not be oiled, salted, or paved;

516.3.4 The pit shall not be used for storage or dumping of any substances that could produce a harmful leachate, both during operation of the pit and following its permanent closure;

516.3.5 Storage of hazardous materials and petroleum products in the pit is prohibited; and

516.3.6 Refueling and oil changes in the pit are prohibited, unless adequate protection and containment is provided.

## 517 MOBILE HOME PARKS

Mobile Home Parks shall conform to the regulations of the Holden Mobile Home Park Ordinance.

## 518 MOBILE HOMES AND RECREATION VEHICLES

518.1 Mobile Homes located outside of Mobile Home Parks are required to have a full concrete foundation that meets or exceeds a frost depth of 5 feet, a roof capable of handling a 40 pound per square foot snow load or greater that is appropriately pitched, and have the tongue completely removed with skirting installed around the entire trailer.

518.2 Any mobile home not intended to be a permanent fixture on the land shall be parked only in a duly authorized mobile home park except that a mobile home may be permitted on the site of a construction project for not more than two (2) consecutive six-month (6) periods provided that a special permit is issued by the Code Enforcement Officer for each six-month (6) period. Such permit may only be issued if the Code Enforcement Officer is satisfied that:

518.2.1 The mobile home is a necessary convenience for the construction project and is clearly subordinate to such project.

518.2.2 No health hazards or problems of sanitation will be caused by improper disposal of sewage from the mobile home.

518.2 The Code Enforcement Officer may issue a special permit for use of a mobile home for a temporary construction office for up to six (6) months in zones where offices are permitted or on construction sites anywhere in the Town of Holden.

518.3 Recreation vehicles shall in no case be used as a permanent dwelling and any recreation vehicles in use as a temporary dwelling shall be stationed only in an authorized campground or trailer park, or as an accessory use on the premises of a consenting private property owner for use only by members of the property owner's family or social guests.

518.4 Except as specifically permitted by this Section, no mobile home shall be used for any purpose, nor placed on any lot, except in the Rural Resource/Residential (R3) Zone or in an authorized mobile home park.

518.5 Notwithstanding the other provisions of this Section, unoccupied mobile homes may be placed on a lot for sale by a dealer where permitted by this Ordinance.

518.6 No mobile home may be located on any lot or in any mobile home park unless it meets either the standards of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. sections 5401 et seq.) for mobile homes manufactured after June 14, 1976, or MUBEC in effect for the Town at the time of its proposed location on the lot or in the park.

## 519 MULTIPLE USES ON A SINGLE LOT

519.1 No structure shall hereinafter be erected, altered, or utilized if the effect of such erection, alteration of utilization is to create more than one (1) use on a single lot, except home occupations, low impact uses, residential back lot developments which meet the requirements of Section 529 or uses in zones wherein multiple uses are permitted.

519.1.1 In the Village Center (VC) Zone, a permitted non-residential use may have one residential unit within the same structure on lots of forty thousand (40,000) square feet in size or greater, provided that the subsurface wastewater disposal system design calculations do not exceed six hundred (600) gallons per day.

519.2 More than one use may be permitted in the same structure in the General Commercial (GC), Limited Commercial (LC), Village Center Zone, and Community Services and Institutional (CS/I) Zones, subject to the following conditions:

519.2.1 No structure shall hereinafter be erected, altered, or utilized if the effect of erection, alterations, or utilization is to create more than one (1) use on the lot unless the following conditions are met:

519.2.2 The lot has the minimum continuous frontage, as required by Section 508, on a public way for the first use and fifty additional feet (50') of continuous frontage on a public way for the second use and twenty-five additional feet (25') of continuous frontage for each additional use.

519.2.3 All of the other requirements of the Zone in which the uses are located are met, with the exception that uses may be in the same building.

519.2.4 All traveled ways to be used for the means of ingress and egress shall have a usable width of twenty-four feet (24').

519.2.5 Continuous frontage on a private way shall be permitted for any third or additional use, provided the lot has the minimum plus fifty feet (50') of continuous frontage on a public way, two hundred feet (200') on continuous frontage on a private way for the

third use, and one hundred (100) additional feet of continuous frontage for each additional use. All private ways must be built to the standards of the Holden Subdivision Ordinance.

## 520 MUNICIPAL SERVICES

The proposed development shall not have an unreasonable adverse impact on the municipal services including municipal road systems, fire department, police department, solid waste program, sewage treatment plant, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.

## 521 OFF-STREET LOADING/UNLOADING REQUIREMENTS

On every lot on which a commercial or industrial use is hereafter established, space with access to a public street shall be provided as indicated below for the loading and unloading of vehicles.

### 521.1 RETAIL BUSINESS

One (1) space twelve feet (12') by fifty-five feet (55') with a minimum overhead clearance of fifteen feet (15') for the first five thousand (5,000) square feet or fraction thereof of floor space plus one (1) space for any floor space in excess of five thousand (5,000) square feet.

### 521.2 WHOLESALE BUSINESS AND INDUSTRIAL

One (1) space twelve feet (12') by fifty-five (55) with a minimum overhead clearance of fifteen feet (15') for each eight thousand (8,000) square feet of floor space or fraction thereof.

### 521.3 TRUCK AND BUS TERMINALS

Sufficient space to accommodate the maximum number of buses or trucks that would be stored, loaded, and unloaded at the terminal at any one (1) time.

## 522 OFF-STREET PARKING

### 522.1 PARKING SPACE SHALL BE PROVIDED

No structure shall be erected nor shall any of the following uses be established unless at least the minimum number of off-street parking spaces as specified below is provided. Where a fractional number of spaces would be called for, at least the next higher whole number of spaces shall be required. Each parking space shall measure at least nine feet (9') in width by eighteen feet (18') in length and shall have access for vehicles to a public street. Parking lots for more than five (5) vehicles shall be so arranged that vehicles can be turned around within such lots without entering the street. Private roads, separated from public right-of-ways, but not allowing for turn-around space are deemed adequate for these requirements.

522.1.1 Automobile Repair and Filling Stations: one (1) space for each regular employee, plus one (1) space for each fifty (50) square feet of floor area used for service work.

522.1.2 Boarding and Rooming House: one (1) space for each guest room.

522.1.3 Drive-in Restaurants and Dairy Stands: ten (10) spaces plus one (1) additional space for each person serving or preparing food on the largest shift employed at least once a week on a regularly scheduled basis during the peak season of operations.

522.1.4 Funeral Parlors: twenty (20) spaces.

522.1.5 Hospitals and Nursing Homes: one (1) space for each five (5) beds, plus one (1) space for each staff or visiting doctor, plus one (1) space for each four (4) employees.

522.1.6 Hotels: one (1) space for each guest bedroom, plus one (1) space for each four (4) employees.

522.1.7 Industrial Establishments: two (2) spaces for every three (3) employees, at the maximum employment level, on the two (2) shifts of highest employment combined, plus one (1) space for each company vehicle operating from the premises.

522.1.8 Fraternal Organizations and Clubs: one (1) space for each five (5) members.

522.1.9 Business and Professional Offices: one (1) space for each two hundred (200) square feet of working space.

522.1.10 Places of Amusement or Public Assembly: one (1) space for each fifty (50) square feet of floor area devoted to patron use.

522.1.11 Residential: Two (2) spaces for each dwelling unit.

522.1.12 Restaurants, Cocktail Lounges, and Bottle Clubs: one (1) space for each four (4) customer seats, plus one (1) space for each two (2) employees.

522.1.13 Retail Business: four (4) spaces for each one thousand (1,000) square feet of sales area.

522.1.14 Roadside Farm Stands: four (4) spaces.

522.1.15 Elementary Schools: two (2) spaces per classroom plus one (1) space for every four (4) seats of public assembly or ten (10) spaces for every one thousand (1,000) square feet of assembly space if no fixed seats.

522.1.16 High Schools: five (5) spaces per classroom plus one (1) space for every four (4) seats of public assembly or ten (10) spaces for every one thousand (1,000) square feet of assembly space if no fixed seats.

522.1.17 Banks: one (1) space per one hundred fifty (150) square feet of floor area.

522.1.18 Tourist Courts and Motels: one (1) space for each accommodation.

522.1.19 Wholesale Business: one (1) space for each three hundred (300) square feet of floor space.

522.1.20 Churches: one (1) space for each five (5) persons seating capacity.

522.1.21 For uses not specifically listed in this section, the Code Enforcement Officer shall prescribe the number which in no case will be less than an adequate number to provide for employees and customers and visitors anticipated on the site.

522.2 LOCATION ON OTHER PROPERTY

If the required automobile parking spaces cannot be provided on the same lot where the principal use is conducted, the Planning Board can permit that such spaces may be provided on other off-street property provided that such property lies within four hundred feet (400') of the main entrance to such principal use and is in the same zone. Such automobile parking space shall be associated with the principal use and shall not thereafter be reduced or encroached upon in any manner, provided however, that it may serve different principal uses at different times of day.

522.3 PARKING AREA SHADING

The following standards shall apply to all projects classified as being Major Developments as defined by Article 8, Section 804.1:

522.3.1 Parking areas shall be shaded by deciduous trees, either retained or planted by the developer, that have or will have when fully mature a trunk at least twelve inches (12") in diameter. When trees are planted by the developer to satisfy the requirements of this Sub-Section, the developer shall choose trees that are suitable to the site, soils, and climate.

522.3.2 Each tree of the type to be used shall be presumed to shade a circular area having a radius of fifteen feet (15') with the trunk of the tree as the center, and there must be sufficient trees so that using this standard, twenty percent (20%) of the parking area will be shaded.

522.3.3 No paving may be placed within twelve and one half feet (12 1/2') measured from the center of the trunk of any existing tree to be retained and new trees planted shall be located so that they are surrounded by at least two hundred (200) square feet of unpaved area.

522.3.4 Parking areas shall be laid out and provisions made to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of three feet, six inches (3' 6").

522.3.5 If space that would otherwise be devoted to parking cannot be so used because of the planting requirements above, and as a result, the parking requirements of Section 522 cannot be satisfied, the number of required spaces may be reduced by the number of spaces "lost", up to a maximum of fifteen percent (15%) of the required spaces.

522.4 PARKING AREA SETBACKS

No off-street parking area along Route 1A shall be located within the minimum front yard setback.

## 523 OIL AND CHEMICAL STORAGE

523.1 All storage of petroleum or liquid petroleum products shall be in conformance with the provisions of Title 38, M.R.S.A., Section 541 et seq. which, among other things, establishes a ten-year compliance schedule for the discontinuance and removal of nonconforming underground oil storage facilities and requires qualified personnel to oversee the removal of certain underground facilities;

523.2 Such storage shall be in conformance with Rules and Regulations adopted by the State of Maine applicable to the stored substance; and

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

## 524 ON-SITE CIRCULATION

524.1 VEHICULAR CIRCULATION

The layout of the site shall provide for the safe movement of passenger, service, and emergency vehicles through the site.

524.1.1 Non-residential projects shall provide a clear route for delivery vehicles with appropriate geometric design to allow turning and backing for all vehicles, including tractor trailers.

524.1.2 Clear routes of access shall be provided and maintained for emergency vehicles to all portions of the site and shall be posted with appropriate language.

524.1.3 The layout and design of parking areas shall provide for safe and convenient circulation of vehicles and prevent their backing out onto a street.

524.1.4 All streets and accessways shall be designed to harmonize with the topographic and natural features of the site. The road network shall provide for vehicular and pedestrian safety, all season emergency access, snow storage, and delivery and collection services.

524.1.5 Notwithstanding the Buffer Strips requirement of Section 504.1, developers of non-residential projects involving ten (10) or more parking spaces, when such parking areas are within seventy-five feet (75') of a side lot line shall be encouraged to provide an extension to the side lot line. This extension shall meet the driveway dimensional requirements of Section 502.2.2.10, and shall be constructed at least fifty feet (50') from the road right-of-way, and shall be designed to connect with similar extensions or parking lots on adjacent non-residential properties. The intent of this provision is to allow vehicular travel from one place of business to another without traveling on Route 1A or 46.

524.2 PEDESTRIAN CIRCULATION

The development plan shall provide for a system of pedestrian circulation within the development. This system shall connect with existing sidewalks if they exist in the vicinity of the project. The pedestrian network may be located within the street right-of-way or outside of the right-of-way in open space or recreation areas. The system shall be designed to link residential units with recreational and commercial facilities, other common facilities, school bus stops, and existing sidewalks in the neighborhood.

## 525 OUTDOOR STORAGE AND DISPLAY OF GOODS

The storage and display of goods, outside a fully enclosed building, as an accessory use with permitted commercial activities may be permitted provided that:

525.1 The area occupied by such outdoor storage and display:

525.1.1 does not exceed ten (10) percent of the enclosed floor area of such commercial activity or two thousand five hundred (2,500) square feet, whichever is less, in the Limited Commercial (LC) Zone;

525.1.2 does not exceed one (1) percent of the enclosed floor area of such commercial activity in the Community Service/Institutional (CS/I) and Village Center (VC) Zones; and

525.1.3 does not exceed twenty five (25) percent of the enclosed floor area of such commercial activity, in the General Commercial (GC) Zone.

525.2 No storage or display shall be placed in areas required for vehicular ingress or egress, internal traffic flow or any required off-street parking and loading;

525.3 All signs, banners and other decorations shall conform with the requirements of the Holden Sign Ordinance; and

525.4 Such storage and display activities shall meet the dimensional requirements of the zone in which it is located except for side and rear yard setbacks in the General Commercial Zone when approved by the Planning Board as part of Site Plan Review.

## 526 POLLUTION LEVELS

Any pollutant introduced into soil on the site shall not exceed a concentration in the ground water that is greater than the guideline established for it in the Safe Drinking Water Standard, EPA Health Advisory, or NAS Health Advisory. Any violation of this standard shall be cause to order the immediate cessation of the use or activity responsible for the contamination. The land owner, contractor, occupant, or any other person with authority over the land, structure, or activity responsible for the contamination, shall be jointly responsible for the cost of all remedial actions and damages resulting therefrom.

## 527 PRESERVATION AND ENHANCEMENT OF THE LANDSCAPE

The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of soil, and retaining existing vegetation during construction. After construction is completed, landscaping shall be completed that will define, soften or screen the appearance of off-street parking areas, buildings and other structures from the public right-of-way and abutting properties in order to enhance the physical design of the proposed development and to minimize the encroachment of the proposed uses on neighboring land uses.

Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed structures, so as to have a minimum adverse affect on the environment and aesthetic qualities of the developed and neighboring areas.

Environmentally sensitive areas such as wetlands, steep slopes, flood plains, and unique natural features shall be maintained and preserved to the maximum extent possible. Natural drainage areas shall be preserved to the maximum extent possible.

## 528 PRIVATE RIGHTS-OF-WAY

No new private right-of-way shall be created to satisfy the frontage requirements to create a new lot.

Any new private right-of-way shall be at least fifty feet (50') in width or greater, as required by the Planning Board for Site Plan or Subdivision approval. No such right-of-way shall be created over any existing lot or lots so that the balance of any such existing lot, exclusive of the area occupied by the right-of-way would fail to meet any of the requirements of this Ordinance for lot size, frontage, lot coverage, or yard sizes.

## 529 RESIDENTIAL BACK LOT DEVELOPMENT

### 529.1 RESIDENTIAL BACK LOT CREATION

On conforming lots of record existing on December 20, 1995 within the R1, R1G, R2 and R3 Zones, one additional lot may be created, subject to Site Plan Review approval of the Planning Board. Such additional residential lot shall not be sold, rented or occupied unless all of the following requirements are met:

529.1.1 Such additional residential lot is not less in size than the minimum lot size of the Zone in which the unit is located;

529.1.2 The creation of such additional residential lot does not reduce the lot size of the existing lot of record to less than the minimum lot size of the Zone in which the unit is located;

529.1.3 Such additional residential lot is accessible over a deeded right-of-way, of not less than fifty feet (50') in width to a public road; and

529.1.4 Such right-of-way does not diminish the existing road frontage by more than fifty feet (50').

## 530 SIGNS

All signs shall conform to the requirements of the Holden Sign Ordinance.

## 531 SITE CONDITIONS

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

531.2 Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris. Excess or scrap building materials shall be removed or destroyed immediately upon the request of and to the satisfaction of the Code Enforcement Officer prior to issuing a Certificate of Occupancy.

## 532 SPECIAL EVENTS

Outdoor commercial sales and tents and other temporary structures utilized for commercial sales may be permitted, in the Limited Commercial (LC), General Commercial (GC), Village Center (VC) and the Community Service/Institutional Districts (CS/I), provided that:

532.1 Such structures and events shall be limited to three (3) times per calendar year and each time shall be limited to no more than fourteen (14) days per event;

532.2 No display shall be placed in areas required for vehicular ingress or egress, internal traffic flow or any required off-street parking and loading;

532.3 All signs, banners and other decorations shall conform with the requirements of the Holden Sign Ordinance; and

532.4 Such structures and events shall meet the dimensional requirements of the zone in which it is located.

## 533 TEMPORARY STORAGE ENCLOSURES

No temporary storage enclosure may be present on any lot in the R1, R1G, R2, R3, R4, or Resource Protection Zones for any period of time. In the General Commercial, Limited Commercial Village Center, or C.S.I. Zones, one may be permitted as an accessory structure by the Code Enforcement Officer per lot subject to sections 508, 533.4, 533.5, and 533.6. A second temporary storage enclosure may not be present for more than 30 days per year without a permit from the Code Enforcement Officer and not more than 120 days per year without a permit from the Planning Board. The Planning Board may grant a permit for a period of up to one year if it finds:

533.1 The lot coverage of the temporary storage enclosure together with the lot coverage of any other uses or structures on the same lot shall not exceed the maximum lot coverage requirements for the zone in which the temporary storage structure is to be located;

533.2 There is a valid temporary storage need which cannot be met within the principal or existing accessory structures and for which an adequate operational hardship can be shown if the request is not granted;

533.3 The initial approval of the permit or any renewal thereof will not in any way be detrimental to the neighboring properties, including aesthetic impact;

533.4 The temporary storage enclosure will be adequately screened from neighboring properties and the street;

533.5 The temporary storage enclosure will not be used as, or intended for, advertising for on-or-off premises purposes;

533.6 The temporary storage enclosure is not intended for retail sales;

533.7 The use of temporary storage enclosures on the premises is not intended to be permanent or long-term;

533.8 The above provisions do not prohibit the use of temporary storage enclosures as construction or on-site offices or equipment storage facilities during construction, provided that any other permits required pursuant to this ordinance shall have been obtained;

533.9 The initial permit may be renewed for an additional one year only, upon a finding by the Planning Board that the use that the temporary storage enclosure complies with Section 533.1 through 533.7 above; and

533.10 Any conforming temporary storage enclosure in use in the General Commercial, Limited Commercial and Community Service, Village Center and Institutional Zones on January 1, 1995, shall be allowed to continue provided the unit meets the following requirements:

533.10.1 The unit must be skirted unless the storage box is at grade level, by removing the wheels, axles and under-carriage;

533.10.2 Painted or maintained a uniform color in keeping with the architecture of the project site.

## 534 UTILITIES/SEWAGE DISPOSAL/WASTE DISPOSAL/WATER SUPPLY

534.1 UTILITIES

534.1.1 Any utility installations remaining above ground shall be located so as to have a harmonious relation to neighboring properties and the site;

534.1.2 Underground utilities shall be installed prior to the installation of the final gravel base of the road; and

534.1.3 The size, type, and location of street lights and utilities shall be shown on the plan and approved by the Planning Board.

534.2 SEWAGE DISPOSAL

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

534.2.1 There is an area of sufficient size of suitable soils, under the Maine State Plumbing Code, to accommodate the proposed system;

534.2.2 An acceptable plan to construct the absorption area is prepared in accordance with the Maine State Plumbing Code; and

534.2.3 In lieu of 1) and/or 2) above, the applicant demonstrates that any deficiencies of the soil for purposes of sewage disposal can and will be overcome by a suitable engineering solution.

534.3 WASTE DISPOSAL

The proposed development shall provide for adequate disposal of solid wastes and hazardous wastes.

534.3.1 All solid waste shall be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

534.3.2 All hazardous wastes shall be disposed of at a licensed hazardous waste disposal facility and evidence of a contractual arrangement with the facility shall be submitted.

534.4 WATER SUPPLY

534.4.1 The development shall be provided with a system of water supply that provides each use with an adequate supply of water meeting the standards of the State of Maine for drinking water.

534.4.2 For major developments as defined under the site plan review procedures Section 804.1, the applicant shall construct ponds and dry hydrants to provide for adequate water storage for fire fighting purposes. An easement shall be granted to the Town granting access to the dry hydrants where necessary. The Board may waive the requirement for fire ponds only upon a finding by the Board that adequate, alternate firefighting provisions exist or will be built as part of the approved plan. When calculating the minimum water supplies needed for firefighting, generally accepted standards, including but not limited to the 1999 edition of National Fire Protection Association 1231 Water Supplies for Suburban and Rural firefighting, shall be used.

## 535 ACCESSORY APARTMENTS

The purpose of the provisions concerning accessory apartments is to provide a diversity of housing for Town residents while protecting the single-family character of residential neighborhoods. Accessory apartments may be utilized for rental purposes as well as accommodating family members.

535.1 PLAN REQUIRED

Any request for an accessory apartment shall include a plan showing the following:

535.2.1 Lot boundaries and dimensions at scale
535.2.2 Zoning district
535.2.3 Date of plan
535.2.4 Property owner with deed reference
535.2.5 Lot area
535.2.6 Location and setback of all buildings
535.2.7 Rights of way, public and private
535.2.8 All easements
535.2.9 Street names
535.2.10 Sewerage facilities
535.2.11 Off-street parking spaces

535.2.12 Water supply

535.2 BUILDING PLAN REQUIRED

Any request for an accessory apartment shall include a building plan showing the following:

535.3.1 Separate floor layout of all finished levels
535.3.2 All plumbing facilities, kind and location
535.3.3 Use of all rooms
535.3.4 All entrances/exits
535.3.5 All partitions, temporary or permanent
535.3.6 Location and type of all appliances
535.3.7 Parking area

535.3 SUBSURFACE WASTE WATER DISPOSAL

Any request for an accessory apartment shall conform to all provisions of the Maine Subsurface Waste Water Disposal Rules and no dwelling that is served by an on-site wastewater disposal system shall be modified to create an accessory apartment until a site evaluation has been conducted by a licensed site evaluator which demonstrates that the system shall meet the disposal needs of both dwelling units.

535.4 ENTRANCE

The dwelling shall have only one front entrance and all other entrances shall be on the side or in the rear of the dwelling. An entrance leading to a foyer with entrances leading from the foyer to the two dwelling units is permitted.

535.5 SIZE

The accessory apartment shall have no more than six hundred (600) square feet of floor area but shall not exceed fifty (50) percent of the floor area of the principal use. Floor area measurements shall not include unfinished attic, basement or cellar spaces, nor public hallways or other common areas.

535.6 NUMBER OF UNITS

Only one accessory apartment shall be permitted per lot.

535.7 PROHIBITIONS

Accessory apartments shall not be permitted for any nonconforming structure or use, where the nonconformity is due to the use of the premises, as opposed to nonconforming dimensional requirements.

## 536 AFFORDABLE HOUSING DENSITY BONUS

The Planning Board may permit an increase in the overall density of a single-family or multi-family development in the VC, GC, LC and R1G zones by up to 15%, and reduce lot size and frontage requirements by up to 20%, provided that the proposed residential development meets all of the following requirements.

536.1 At least 10% of the units shall be affordable to persons meeting the U.S. Department of Housing and Urban Development definition of low to moderate income persons or households for Penobscot County.

536.2 Mechanisms are or will be implemented to ensure that at least 10% of the units are made available to low to moderate income persons.

536.3 Mechanisms are established to ensure that such dwelling units remain affordable.

536.4 The density bonus shall not be combined with any other dimensional reduction provision contained in this Ordinance.

## 537 HISTORIC AND ARCHAEOLOGICAL RESOURCES

If any portion of a proposed development site has been identified as containing historic or archaeological resources, either in the 2007 Comprehensive Plan or by the Maine Historic Preservation Commission, the following provisions shall apply:

537.1 The development shall include appropriate measures for protecting these resources to the maximum extent possible. Appropriate measures include, but are not limited to, modification of the proposed design of the site, timing of construction, and limitations of the extent of excavations.

## 538 COMMERCIAL SOLAR REQUIREMENTS

A. Purpose

The purpose of this section is to establish minimum standards for the siting, screening, and vegetation requirements of commercial solar energy facilities in order to minimize visual impacts, protect neighboring properties, and preserve the character of the Town of Holden.

B. Applicability

The requirements of this section shall apply to all new commercial solar energy facilities, including ground-mounted photovoltaic arrays and associated infrastructure, permitted within the Town of Holden.

C. Setbacks

1. All solar-related activities, including but not limited to the clearing of vegetation, grading, installation of solar panels, inverters, transformers, fencing, or other equipment, shall be set back a minimum of 200 feet from all property lines.

2. The only exception to this setback requirement shall be for the construction of a single access road providing ingress and egress to the solar array, which shall be located to minimize visual and environmental impacts.

D. Vegetation Requirements

1. Where existing vegetation within the required setback is insufficient to provide adequate screening, the applicant shall install full mature vegetation as approved by the Planning Board.

2. Such plantings shall:
   a. Be of species and heights that, at the time of planting, exceed the height of the installed solar equipment;
   b. Be arranged in a manner that provides complete visual screening from adjoining properties; and
   c. Be maintained in a healthy condition for the life of the project. Dead or diseased plantings shall be replaced within one growing season.

E. Public-Facing Screening

1. The portion of any commercial solar facility that is visible from a public road, public right-of-way, or other public vantage point shall be screened by a solid wooden stockade fence of sufficient height to fully obscure the installed equipment.
2. Said fence shall be constructed in a manner consistent with Planning Board approval and shall be maintained in good repair for the life of the project.

F. Maintenance

Failure to maintain required vegetation or fencing in accordance with this section shall constitute a violation of this Ordinance and may result in enforcement action.

# ARTICLE 6: SHORELAND STANDARDS

## 601 GENERAL

All land use activities within two hundred fifty feet (250') of the normal high-water line of any great pond or river, within two hundred fifty feet (250') of the upland edge of a freshwater wetland, or within seventy-five feet (75') of the high-water line of a stream shall conform with the following provisions, if applicable.

## 602 AGRICULTURE

602.1 All spreading of manure shall be accomplished in conformance with the Manure utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).

602.2. Manure shall not be stored or stockpiled within one hundred feet (100'), horizontal distance, of a great pond or a river flowing to a great pond, or within seventy-five feet (75') horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

602.3 Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the shoreland zone shall require a Conservation Plan to be filed with and approved by the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

*Note: Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District Office.*

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

602.5 Newly established livestock grazing areas shall not be permitted within one hundred feet (100'), horizontal distance, of the normal high-water line of a great pond; within seventy-five feet (75'), horizontal distance of other water bodies, nor; within twenty-five feet (25'), horizontal distance, of tributary streams, and wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

## 603 ARCHAEOLOGICAL SITES

The application for any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the Planning Board shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the Planning Board. The Planning Board shall consider comments received from the Commission prior to rendering a decision on the application.

## 604 CLEARING OR REMOVAL OF VEGETATION FOR ACTIVITIES OTHER THAN TIMBER HARVESTING

604.1 In a Resource Protection Zone (RP) abutting a great pond, there shall be no cutting of vegetation within the strip of land extending seventy-five feet (75'), horizontal distance, inland from the normal high-water line, except for the removal of safety hazards and with a permit from the Code Enforcement Officer.

Elsewhere, in any Resource Protection Zone (RP) the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

604.2 Except in areas as described in 604.1 above, and except to allow for the development of permitted uses, within a strip of land extending one hundred feet (100'), horizontal distance, inland from the normal high-water line of a great pond or a river flowing to a great pond, and seventy-five feet (75'), horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

604.2.1 There shall 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 shrub crown. However, a footpath not to exceed six feet (6') in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

604.2.2 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 this section a "well-distributed stand of trees adjacent to a great pond or a river or stream flowing to a great pond, shall be defined as maintaining a rating score of twenty four (24) or more in any twenty-five (25) foot by fifty (50) foot rectangle (1,250 square feet) area as determined by the following rating system:

| Diameter of Tree at 4 1/2 Feet Above Ground Level | Points |
|---|---|
| 2 - 4 inches | 1 |
| >4 - 8 inches | 2 |
| 8 – 12 inches | 4 |
| >12 in | 8 |

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of sixteen (16) per twenty-five (25) foot by 50-foot rectangular area.

NOTE: As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

(4 x 1) + (2 x 2) + (3 x 4) + (2 x 8)= 36 points

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points (36-24=12) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

604.2.2.1 The 25-foot by 50-foot rectangle plots must be established where the landowner or lessee proposes clearing within the required buffer;

604.2.2.1 Each successive plot must be adjacent to, but not overlap a previous plot;

604.2.2.3 Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;

604.2.2.4 Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;

604.2.2.5 Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 604.2.2 "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 saplings have been recruited into the plot.

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

604.2.3 In order to protect water quality and wildlife habitat, existing vegetation under three feet (3') 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 604.2.1 above.

604.2.4 Pruning of tree branches, on the bottom third (1/3) of a tree is allowed.

604.2.5 In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

The provisions contained in Section 604.2 above shall 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.

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

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

604.4 Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

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

## 605 COMMERCIAL AND INDUSTRIAL USES

The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds, and rivers and streams which flow to great ponds:

Auto washing facilities
Auto or other vehicle service and/or repair operations, including body shops
Chemical and bacteriological laboratories
Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms
Commercial painting, wood preserving, and furniture stripping
Dry cleaning establishments
Electronic circuit assembly
Laundromats, unless connected to a sanitary sewer
Metal plating, finishing, or polishing
Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
Photographic processing
Printing

## 606 CONVERSION OF SEASONAL DWELLINGS

606.1 Prior to converting a seasonal dwelling, as defined in this Ordinance, to a year-round or principal dwelling, the owner or his/her authorized agent shall obtain a conversion permit from the Town of Holden Plumbing Inspector. The Plumbing Inspector shall not approve a conversion permit if a holding tank is used as a means of wastewater disposal or storage. The Plumbing Inspector shall issue a permit for conversion of a seasonal dwelling to a year-round dwelling if one of the following conditions is met:

606.1.1 A subsurface wastewater disposal application, completed after July 1, 1974, exists indicating that the dwelling's wastewater disposal system substantially complies with Maine Department of Human Services rules and applicable Town ordinance provisions, provided that the disposal system was installed with the required permit and certificate of approval; or

606.1.2 A replacement system for an existing wastewater disposal system has been constructed so that it substantially complies with Maine Department of Human Service rules and applicable Town ordinances; or

606.1.3 The dwellings unit's wastewater is connected to an approved sanitary sewer system.

606.2 It shall be a violation of this Ordinance to convert a seasonal to a year-round dwelling without the required conversion permit. For the purposes of this requirement, a seasonal dwelling is a dwelling which existed on December 31, 1981, and which was not used as a principal or year-round residence during the period from 1977 to 1981. A year-round dwelling is a dwelling which meets one of the following criteria:

606.2.1 The dwelling is listed as an occupant's legal residence for the purpose of voting, filing a tax return, or automobile registration; or

606.2.2 The dwelling has been occupied for a period exceeding seven (7) months in any calendar year.

## 607 EROSION AND SEDIMENTATION CONTROL

607.1 All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit under this Ordinance shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the Code Enforcement Officer or Planning Board for approval, as required, and shall include, where applicable, provisions for:

607.1.1 Mulching and revegetation of disturbed soil.

607.1.2 Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

607.1.3 Permanent stabilization structures such as retaining walls or riprap.

607.2 In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

607.3 Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

607.4 Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

607.4.1 Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

607.4.2 Anchoring the mulch with netting, peg, and twine or other suitable method may be required to maintain the mulch cover.

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

607.5 Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

## 608 ESSENTIAL SERVICES

608.1 Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

608.2 The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection Zone (RP) nor within 75 feet of a stream, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

608.3 Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

## 609 INDIVIDUAL PRIVATE CAMPSITES

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

609.1 One campsite per lot of record existing on the effective date of this Ordinance, or per forty-three thousand five hundred and sixty (43,560) square feet of lot area within the shoreland zone, whichever is less dense, may be permitted.

609.2 Campsite placement on any lot, including the area intended for a tent platform, shall be set back one hundred feet (100'), horizontal distance, from the normal high-water line of a great pond or river flowing to a great pond, and seventy-five feet (75'), horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

609.3 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.

609.4 The clearing of vegetation for a pre-existing recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1,000) square feet.

609.5 A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

609.6 When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

## 610 MINERAL EXPLORATION AND EXTRACTION

Mineral exploration and extraction are prohibited.

## 611 MINIMUM LOT STANDARDS

611.1 All lots in the Shoreland Residential Zone (R4) shall contain a minimum of one (1) acre (43,560 square feet) per dwelling unit, and have a minimum shore frontage of two hundred feet (200'). All lots for any governmental, institutional, commercial or industrial structure in any shoreland zone shall be 60,000 square feet and 300 feet of frontage per principal structure.

611.2 Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

611.3 Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

611.4 The minimum width of any portion of any lot within one hundred feet (100'), horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

611.5 If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure or use.

## 612 PARKING AREAS

612.1 Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the zone in which such areas are located. The setback requirement for parking areas serving public boat launching facilities shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

612.2 Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland, and where feasible, to retain all runoff on-site.

612.3 In determining the appropriate size of proposed parking facilities, the following shall apply:

612.3.1 Typical parking space: Approximately ten feet (10') wide and twenty feet ( 20') long, except that parking spaces for a vehicle and boat trailer shall be forty feet (40') long.

612.3.2 Internal travel aisles: Approximately twenty feet (20') wide.

## 613 PIERS, DOCKS, WHARFS, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BELOW THE NORMAL HIGH-WATER LINE OF A WATER BODY OR WITHIN A WETLAND

613.1 Access to the shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

613.2 The location shall not interfere with existing developed or natural beach areas.

613.3 The facility shall be located so as to minimize adverse effects on fisheries.

613.4 The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses, of the area. A temporary pier, dock or wharf shall not be wider than six feet for non-commercial uses.

613.5 No new structure shall be built on, over or abutting a pier, wharf, dock, or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

613.6 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.

613.7 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 shall be converted to residential dwelling units in any district.

613.8 Structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

*Note: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.*

## 614 PRINCIPAL AND ACCESSORY STRUCTURES

614.1 All new principal and accessory structures shall be set back at least one hundred feet (100'), horizontal distance, from the normal high-water line of great ponds and rivers that flow into great ponds, and seventy-five feet (75'), horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

614.1.1 The water body, tributary stream or wetland setback provision shall not apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, or to other functionally water-dependent uses.

614.2 Principal or accessory structures and expansions of existing structures which are permitted in the Shoreland Residential Zone (R4) and Resource Protection Zone shall not exceed thirty-five feet (35') in height.

614.3 The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the one hundred (100) year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils. Accessory structures may be placed in accordance with the Floodplain Management Ordinance and need not meet the elevation requirements of this paragraph.

614.4 The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland area shall not exceed twenty percent (20%) of the lot or a portion thereof, located within the Shoreland Residential Zone (R4) and Resource Protection Zone, including land area previously developed. Structures in the Resource Protection District shall be subject to a special exception permit as set forth in Section 614.7.

614.5 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:

614.5.1 The site has been previously altered and an effective vegetated buffer does exist;

614.5.2 The wall(s) is (are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;

614.5.3 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;

614.5.4 The total height of the wall(s), in the aggregate, is not more than 24 inches;

614.5.5 Retaining walls are located outside of the 100-year floodplain on rivers, streams, wetlands and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

614.5.6 The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

614.5.6 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:

614.5.6.1 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;

614.5.6.2 Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;

614.5.6.3 Only native species may be used to establish the buffer area;

614.5.6.4 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; and

614.5.6.5 A footpath not to exceed the standards in Section 604.2.1, may traverse the buffer.

614.6 Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided; that the structure is limited to a maximum of four feet (4') in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Board of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A, section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

614.7 SPECIAL EXCEPTIONS

The Planning Board may approve as a special exception, a permit for a seasonal single-family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

614.7.1 There is no location on the property, other than a location within the Resource Protection District, where the structure can be built;

614.7.2 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;

614.7.3 The proposed location of all buildings, sewage disposal systems and other improvements are:

614.7.3.1 Located on natural ground slopes of less than 20%; and

614.7.3.2 Located outside the floodway of the 100-year floodplain along river, 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 floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be ½ the width of the 100-year floodplain.

614.7.4 The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet provided that such structures shall not exceed the 20% lot coverage requirement. This limitation shall not be altered by variance.

614.7.5 All structures, except functionally water-dependent structures, are set back from the normal high-water line or upland edge of a wetland to the greatest practical extent, but not less that one hundred (100) feet from the normal high-water line of great ponds and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. 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 floodplain, and its proximity to moderate-value and high-value wetlands.

614.7.6 Expiration of Permit. Following the issuance of a permit, if no substantial start is made in construction or in the use of the property within one year of the date of the permit, the permit shall lapse and become void.

## 615 ROADS AND DRIVEWAYS

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

615.1 Roads and driveways shall be set back at least one hundred feet (100'), horizontal distance, from the normal high-water line of a great pond or a river that flows to a great pond, and seventy-five feet (75'), 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 requirement to no less than fifty feet (50'), horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

Section 615.1 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 comply fully with the requirements of Section 615.1 except for that portion of the road or driveway necessary for direct access to the structure.

615.2 Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream or wetland.

615.3 New roads and driveways are prohibited in a Resource Protection Zone (RP) except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

615.4 Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 607.

615.5 Road and driveway grades shall be no greater than ten percent (10%) except for segments of less than two hundred feet (200').

615.6 In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty feet (50') 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.

615.7 Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway or ditch. To accomplish this, the following shall apply:

615.7.1 Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

| Grade (Percent) | Spacing (Feet) |
|---|---|
| 0-2 | 250 |
| 3-5 | 200-135 |
| 6-10 | 100-80 |
| 11-15 | 80-65 |
| 16-20 | 60-45 |
| 21+ | 40 |

615.7.2 Drainage dips may be used in place of ditch relief culverts only where the grade is ten percent (10%) or less.

615.7.3 On sections having slopes greater than ten percent (10%), 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.

615.7.4 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.

615.8 Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

## 616 SEPTIC WASTE DISPOSAL

All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules and the following:

616.1 Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland; and

616.2 A holding tank is not allowed for a first-time residential use in the shoreland zone.

*Note: The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.*

## 617 SIGNS

All signs in the Shoreland Residential (R4) and Resource Protection (RP) Zones shall conform to the provisions of the Holden Sign Ordinance.

## 618 SOILS

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists, and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

## 619 STORM WATER RUNOFF

619.1 All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces, and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.

619.2 Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

*Note: The Stormwater Management Law (38 M.R.S.A. section 420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of 20,000 square feet or more of impervious area or 5 acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with 1 acre or more of developed area in any other stream or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area but less than 1 acre impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than 5 acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.*

## 620 TIMBER HARVESTING

620.1 Within the strip of land extending seventy-five feet (75') inland from the normal high-water line in areas zoned as Resource Protection (RP) abutting a great pond there shall be no timber harvesting, except to remove safety hazards.

620.2 Except in areas as described in 620.1 above, timber harvesting shall conform with the following provisions except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 ½ feet above ground level be reduced to less than 30 square feet per acre:

620.2.1 Selective cutting of no more than forty percent (40%) of the total volume of trees four (4) inches or more in diameter measured at four and one-half feet (4 1/2') above ground level on any lot in any ten (10) year period is permitted. In addition:

620.2.1.1 Within one hundred feet (100'), horizontal distance of the normal high-water line of a great pond or a river flowing to a great pond, and within seventy-five feet (75'), horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a

wetland, there shall be no clear cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

620.2.1.2 At distances greater than one hundred feet (100'), horizontal distance, of a great pond or a river flowing to a great pond, and greater than seventy-five feet (75'), horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clear cut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet they shall be at least one hundred feet (100'), horizontal distance, apart. Such clear cut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.

620.2.2 Timber harvesting in excess of forty percent (40%) of the volume may be permitted by the Planning Board upon a showing, including a forest management plan signed by a Maine licensed professional forester, that such exception is necessary for sound forest management and will be carried out in accordance with the purposes of this Ordinance. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the Planning Board's decision.

620.2.3 No accumulation of slash shall be left within fifty feet (50'), horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four feet (4') above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.

620.2.4 Timber harvesting equipment shall not use stream channels as travel routes except when:

620.2.4.1 Surface waters are frozen; and

620.2.4.2 The activity will not result in any ground disturbance.

620.2.5 All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock, or similar hard surface which would not be eroded or otherwise damaged.

620.2.6 Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

620.2.7 Except for water crossings, skid trails, and other sites, where the operation of machinery used in timber harvesting results in the exposure of mineral soil, the operation shall be located such that an unscarified strip of vegetation of at least seventy-five feet (75') horizontal distance, in width for slopes up to ten percent (10%) shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten percent (10%), or fraction thereof, increase in slope, the unscarified strip shall be increased by twenty feet (20') horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five feet (25') horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

# ARTICLE 6: SHORELAND STANDARDS

## 621 WATER QUALITY

No activity shall deposit on or into the ground or discharge to the waters of the State, any pollutant that, by itself or in combination with other activities or substances will impair designated uses or the water classification of the water body, tributary stream or wetland.

# ARTICLE 7: CODE ENFORCEMENT OFFICER PERMITS

## 701 CODE ENFORCEMENT OFFICER PERMIT REQUIRED

A permit from the Code Enforcement Officer shall be required before beginning or undertaking any of the following activities:

701.1 FLOOD HAZARD AREA PERMIT

All construction or earth moving activities or other improvements within the 100-year flood plain designated on the Flood Insurance Rate Maps published by the Federal Emergency Management Agency.

701.2 BUILDING PERMIT

701.2.1 New construction of buildings and structures;

701.2.2 Alteration of existing buildings, structures, or land, or parts thereof, including:

701.2.2.1 Change in size of windows or doors;

701.2.2.2 Repair of foundation, whether concrete, cinder block, granite and post, or piles;

701.2.2.3 Interior renovations for change in use;

701.2.2.4 Remodeling interior walls to create new rooms;

701.2.2.5 Enclosing of open frame porches and decks;

701.2.2.6 Installing skylights; and

701.2.2.7 Construction of porches and decks.

701.2.3 Creation of roads or driveways;

701.2.4 The replacement of existing road culverts in the Shoreland Area, unless the replacement culvert is:

701.2.4.1 Not more than one (1) standard culvert size wider in diameter than the culvert being replaced;

701.2.4.2 Not more than twenty-five percent (25%) longer than the culvert being replaced;

701.2.4.3 Not longer than seventy-five feet (75'); provided that adequate erosion control measures are taken to prevent sedimentation of the water, and that the crossing does not block fish passage in the water course; and

701.2.5 Special events in conformance with the requirements of Section 532.

701.3 MOVING OR DEMOLITION PERMIT

All buildings or structures which are removed from or moved onto, or moved around within a lot, or demolished.

701.4 CHANGE OF USE PERMIT

The change of any premises from one category of land use to any other land use.

## ARTICLE 7: CODE ENFORCEMENT OFFICER PERMITS

701.5 ACTIVITIES LISTED IN THE SCHEDULE OF USES

Any activity listed in Article 4, of this Ordinance, as requiring a permit from the Code Enforcement Officer. No permit may be issued under this section for an activity which is part of a site or project that has received Site Plan approval from the Planning Board, except as provided in Sections 701.6 and 701.8, below.

701.6 SITE PLAN REVIEW ACTIVITIES

Any activity approved by the Planning Board under the Site Plan Review provisions of Article 8 of this Ordinance.

701.7 ADDITIONAL USES IN PREVIOUSLY APPROVED SITE PLANS

Any addition of uses inside a building having previously received Site Plan Approval from the Planning Board.

701.8 MINOR EXPANSIONS OF PREVIOUSLY APPROVED SITE PLANS

Construction or expansion of accessory structures or uses, addition of an accessory use, expansion of a primary building or structure, or expansion of an unvegetated area on a site or project which has received Site Plan approval from the Planning Board except that the Code Enforcement Officer may not issue a permit for the following:

701.8.1 Any of the above activities which are part of a site or project that has been reviewed under the Site Location of Development Act either by the Maine Department of Environmental Protection or by the Town of Holden under delegated authority.

701.8.2 Construction or expansion of accessory structures which result in a total floor space greater than the total original floor space plus two thousand five hundred (2,500) square feet.

701.8.3 Expansion of a primary building or structure which results in a total floor space greater than the lesser of (1) the total original floor space plus two thousand five hundred (2,500) square feet; or (2) one hundred and ten (110) per cent of the total original floor space.

701.8.4 Expansion of unvegetated areas which results in a total unvegetated area(s) greater than the lesser of (1) the total unvegetated area(s) plus ten Thousand (10,000) square feet; or (2) one hundred and twenty five (125) per cent of the total original unvegetated area(s).

701.8.5 Addition of a new accessory use which would otherwise require Site Plan review as a Major Development under Section 804.1. Note: A use is not a "new" use if it is shown as an existing or proposed use on the Site Plan documents at the time of the Site Plan approval, regardless of the quantity or quality of actual review of that use by the Planning Board.

### 702 PROCEDURE

702.1 APPLICATION

All applications for a Code Enforcement Officer permit shall be submitted in writing to the Code Enforcement Officer on forms provided for the purpose, together with such fees as required in Article 10 of this Ordinance.

## ARTICLE 7: CODE ENFORCEMENT OFFICER PERMITS

702.2 SUBMISSIONS

All applications for a Code Enforcement Officer permit shall be accompanied by a plan, accurately drawn to scale or showing actual dimensions or distances, and showing:

702.2.1 The actual shape and dimensions of the lot for which a permit is sought;

702.2.2 The location and size of all buildings, structures, and other significant features currently existing on the lot, as well as all water bodies and wetlands within two hundred fifty feet (250') of the property boundaries;

702.2.3 The location of new buildings, structures or portions thereof to be constructed;

702.2.4 The existing and intended use of each building or structure;

702.2.5 Where applicable, the location of soils test pits, subsurface sewage disposal system, parking lots and driveways, signs, buffer strips and private wells; and

702.2.6 Such other information as may be reasonably required by the Code Enforcement Officer to provide for the administration and enforcement of this Ordinance.

702.3 TO WHOM ISSUED

No permit shall be issued except to the owner of record or his authorized agent. Written proof of authorization shall be required.

702.4 COMPLIANCE WITH LAND USE STANDARDS

All activities undertaken pursuant to a permit issued under this Section shall comply with all applicable standards set forth in Articles 5 and 6 of this Ordinance.

702.5 DEADLINE FOR DECISION

The Code Enforcement Officer shall, within thirty (30) days of receipt of an application, issue the permit, if all proposed construction and uses meet the provisions of the Ordinance, refer the applicant to the Planning Board for Site Plan Review, or deny the application. All decisions of the Code Enforcement Officer shall be in writing. Failure of the Code Enforcement Officer to act within thirty (30) days shall constitute denial of the application.

702.6 COPIES

Two (2) copies of the application, with the permit or other written decision of the Code Enforcement Officer, shall be returned to the applicant, and two (2) copies, with a copy of the permit or written decision, shall be retained by the Code Enforcement Officer as a permanent public record.

702.7 POSTING

The applicant shall conspicuously post any permit issued, on the lot where the activity will occur, at a location clearly visible from the street.

702.8 COMMENCEMENT AND COMPLETION OF WORK

Construction and alteration activities on projects for which a permit has been granted under this Section shall commence within twelve (12) months of the date of issuance of the permit and shall be substantially completed within twenty-four (24) months of that date.

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

Activities may be extended for up to twelve (12) months by the Code Enforcement Officer, for good cause, if an application for an extension is submitted not later than thirty (30) days prior to expiration of the prior permit.

702.9 APPEALS

Appeals from decisions of the Code Enforcement Officer may be taken pursuant to Article 12 of this Ordinance.

## 703 BIENNIAL REPORT ON SHORELAND ACTIVITIES

The Code Enforcement Officer shall provide the Commissioner of the Department of Environmental Protection a report on Shoreland Zoning activities including the number and type of permits issued, variances granted, violations noticed, and enforcement actions taken. Such reports shall be made by the Code Enforcement Officer once every two (2) years, with the first report to be submitted no later than March 1, 1992.

# ARTICLE 8: SITE PLAN REVIEW

## 801 PURPOSE

The purpose of Site Plan Review is to promote the public health, safety, and general welfare by requiring Planning Board review of plans for certain uses or structures which have a significant potential impact on the neighborhood or the environment but which, when properly designed with respect to their surroundings, can become uses or structures that are compatible with the neighborhood and environment.

## 802 ACTIVITIES REQUIRING SITE PLAN REVIEW

Except as provided in Section 803, below, Site Plan Review and Approval by the Planning Board shall be required for:

802.1 Any proposed use designated in Article 4, as requiring Site Plan Approval from the Planning Board;

802.2 The construction, substantial alteration or external enlargement of any existing building or structure devoted to a use requiring Site Plan Approval from the Planning Board; and

802.3 The enlargement or expansion of the parking, loading, outdoor display or storage area of any commercial or industrial use.

## 803 ACTIVITIES NOT REQUIRING SITE PLAN REVIEW

Unless specifically required by Article 4, Site Plan Review shall not be required for:

803.1 Uses designated in Article 4 as requiring only a permit from the Code Enforcement Officer or as requiring no permit at all;

803.2 External enlargement of a building otherwise requiring Site Plan Review, provided that such enlargement shall not exceed one thousand (1,000) square feet in gross floor area, and that only one (1) such enlargement shall be permitted in any five (5) year period without Site Plan Review; and

803.3 Any hazardous activity identified by the Maine Department of Environmental Protection, as exempt from the definition of hazardous activity in Title 38, MRSA, Section 482, Sub-Section 2-C, including domestic and other uses of substances in quantities too small to present a significant risk of ground water contamination.

## 804 CLASSIFICATION OF PROJECTS

Projects subject to Site Plan Review shall be classified by the Code Enforcement Officer into one (1) of the following classes:

804.1 MAJOR DEVELOPMENTS

Projects involving any of the following shall be classified by the Code Enforcement Officer as a Major Development:

804.1.1 Any project which contemplates drilling for or excavating natural resources, including mineral extraction, on land or under water where the area affected is in excess of 30,000 square feet;

804.1.2 Hazardous activities involving the consumption, generation, or handling of:

804.1.2.1 Hazardous wastes as defined in Title 38, MRSA, Section 1303;

804.1.2.2 Hazardous materials as defined in Title 38, MRSA, Section 1317;

804.1.2.3 Oil, as defined in Title 38, MRSA, Section 542; and

804.1.2.4 Low-level radioactive wastes, as defined in Title 38, MRSA, Section 1451.

804.1.3 Any building or buildings on a single parcel constructed or erected with a fixed location on or in the ground or attached to something on or in the ground which occupies a ground area in excess of 20,000 square feet;

804.1.4 Any project where parking lots, roads, paved areas, or other areas to be stripped or graded and not to be revegetated causes the total project, including any buildings, to occupy a ground area in excess of 60,000 square feet;

804.1.5 Any project which is a conversion of an existing project meeting the description in Sections 804.1.3 and 804.1.4, above; and

804.1.6 Any multi-unit housing development involving a building or buildings built for the purpose of providing ten (10) or more housing units located on a single parcel of land.

804.1.7 The construction or erection of a telecommunications tower in the Telecommunications Overlay Zone.

804.2 MINOR DEVELOPMENTS

804.2.1 Projects not classified by the Code Enforcement Officer as a Major Development shall be considered a Minor Development under this Section.

804.2.2 Residential back lot developments.

804.2.3 Projects classified as Minor Developments have to submit the information specified in Sections 806.1 through 806.7, below. Projects classified as Major Developments, in addition to submitting the information required of Minor Developments, are required to submit the information specified in Section 807.1 through 807.14.

## 805 PROHIBITION

No activity or use described in Section 802 shall commence until the property owner has received Site Plan Approval from the Planning Board and has received any necessary permits from the Code Enforcement Officer under Article 7.

## 806 SITE PLAN REVIEW APPLICATION

Applications for Site Plan Review shall be submitted on application forms provided by the Town. The complete application form, required fees, and the required plans and related information shall be submitted to the Code Enforcement Officer who shall forward it to the Planning Board. The submission shall contain at least the following exhibits and information:

806.1 APPLICATION FORM

A fully executed and signed copy of the application form;

806.2 FEES

Site Plan Review Fees in the amounts specified in Article 10;

806.3 ORIGINALS

One (1) original of all maps and drawings on durable, permanent transparency material;

806.4 COPIES

Ten (10) copies of written materials plus ten (10) sets of maps or drawings containing the information listed below. The written materials shall be contained in a bound report or a three-ring notebook. The maps or drawings shall be at a scale sufficient to allow review of the items listed under the criteria for approval.

806.5 GENERAL INFORMATION

The following general information is required:

806.5.1 Name of owner of record and address;

806.5.2 Applicant's name and address if different;

806.5.3 The name of the proposed development;

806.5.4 Names and addresses of all property owners within three hundred (300) feet of the edge of the property line;

806.5.5 Sketch map showing general location of the site within the Town;

806.5.6 Location map showing the boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time;

806.5.7 The tax map(s) and lot number(s) of the parcel or parcels;

806.5.8 A copy of the deed to the property, option to purchase the property or other documentation to demonstrate right, title, or interest in the property on the part of the applicant; and

806.5.9 The name(s), registration number(s), and seal(s) of the land surveyor, architect, engineer, and/or similar professionals assisting with the preparation of the plan.

806.6 INFORMATION REGARDING EXISTING CONDITIONS

The following information regarding existing conditions is required:

806.6.1 Zoning classifications(s) of the property and the location of zoning district boundaries if the property is located in more than one (1) zoning district or abuts a different district;

806.6.2 Boundary lines of the parcel to be developed with bearings on less than to the nearest 30 seconds, distances no less than to the nearest 0.01-foot, curve data and any additional information to reproduce the boundary lines mathematically. Said boundary lines shall be determined and certified by a Maine licensed land surveyor and prepared in accordance to the Rules set forth by the Maine Board of Licensure for Professional Land Surveyors.

806.6.3 Location and size of any existing sewer and water mains, culverts, and drains on the property to be developed and of any that will serve the development from abutting streets or land;

806.6.4 Location, names, and present widths of existing streets and rights-of-way within or adjacent to the proposed development;

806.6.5 The location, dimensions, and ground floor elevations of all existing buildings on the site;

806.6.6 The location and dimensions of existing driveways, streets, parking and loading areas, and walkways on the site;

806.6.7 Location of intersecting roads or driveways within two hundred (200) feet of the site;

806.6.8 Topography of the site at an appropriate contour interval (1', 2', or 5') depending on the nature of the use and character of the site;

806.6.9 Major natural features on the site and including within two hundred fifty feet (250') of the boundaries of the site, wetlands prepared by a State Certified Soil Scientist or Geologist, registered in the State of Maine, based on an on-site investigation, streams, ponds, flood plains, groundwater aquifers, significant wildlife habitats including deer wintering areas identified in the 2007 Comprehensive Plan, scenic areas identified in the 2007 Comprehensive Plan, archaeological resources or other important natural features;

806.6.10 Soils information if on-site sewage disposal is proposed. This information should be detailed enough to allow those portions of the site not suitable for on-site disposal systems to be identified;

806.6.11 The location of wetlands prepared by a State Certified Soil Scientist or Geologist, registered in the State of Maine, and based on an on-site investigation, open drainage courses, wetlands, significant stands of trees, and other important natural features, with a description of such features to be retained;

806.6.12 The direction of existing surface water drainage flow across the site;

806.6.13 The location and dimensions of existing signs;

806.6.14 The location and type of all existing exterior lighting; and

806.6.15 A copy of such covenants or deed restrictions, if any, as are intended to cover all or part of the tract. Such covenants or deed restrictions shall be referenced on the plan.

806.6.16 The location of snowmobile trails shown on the Interconnecting Trail System map published by the Maine Department of Conservation, or recognized club-maintained trails; and

806.6.17 For projects located within the Town's sand and gravel aquifers or within 500 feet of the Town's sand and gravel aquifers, a groundwater impact analysis prepared in accordance with the requirements of Section 407.

806.7 INFORMATION REGARDING PROPOSED DEVELOPMENT ACTIVITY

The following information regarding the proposed development activity is required:

806.7.1 The location of all building setbacks, yards, and buffers required by this Ordinance;

806.7.2 The location, dimensions, including heights, and ground floor elevations of all proposed buildings on the site;

806.7.3 The location and dimensions of proposed driveways, parking and loading areas, and walkways;

806.7.4 The location and dimensions of all proposed water supply and wastewater disposal systems. If the property is not served by a pubic sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

806.7.5 The direction of proposed surface water drainage flow across the site;

806.7.6 Location, front view, and dimensions of proposed signs;

806.7.7 Location and type of proposed exterior lighting;

806.7.8 Proposed landscaping and buffering; and

806.7.9 A schedule of construction, including anticipated beginning and completion dates.

## 807 ADDITIONAL INFORMATION REQUIRED OF MAJOR DEVELOPMENTS

Applications for major developments shall include the following additional information:

807.1 Existing and proposed topography of the site at one (1), two (2), or five (5) foot contour intervals, or such closer intervals as the Planning Board may determine;

807.2 A storm water drainage and erosion control program showing:

807.2.1 The existing and proposed method of handling storm water run-offs;

807.2.2 The direction flow of the run-off through the use of arrows;

807.2.3 The location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers;

807.2.4 Engineering calculations used to determine drainage requirements based upon the 25-year 24-hour storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed; and

807.2.5 Methods of controlling erosion and sedimentation during and after construction.

807.3 A groundwater impact analysis prepared by a groundwater hydrologist for projects involving common on-site water supply or sewage disposal facilities with a capacity of two thousand (2,000) gallons or more per day.

807.4 A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, telephone, and any other utility services to be installed on the site.

807.5 A planting plan and schedule keyed to the site plan and indicating the general species and sizes of trees, shrubs, and other plants to be planted on the site.

807.6 A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets.

807.7 A written statement from a professional engineer as to the adequacy of the water supply in terms of quantity and pressure for both domestic and fire flows, if public water supply is to be utilized.

807.8 The location, width, typical cross-section, grades and profiles of all proposed streets and sidewalks.

807.9 Construction drawings for streets, sanitary sewers, water and storm drainage systems, designed and prepared by a professional engineer registered in the State of Maine.

807.10 The location of any pedestrian ways, lots, easements, open spaces, and other areas to be reserved for or dedicated to public use and/or ownership. For any proposed easement, the developer shall submit the proposed easement language with a signed statement certifying that the easement will be executed upon approval of the development. In the case of any streets or other ways dedicated to public ownership, the developer shall submit a signed statement that he will maintain such streets or ways year-round until such time as they may be accepted by the Town.

807.11 Written offers of dedication or conveyance to the municipality, in a form satisfactory to the Town Attorney, of all land included in the streets, highways, easements, parks, or other open space dedicated for public use, and copies of agreements or other documents showing the manner in which spaces, title to which is reserved by the developer, are to be maintained.

807.12 If the development is a condominium or a clustered development, evidence that all requirements relative to establishment of a homeowners' association or condominium owners' association have been met. If the development is a clustered development, evidence shall be presented that all other requirements of this Ordinance pertaining to clustered development have been met. The submission shall include copies of the by-laws of any homeowners' or condominium association charged with maintaining common spaces and lands. Homeowners' associations or condominium documents shall clearly state that the association or condominium shall properly maintain private roadways serving the development after the developer has legally relinquished that responsibility and until such time as the Town may accept them as public ways.

807.13 Cost of the proposed development and evidence of financial capacity to complete it. This evidence should be in the form of a letter from a bank or other source of financing indicating the name of the project, amount of financing proposed, and their interest in financing the project.

807.14 An assessment of the impact of the development on wetlands, streams, ponds, flood plains, archaeological resources and significant wildlife habitats, including review letters from appropriate State Officials.

## 808 REVIEW PROCEDURES

The procedures for Site Plan Review are as follows:

808.1 STEP 1: SUBMISSION OF COMPLETED APPLICATION TO THE CODE ENFORCEMENT OFFICER

The applicant shall submit the requisite number of copies of his/her application and supporting information required by Section 806.

808.2 STEP 2: CODE ENFORCEMENT OFFICER CLASSIFICATION AND REVIEW

808.2.1 DATED RECEIPT: The Code Enforcement Officer shall issue the applicant a dated receipt.

808.2.2 CLASSIFICATION: The Code Enforcement Officer shall review the application and classify it as either a Major or Minor Development in accordance with the provisions of Section 804. If the proposal is classified as a Major Development, the applicant shall be required to submit the additional information required in Section 807.

808.2.3 FEES SUBMITTED: After classification, the applicant shall provide the Code Enforcement Officer with the applicable fees established in Article 10.

808.2.4 REVIEW FOR COMPLETENESS: The Code Enforcement Officer shall initially review the application and determine whether or not it is complete.

808.2.5 NOTICE OF INCOMPLETE APPLICATION: If the application is found to be incomplete, the Code Enforcement Officer shall, within ten (10) days, notify the applicant in writing of the information needed to complete the application. Upon the applicant's submission of such additional information, Steps 1 through 4 shall be repeated.

808.2.6 APPLICATION FORWARDED: The Code Enforcement Officer shall forward copies of the application and supporting documents to the Town Planner, if the Town has retained the services of a professional planner, and members of the Planning Board and place the project on the agenda of the next regular Planning Board meeting occurring not less than fourteen (14) days before such meeting.

808.2.7 NOTICE TO ABUTTERS: Abutting property owners shall be notified by mail by the Town, of all pending applications for Site Plan Review. This notice shall indicate the time, date, and place of Planning Board consideration of the application.

808.3 STEP 3: TOWN PLANNER REVIEW

If the Town has retained the services of a professional planner, copies of the application and supporting documents shall be forwarded to the Town Planner. Upon receipt of the application and supporting documents, the Town Planner shall review the material and determine whether or not the application is complete with regard to:

808.3.1 COMPLETE APPLICATION: Whether or not the information has been submitted required by Section 806, and if applicable Section 807;

808.3.2 COMPLIANCE WITH LAND USE STANDARDS: Whether or not the proposed development meets the requirements of the applicable land use standards contained in Articles 5 and 6 of this Ordinance; and

808.3.3 CRITERIA OF APPROVAL: Whether or not the applicant has adequately addressed the Criteria for Approval contained in Section 815.

808.4 STEP 4: PLANNING BOARD REVIEW

At the meeting of the Planning Board at which the proposed development is scheduled to be reviewed, the Planning Board shall:

808.4.1 CEO AND TOWN PLANNER REPORTS: Hear any report of the Code Enforcement Officer and if the Town has retained the services of a professional planner the report of the Town Planner regarding the proposed development;

808.4.2 APPLICANT'S RESPONSE: Hear any comments of the applicant regarding the Code Enforcement Officer's and Town Planner's report;

808.4.3 REQUEST FOR WAIVERS: Hear any requests from the applicant for waivers pursuant to Sections 816 and 817;

808.4.4 DETERMINATION OF COMPLETENESS: Determine whether or not the application is complete;

808.4.5 NOTICE OF INCOMPLETENESS: If the application is determined to be incomplete, the Board shall inform the Code Enforcement Officer of the information required to make the application complete. The Code Enforcement Officer shall, within ten (10) days, inform the applicant, in writing, of the additional information required by the Planning Board. Upon the applicant's submission of such additional material, Steps 1, 2, 3, and 4 shall be repeated.

808.4.6 DECIDING ON PUBLIC HEARING: If the application is determined to be complete, the Board shall deem the application pending and shall determine whether or not to set the matter to public hearing. If a public hearing is set, such hearing shall take place within forty-five (45) days of the Planning Board's determination that the application is complete. This deadline may be extended by mutual agreement of the Board and the applicant, either in writing or orally, on the record at a public meeting.

If the proposed development has been classified as a Major Development such public hearing shall be mandatory. If the proposed development has been classified as a Minor Development such public hearing shall be held at the discretion of the Planning Board.

Public hearing held for the purpose of hearing testimony regarding proposals requiring Site Plan Approval under this Ordinance and notice thereof, shall be governed by Section 809.

808.5 STEP 5: PLANNING BOARD DELIBERATION AND DECISION

808.5.1 DELIBERATION: Within thirty-five (35) days after the public hearing on an application, or within thirty-five (35) days of a determination of completeness by the Board, if no hearing is held, the Planning Board shall deliberate to determine whether the proposed Site Plan complies with all applicable land use standards set forth in Articles 5 and 6 and meets the Criteria of Approval set forth in Section 815. This deadline may be extended by mutual agreement of the Board and the applicant, either in writing or orally, on the record at a public meeting.

808.5.2 DECISION: If the Planning Board finds that the proposed Site Plan complies with all such standards it shall issue an order granting Site Plan Approval subject to such terms and conditions as the Board considers advisable to ensure conformity with Site Plan Review Standards and criteria of this Ordinance, or to protect the public's health, safety, or general welfare. If the Planning Board finds that the proposed Site Plan does not comply with all applicable review standards, it shall issue an order denying Site Plan Approval. In either case the Planning Board shall, within ten (10) working days after the completion of its deliberations, issue specific written findings of fact supporting its decision.

808.6 STEP 6: CEO BUILDING PERMIT

If the Board approves the Site Plan Application, the Code Enforcement Officer shall issue a building permit, provided that, in his/her opinion, all other requirements of the Ordinance have been met.

## 809 PUBLIC HEARING PROCEDURES

Site Plan Review public hearings and notice thereof shall comply with the following procedures:

809.1 PUBLISHED NOTICE

Notice of said hearing shall be published in a newspaper of general circulation in the Town of Holden at least ten (10) days prior to the hearing date.

809.2 MAILED NOTICE

At least ten (10) days prior to the hearing date, written notice of said hearing shall also be mailed to the applicant, to the owners of all property within three hundred feet (300') of the property in question, to the Chairperson of the Town Council. The owners of property shall be considered to be those shown on the Town's tax list as the persons against whom taxes are assessed. The Planning Board shall, in each case, maintain a list of property owners so notified. Notice shall be deemed received if mailed to an owner's last known address according to the Town tax records. Failure of any property owner to actually receive notice shall not necessitate another hearing or invalidate any actions of the Planning Board.

809.3 CONTENT OF NOTICE

Notice of said hearing shall identify the applicant and the property involved, describe the specific nature of the proposal, state the date, time and place of the hearing, and explain how the recipient of the notice may attend and present evidence.

809.4 RULES

Said hearings shall be conducted according to rules adopted by the Planning Board.

809.5 REPRESENTATION

At any hearing a party may be represented by an agent or attorney provided, however, if any party is not present, any person acting as that party's agent or attorney shall provide written evidence of such authority.

809.6 CONTINUATION

Any hearing may be continued or recessed to another time for good cause shown or upon written or recorded agreement of the Board and the applicant.

## 810 PROFESSIONAL REVIEW

810.1 ADDITIONAL STUDIES

The Planning Board may require the applicant to undertake any additional studies which it deems reasonable and necessary to insure that the requirements of the Ordinance are met. The cost of all such studies shall be borne by the applicant.

810.2 INDEPENDENT TECHNICAL REVIEW

The Planning Board may require that an independent consultant(s) review one (1) or more submissions of an application. The independent consultant(s) shall report to the Planning Board as to the project's compliance or non-compliance with the applicable provisions of this Ordinance and recommend, if appropriate, those actions which will result in compliance. Such consultants shall be fully qualified to provide the required information, and may include:

An Attorney;
A Community Planner;
A Registered Professional Engineer;
A Registered Architect;
A Registered Landscape Architect;
A Registered Geologist;
A Licensed Soil Scientist;
A Registered Land Surveyor; or

Any other Registered/Licensed Professional or independent Expert Witness deemed fully qualified and mutually acceptable to the Town and the applicant.

The consultant(s) selected shall estimate the cost of such review and the applicant shall deposit with the Town the full estimated cost in accordance with Article 1003.3.

### 811 FAILURE TO ACT

Failure of the Planning Board to act within any of the time requirements set forth herein shall constitute a denial of the application.

### 812 EXPIRATION OF APPROVALS

All Site Plan Approvals shall expire within eighteen (18) months of the date of issuance unless work thereunder is commenced within eighteen (18) months from the date of issuance. If work is not substantially completed within two (2) years from the date of issuance, a new application shall be required.

### 813 OTHER PERMITS

The granting of Site Plan Approval does not relieve the applicant from the need to obtain any other permits or approvals required prior to the commencement of any activity or use. Such other required permits or approvals may include, but are not limited to, subdivision approval, building, plumbing and electrical permits, licenses granted pursuant to Title 38, MRSA, Sub-Section 1022, Maine Department of Environmental Protection and United States Army Corps of Engineer's approvals, subsurface wastewater disposal permits, sewer connection permits, Maine Department of Transportation approvals, and the like. The fact that the applicant may have obtained or may have been granted such permits or approvals prior to Site Plan review may be considered by the Planning Board as evidence as to the plan's compliance with applicable review standards, but shall not be deemed conclusive evidence as to compliance.

### 814 ACCESS TO SITE AND RECORDS

The Town shall have access to the site at all times to review the progress of the work and shall have the authority to review all records and documents related to the project. The applicant, by accepting a Building Permit, waives any objection to the Town having access to the site to review the progress of the work or to review all records and documents related to the Project.

### 815 SITE PLAN REVIEW CRITERIA

The Planning Board in reviewing projects requiring Site Plan Approval under this Ordinance shall make positive written findings that the applicant has submitted clear and convincing evidence that:

815.1 Adequate provision has been made for off street parking and loading;

815.2 Adequate provision has been made for traffic movement of all types, including pedestrian, into, out of, and within the proposed project. The Board shall consider traffic movement both on-site and off-site in making its determination under this criteria;

815.3 Any traffic increase attributable to the proposed project will not result in unreasonable congestion or unsafe conditions on a road in the vicinity of the proposed development;

815.4 That the proposed project will be built on soil types which are suitable to the nature of the project and that adequate provision has been made to avoid erosion, contamination of ground or surface waters, interference with adjacent land, over-burdening of natural or artificial drainage systems, and/or any other adverse effects of inadequate drainage;

815.5 Adequate provision has been made to locate and design proposed outdoor display and/or storage areas so as to avoid any safety hazard to vehicular and pedestrian traffic on and off the site;

815.6 Adequate provision has been made to avoid any hazard to travel on public or private ways, or any glare or other nuisance to the use of adjoining public or private property;

815.7 Adequate provision has been made with regard to Buffers, Screening, Landscaping, and the preservation and Enhancement of Significant natural features;

815.8 Adequate provision has been made, including, but not limited to modification of the proposed design of the site, timing of construction, and limiting the extent of filling or excavation, to protect to the maximum extent possible, the scenic or natural beauty of the area including scenic areas designated in the 2007 Comprehensive Plan, aesthetics, historic sites, archaeological resources, rare and irreplaceable natural areas, wildlife habitats including deer wintering areas identified in the 2007 Comprehensive Plan, existing uses, air quality, water quality, or other natural resources within the town or in neighboring towns;

815.9 Whenever a project is situated, in whole or in part, within two hundred fifty feet (250'), horizontal distance, of the normal high-water line of any great pond or river, or within two hundred fifty feet (250') horizontal distance, of the upland edge of a freshwater wetland, or within seventy five feet (75'), horizontal distance, of the normal high-water line of a stream, adequate provision has been made to conserve shoreland vegetation, visual points of access to waters as viewed from public facilities, and actual points of public access to waters;

815.10 Adequate provision has been made to prevent any significant adverse effect upon the public health, safety, or general welfare of the neighborhood or community;

815.11 Adequate provision has been made to prevent any undue adverse effect upon adjacent or nearby properties;

815.12 Adequate provision has been made to avoid any undue burden on municipal services;

815.13 Adequate provision has been made to assure the proper operation of the proposed business(es) or activity(ies) on the site through the provision of adequate and appropriate utilities, drainage, water supply, sewage disposal, solid waste disposal, access, parking and loading, and other necessary site improvements; and

815.14 Adequate provision has been made to assure that the proposed development conforms in all respects with the provisions of this Ordinance.

## 816 WAIVER OF SUBMISSIONS REQUIREMENTS

The Planning Board may, for good cause shown and only upon the written request of an applicant specifically stating the reasons therefore, waive any of the application requirements set forth in Section 806 and 807 provided such waiver will not unduly restrict the review process. The Planning Board may condition such a waiver on the applicant's compliance with alternative requirements. Good cause may include the Board's finding that particular submissions are inapplicable, unnecessary, or inappropriate for a complete review. Notwithstanding the waiver of a submission requirement, the Planning Board may, at any later point in the review process, rescind such waiver if it appears that the submission previously waived is necessary for an adequate review. A request for a submission previously waived shall not affect the pending status of an application.

## 817 WAIVER OF REVIEW CRITERIA

The Planning Board, may upon the written request of an applicant specifically stating the reasons therefore, waive any of the Review Criteria set forth in Section 815 when it finds that such waiver is reasonable and that the public health, safety, or welfare would not be adversely effected by such a waiver, provided that shoreland zoning criteria shall not be waived.

## 818 APPEALS

An appeal may be taken within thirty (30) days after any decision is rendered by the Planning Board, by an aggrieved person, to Superior Court.

## ARTICLE 9: CERTIFICATE OF OCCUPANCY/USE

A Certificate of Occupancy/Use certifying that all applicable provisions of this Ordinance have been satisfied, shall be obtained from the Code Enforcement Officer:

**901** After a building, structure, or part thereof has been erected, altered, enlarged or moved pursuant to a permit, site plan approval or subdivision approval, for the proposed use before the building or structure or part thereof may be used or occupied;

**902** After a building has been modified to accommodate additional dwelling units before such units may be used or occupied;

**903** After a building has been modified to accommodate additional commercial, institutional, or industrial uses before such spaces may be used or occupied;

**904** After a building or structure has been modified to accommodate a home occupation before said home or structure may be used or occupied for a home occupation;

**905** Before a change in use of a non-conforming structure or lot; and

**906** Before the occupancy and use, or change in use, of vacant land, except for the raising of crops.

# ARTICLE 10: ADMINISTRATIVE FEES

## 1001 GENERAL PROVISIONS

### 1001.1 APPLICATIONS CONSIDERED INCOMPLETE UNTIL PAYMENT OF REQUIRED FEE

Applications for any of the permits, approvals, or certificates specified below which are not accompanied by a check in the amount of the required fee shall be considered incomplete and no action will be taken on said application until a check for the required amount has been received by local officials.

### 1001.2 CHECK TO BE MADE PAYABLE TO TOWN

All fees shall be paid in the form of a check made payable to the Town of Holden and the purpose of the fee shall be clearly indicated on the check.

## 1002 BUILDING FEES

BUILDING PERMIT APPLICATIONS: All applications for Building Permits issued by the Code Enforcement Officer, under this Ordinance shall be accompanied by an inspection fee based upon an amount calculated using the square foot size of the building times the following per square foot fee:

| | | |
|---|---|---|
| Commercial Construction | $.50 finished | $.30 unfinished |
| Residential single-family dwelling | $.60 finished | $.50 unfinished |
| Residential multiple family dwelling | $.60 finished | $.50 unfinished |
| Alterations of existing space | $.20 | |
| Attached garages | $.50 | |
| Detached garage | $.30 | |
| Conversion to habitable space | $.20 | |
| Decks | $.10 | |
| Sheds, not exceeding 400 square feet | $.10 | |
| Mobile Homes | $.30 | |
| Structural Renovations | $1.00 per each thousand dollars of construction estimates | |
| Commercial Solar | $500.00 per developed acre | |

Minimum fee for all permits is $20.00

Reinspection Fee: In the event an inspection is called for and the inspection fails, a 2nd inspection will be performed by the Code Enforcement Officer, however in the event the 2nd inspection fails the party requesting subsequent inspections shall pay $100 for each inspection there after prior to the inspection taking place.

Where a permit is not obtained until after construction begins the fee shall be doubled. This double fee is in addition to any fine or penalty imposed for violating this Ordinance by failing to obtain a Building Permit prior to starting construction.

## 1003 SITE PLAN REVIEW FEES

### 1003.1 APPLICATION PACKET FEE

The Application Packet Fee required to cover printing costs for copies of the Application Form and copies of this Ordinance are as follows:

1003.1.1 COPIES OF SITE PLAN REVIEW APPLICATION. The non-refundable fee for copies of the Site Plan Review Application Form is $5.00 per copy.

1003.1.2 COPIES OF ORDINANCE. The non-refundable fee for copies of this Ordinance is $10.00 per copy.

# ARTICLE 10: ADMINISTRATIVE FEES

1003.2 APPLICATION PROCESSING FEES

The Application Processing Fees required to cover the administrative handling costs associated with Site Plan Review under this Ordinance are as follows:

1003.2.1 MINOR DEVELOPMENTS. The non-refundable fee to accompany the application for Minor Developments is one hundred dollars ($100.00).

1003.2.2 MAJOR DEVELOPMENTS. The non-refundable fee to accompany the application of Major Developments is two hundred fifty dollars ($250.00).

1003.3 TECHNICAL REVIEW FEE

In addition to the fees for copies of the Application and Ordinance and the Application Processing Fee, the applicant shall pay a separate fee of five hundred dollars ($500) for Minor Developments and one thousand dollars ($1,000) for Major Developments, to be used to reimburse the time and expenses incurred by the Town's Planning Consultant, if the Town has retained the services of such a Consultant, and/or such other independent consultant(s) the Board may deem necessary to assist it with its review of the application. Such other consultants shall be fully qualified to provide the required assistance, and may include:

An Attorney;
A registered Professional Engineer;
A Registered Architect;
A Registered Landscape Architect;
A Registered Geologist;
A Licensed Soil Scientist;
A Registered Land Surveyor; or
Any other Registered/Licensed Professional or independent Expert Witness deemed fully qualified and mutually acceptable to the Board and the applicant.

This Technical Review Fee shall be paid prior to the start of the Planning Board's review of any application for Site Plan Review.

This fee shall be paid in the form of a check made payable to the Town of Holden and the purpose of the fee shall be clearly indicated on the check.

If the balance of the unexpended funds are drawn down by fifty percent (50%) or more, the applicant shall be notified and required to pay an additional two hundred fifty dollars ($250) for Minor Developments and five hundred dollars ($500) for Major Developments. The applicant shall continue to be notified and required to pay the appropriate additional amounts as necessary whenever the balance of the funds is drawn down by 50% of the original amount. Failure to pay the required amount within 30 days shall also be a violation of this Ordinance and be cause to stop the review process.

Any balance remaining, after the completion and inspection of required improvements, shall be returned to the applicant.

**1004 ZONING BOARD OF APPEALS ADMINISTRATION FEES**

APPLICATION FOR ADMINISTRATIVE APPEALS AND VARIANCES: All applications for Administrative Appeals and the approval of Variances by the Zoning Board of Appeals, under this Ordinance shall be accompanied by a check in the amount of one hundred dollars ($100 plus public hearing costs).

# ARTICLE 10: ADMINISTRATIVE FEES

## 1005 AMENDMENTS TO ORDINANCE - FEES

When an amendment to this Ordinance is proposed by other than the municipal officers or Planning Board, a fee of two hundred fifty dollars ($250 plus public hearing costs) shall accompany the proposal to cover the cost of review, hearings, and advertisements. This fee is non-refundable.

## 1006 CONDITIONAL ZONING - FEES

Any costs, including reasonable attorney fees, postage, printing, publishing and toll telephone calls incurred by the Town in processing the application for conditional zoning and for administering its provisions shall be paid by the applicant whether or not the zoning change receives approval.

# ARTICLE 11: ENFORCEMENT

## 1101 ENFORCEMENT PROCEDURE

1101.1 It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record. Any such notice is not a prerequisite to bringing any legal action noted in Section 1102 below, and the failure to give notice shall not in any way affect such legal action.

1101.2 The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

1101.3 The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, violations investigated, violations found, and fees collected.

## 1102 LEGAL ACTION

The Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions, and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into consent agreements for the purpose of eliminating violations of this Ordinance and recording fines without Court action. Such agreements should not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith.

## 1103 FINES

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, MRSA, Section 4452.

# ARTICLE 12: ZONING BOARD OF APPEALS

## 1201 ESTABLISHMENT AND ORGANIZATION OF ZONING BOARD OF APPEALS

There shall be a Zoning Board of Appeals of five (5) members and two (2) associate members appointed by the Municipal Officers as provided in Title 30-A, MRSA, Section 4353.

Members shall be appointed by the Municipal Officers for terms of not less than nor more than five (5) years. The terms of the members shall be such that the term of at least one (1) member will expire each year. The term of the associate members shall be five (5) years. The associate members may act on the Board in place of any member who may be absent. The associate members may also act in place of any member who is unable to vote due to conflict of interest or any other reason if the vote of the regular member would cause the number of members present and voting to be fewer than three (3).

The Board shall keep minutes of its proceedings, recording the vote of each member on all matters coming before that Board. The minutes of that Board and all correspondence shall be a public record. Three (3) members of that Board shall constitute a quorum for conducting a meeting and taking action, and the concurring vote of at least three (3) members is necessary to grant any variance request or reverse any action of the Code Enforcement Officer. The Board is governed by the procedures set forth at Title 30-A, MRSA, Section 2691 and in this Ordinance. In addition, the Board may adopt any procedural rules not in conflict with that Title or this Ordinance, which it deems necessary or proper for the conduct of its business.

## 1202 POWERS AND DUTIES

### 1202.1 ADMINISTRATIVE APPEALS

To hear and decide appeals, where it is alleged that there is an error in any order, requirements, decision, or determination made by, or failure to act by, the Code Enforcement Officer in the administration of this Ordinance. When errors of administrative procedures or interpretation are found, the case shall be remanded back to the Code Enforcement Officer for correction.

### 1202.2 VARIANCE APPEALS

To authorize variances upon appeal, within the limitations set forth in this Ordinance.

1202.2.1 Dimensional variances may be granted only from dimensional requirements including: frontage (including shore frontage), lot area, lot width, height, percent of lot coverage, and setback requirements.

1202.2.2 Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

1202.2.3 The Board shall not grant a variance unless it finds that the strict application of the terms of this Ordinance would result in undue hardship.

The term "undue hardship" shall mean all of the following:

1202.2.3.1 The land in question can not yield a reasonable return unless a variance is granted;

1202.2.3.2 That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

1202.2.3.3 That the granting of a variance will not alter the essential character of the locality; and

1202.2.3.4 That the hardship is not the result of action taken by the applicant or a prior owner.

1202.2.4 The Board may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board shall restrict any variance granted under this Section solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. For the purposes of this Sub-Section, a disability has the same meaning as a physical or mental handicap under Title 5, Section 4553.The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

1202.2.5 The Board shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

1202.2.6 A copy of each variance request in shoreland areas, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to the 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.

## 1203 APPEAL PROCEDURE

1203.1 TIME LIMIT

An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement, except for enforcement-related matters described in Article 11. Such appeal shall be taken within thirty (30) days of the date of the official written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement. The appeal shall not be denovo.

1203.2 WRITTEN NOTICE

Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:

1203.2.1 A concise written statement indicating what relief is requested and why the appeal or variance should be granted; and

1203.2.2 A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief requested.

1203.3 RECORD OF CASE

Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer shall transmit to the Board all of the papers constituting the record of the decision or action being appealed.

1203.4 PUBLIC HEARING

The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

1203.5 DECISION BY BOARD

1203.5.1 QUORUM: A majority of the full voting membership of the Board of Appeals shall constitute a quorum for the purpose of deciding an appeal.

1203.5.2 BURDEN OF PROOF: The person filing the appeal shall have the burden of proof.

1203.5.3 ACTION ON APPEAL: Following the public hearing on an appeal, the Board may reverse the decision, or failure to act, of the Code Enforcement Officer only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.

1203.5.4 TIME FRAME: The Board of Appeals shall decide all administrative appeals and variance appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision within seven (7) days of the Board's decision.

1203.5.5 Board of Appeals decisions shall only be made by voting at a public meeting. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

1203.6 RECONSIDERATION

In accordance with 30-A M.R.S.A.section 2691 (3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed with the Town Clerk within ten (10) days of the decision that is to be reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, Planning Board, Code Enforcement Officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony. Notwithstanding Section 1204, appeal of a reconsidered decision must be made within fifteen (15) days after the decision on reconsideration.

**1204 APPEAL TO SUPERIOR COURT**

Any party may take an appeal, within 45 days of the date of the vote on the original decision of the Board of Appeals, to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

# ARTICLE 13: DEFINITIONS

## 1301 CONSTRUCTION OF LANGUAGE

1301.1 In this Ordinance, certain terms or words should be interpreted as follows:

1301.1.1 The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual;

1301.1.2 The present tense includes the future tense, the singular number includes the plural and plural includes the singular;

1301.1.3 The word "shall" is mandatory;

1301.1.4 The word "may" is permissive;

1301.1.5 The words "used" or "occupied" includes the words "intended", "designed", or "arranged to be used or occupied"; and

1301.1.6 The word "dwelling" includes the word "residence".

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

1301.2 Terms not defined shall have the customary dictionary meaning.

## 1302 DEFINITIONS OF WORDS

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

ABUTTING: Having a common border with.

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

ACCESS DRIVE: A private roadway primarily intended to transport vehicles from a public or private way to a point within private property.

ACCESSORY STRUCTURE OR USE: A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

The raising of animals or produce for personal domestic use or incidental sales in every Zone is considered an accessory use, provided that any buildings housing animals shall be located not closer than seventy-five feet (75') of any lot line.

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

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

AGRICULTURE: The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.

## ARTICLE 13: DEFINITIONS

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

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

ARCHAEOLOGICAL RESOURCES: Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as archaeological resources, and any areas identified in the Comprehensive Plan.

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

AUTOMOBILE CONVENIENCE MARKET: A place where gasoline, motor oil, lubricants, or other minor accessories are retailed directly to the public on the premises in combination with the retailing of items typically found in convenience markets or supermarkets.

AUTOMOBILE SALES LOT: A lot arranged, designed, or used for the storage and display for passenger automobiles and trucks up to three quarter (3/4) ton in size, and where no repair work is done except minor incidental repair of automobiles displayed and sold on the premises.

AUTOMOBILE SERVICE STATION (Filling Station): Any premises used for supplying gasoline and oil at retail, direct to the customer, including the sale of minor accessories and minor services for automobiles.

AUTO REPAIR GARAGE: A place where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair; over-all painting and undercoating of automobiles.

AUXILIARY PUBLIC UTILITY STRUCTURES: A structure not to exceed 200 sq. ft. in gross floor area or 16 ft. in height; operated by a utility company or district which is regulated by the State of Maine Public Utilities Commission. Such utility structures are to be unoccupied except for required maintenance.

BASAL AREA: The area of cross-section of a tree stem at 4 ½ feet above ground level and inclusive of the bark.

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

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

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

BUILDING:

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

b. Building, Accessory: A building which (1) is subordinate in area, extent and purpose to the principal building or use served, (2) is located on the same lot as the principal building or use served except as otherwise expressly authorized by the provisions of this Ordinance, and (3) is

customarily incidental to the principal building or use. Any portion of a principal building devoted or intended to be devoted to an accessory use is not an accessory building.

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

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

BUILDING HEIGHT: The vertical distance between the mean elevation of the original grade of the building and the highest point of the roof. For those structures with multiple roofs, each roof shall be considered in relation to the finished grade upon which that part of the structure rests.

BULK OIL and FUEL TANK STORAGE: That portion of a property where liquids are received by tank vessel, pipelines, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable tank, or container.

CAMPGROUND: (See Transient Accommodations VI).

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

CHURCH: A building, together with its accessory buildings and uses, where people regularly assemble for religious worship and which buildings, together with its accessory buildings, and uses, is maintained and controlled by a religious body organized to sustain public worship.

CLINIC: An establishment where patients who are not lodged overnight are admitted for examination and/or treatment by a physician or dentist or by a group of physicians or dentists.

CODE ENFORCEMENT OFFICER: A person appointed by the municipal officers to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector and the like where applicable.

COMMERCIAL COMPLEX (Shopping Mall): Commercial premises owned or managed as a single entity, which accommodates more than one retail or service business, including professional offices, and which contains more than twelve thousand (12,000) square feet of gross floor area, including department stores and grocery stores with more than twelve thousand (12,000) square feet of gross floor area.

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

COMMERCIAL INDOOR RECREATION USE: Includes, but is not necessarily limited to, the following commercial uses: arcades, bowling alleys, indoor sports, arenas, tennis courts, race tracks, indoor animal exhibits, etc.

COMMERCIAL OUTDOOR RECREATION USE: Includes, but is not necessarily limited to, the following commercial uses: golf courses, tennis courts, amusement and theme parks, water slides, zoo's and animal parks, race tracks, speedways, motorcycle tracks, riding stables, etc.

CONDOMINIUM: As defined in the "Maine Condominium Act of 1983," the term means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions under a declaration, duly recorded pursuant to this Act. A condominium is a legal form of ownership, not a land development type. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

CONDOMINIUM CONVERSION: A building that at any time before creation of the condominium was occupied wholly or partially by one or more persons other than purchasers and persons who occupy with the consent of purchasers.

CONGREGATE HOUSING: A private, licensed establishment operated for the purpose of providing domiciliary care for a group of persons who by reason of age or physical condition do not desire to, but are financially capable of providing such care for themselves, and who are not in need of medical or nursing treatment except in the case of temporary illness.

CONSERVATION SUBDIVISION: A technique that concentrates development in one or more compact areas on the site in exchange for conserving open space and natural areas elsewhere on the site. The minimum lot sizes, setbacks and frontage requirements for the zone are relaxed in order to create open space on the site. The municipal ordinance typically permits the same amount of development that is already permitted. The key difference is that this technique requires new construction to be located on only a portion – typically half – of the parcel. This new construction should incorporate buffers, landscaping and design features to preserve the rural character of the zone in which it is located. The remaining open space is permanently protected under a conservation easement held by a land trust, the municipality itself, or under such terms as the parties may agree.

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

a. Day Care Center: A Day Care Facility as defined in State statutes for 13 or more children on a regular basis; and

b. Day Care Home: A Day Care Facility as defined in State statutes for 3 to 12 children on a regular basis.

DECK: An accessory attachment to a principal structure. It shall be constructed primarily of wood and shall not be enclosed. It shall not have a roof, canopy or awning, nor shall it have framed or screened walls. It shall be supported above the ground on posts or beams and shall not have a foundation. It may contain railings with screening and gates to enclose pets or children.

DEDICATION: The transfer of property interests from private to public ownership for a public purpose. The transfer may be fee-simple interest or of a less-than-fee-simple interest, including an easement.

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

DEVELOPMENT: The division of a parcel of land into three (3) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any buildings; any use or change in use of any buildings or land; any extension of any use of land or any clearing, grading, or other movement of land, for which permission may be required pursuant to this Ordinance.

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

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

DRAINAGE: The removal of surface or ground water from land by drains, grading or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development, and includes the means necessary for water-supply preservation and prevention or alleviation of flooding.

DRIVEWAY: A vehicular access-way fewer than five hundred (500) feet in length serving up to two (2) single-family dwellings or one two-family dwelling.

DWELLING:

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

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

c. Dwelling, Single-Family Detached: A dwelling designed for and occupied by not more than one (1) family and having no roof, wall, or floor in common with any other dwelling unit.

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

e. Dwelling, Multi-Family: A building or portion thereof used for residential occupancy by three (3) or more families living independently of each other and doing their own cooking in the building, including apartments, group houses and row houses.

f. Dwelling, Seasonal: A dwelling unit which is used less than seven (7) months in any calendar year period.

EASEMENT: Authorization by a property owner of the use by another, and for a specified purpose, of any designated part of his property.

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

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

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 similar pipelines, municipal sewage lines, collection or supply systems and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

EXPANSION OF A STRUCTURE: An increase in the floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches, and greenhouses.

EXPANSION OF USE: The addition of one (1) or more months to a use's operating season or the use of more floor area or ground area devoted to a particular use.

FAMILY: One (1) or more persons occupying a premises and living as a single housekeeping unit.

FLOODPLAIN: Floodplains may be either riverine or inland depressional areas. Riverine floodplains are those areas contiguous to a lake, river, stream, or stream bed whose elevation is greater than the normal waterpool elevation but equal to or lower than the projected one hundred (100) year flood

elevation. Inland depressional floodplains, not associated with a stream system, are low points to which surrounding lands drain.

FLOODWAY: The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

FLOOR AREA: The sum of the horizontal surface areas of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

FLOWING WATER: A surface water within a stream channel that has a perceptible flow and is substantially permanent in nature. Such waters are commonly referred to as rivers, streams, and brooks and can be further defined as:

a. Major Flowing Waters: A flowing water downstream from the point where such water drains fifty (50) square miles or more; or

b. Minor Flowing Waters: A flowing water upstream from the point where such water drains less than fifty (50) square miles.

FOOD PROCESSING FACILITY: A place housing any operation which changes the chemical composition or physical properties of food materials for human consumption. An example would be a creamery where dairy products such as butter, cheese and ice cream are made. The term does not include slaughterhouses nor does it include restaurants where food is prepared and sold at retail.

FOREST MANAGEMENT ACTIVITIES: Timber cruising and other forest resource evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

FORESTED WETLAND: A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

FOUNDATION: The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

FRESHWATER WETLAND: Freshwater swamps, marshes, bogs, and similar areas, other than forested wetlands, which are:

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

b. 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.

c. Wetland mapping to be submitted as a requirement of this ordinance shall be prepared and signed by a State Certified Soil Scientist or Geologist, registered in the State of Maine.

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

FRONTAGE, ROAD: The continuous linear distance, measured along the lot line which separates the lot from a public or private way provided, however, that any lot, any portions of which abut a public way, the continuous length of the abutments along the public way shall be the frontage.

FRONTAGE, SHORE: The horizontal distance, measured in a straight line, between the intersections of the side lot lines with the shoreline at normal high water elevation.

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

GARAGE, COMMERCIAL: A structure used for parking or storage of motor vehicles, generally available to the public and involving payment of a charge for such parking or storage. A garage used solely in conjunction with a multiple-family dwelling or hotel shall not be construed to be a commercial garage, but rather a permitted accessory structure and use, even though not on the same premises as the multiple-family dwelling or hotel.

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

GOVERNMENT FACILITIES AND GROUNDS: Any facility, including but not limited to, buildings, structures, property, recreation areas, excluding roads, which are owned, wholly occupied or operated by the United States, State of Maine, or any political subdivision or agency of the United States or State of Maine.

GRADE: In relation to buildings, the average of the finished ground level at the center of each wall of a building.

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

This classification includes the flowing lakes and ponds in Town:

a. George Pond;
b. Holbrook Pond;
c. Davis Pond; and
d. Brewer Lake.

GREAT POND CLASSIFIED GPA: Any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundments or rivers that are defined as great ponds.

GREENHOUSE, COMMERCIAL: An enclosed building, permanent or portable, which is used for the growth, sale of plants at wholesale or retail prices, or for business use.

GREENHOUSE, NON-COMMERCIAL: An accessory building to a residence designed or used for the growth of plants for personal use or incidental sales.

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

GROUND COVER: Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter on the forest floor.

GROWTH AREA: A geographic area that is designated in the Holden Comprehensive Plan as suitable for orderly residential, commercial or industrial development, or any combination of those types of development, and into which most development projected over the next 10 years in directed. The Growth Area includes:

General Commercial Zone (GC)
Limited Commercial Zone (LC)
Community Service/Institutional Zone (CS/I)
Village Center Zone (VC)
High Density Residential Zone G (R1G)

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

HISTORIC SITE: A property of historic, architectural or archaeological significance as defined by the National Historic Preservation Act of 1966.

HOME OCCUPATION: An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than one (1) persons other than family members residing in the home.

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

IMPERVIOUS SURFACE: Surfaces which do not absorb water, specifically all buildings, parking areas, driveways, roads, sidewalks and any areas of concrete or asphalt. In the case of lumber yards, areas of stored lumber constitute impervious surfaces.

INCREASE IN NONCONFORMITY OF A STRUCTURE - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standards or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream or wetland than the closest portion of the existing structure from that water body, tributary stream or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

INDIVIDUAL PRIVATE CAMPSITE: An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

INDUSTRIAL: The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

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

INSTITUTIONAL: A non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

JUNKYARD:

a. Automobile Graveyard: A yard, field or other area used as a place of storage for three (3) or more unregistered, unserviceable, discarded, worn-out or junked automobiles. This provision does not apply to serviceable, but unregistered vehicles offered for sale by a state-licensed automobile dealer.

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

KENNEL, COMMERCIAL: Any place in or at which any number of dogs or cats are kept for the purpose of sale or in connection with boarding, care, training, or breeding, for which a fee is charged.

KENNEL, NON-COMMERCIAL: An accessory building to a residence designed or used for the accommodation of dogs or cats owned by the occupant of the residence.

LAKES AND PONDS: Natural or artificial bodies of water which retain water year-round. Artificial ponds may be created by dams or may result from excavation. State regulations apply to any body of water which has a surface area in excess of ten (10) acres except a man-made body of water completely surrounded by land held by a single owner.

LAND MANAGEMENT ROAD: A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

LARGE OUTDOOR DISPLAY: An open area other than a street used for the commercial storage and/or display of motor vehicles, recreational vehicles, boats or other forms of watercraft, snowmobiles, farm machinery, or camping trailers or travel trailers, manufactured housing units, or any combination thereof.

LEVEL OF SERVICE: A qualitative measure that incorporates the collective factors of speed, travel time, traffic interruptions, freedom to maneuver, safety, driving comfort and convenience, and operating costs provided by a highway facility under a particular volume condition, as established by the Institute of Transportation Engineer's Transportation and Traffic Engineering Handbook, 2nd edition.

LICENSED FORESTER: A forester licensed under 32 M.R.S.A. Chapter 76.

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

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

LOT AREA: The area of land enclosed within the boundary lines of a lot, minus land considered not suitable for development under Section 514 of this Ordinance.

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

LOT COVERAGE: The maximum combined ground floor area of all principal and accessory buildings on a lot, divided by the area of such lot, the result expressed as a percentile. In the Shoreland Area and Residential Zones lot coverage also includes all unrevegetated areas.

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

MANUFACTURED HOUSING: A structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site. For purposes of this Ordinance, two (2) types of manufactured housing will be referred to:

a. MOBILE HOMES: Structures commonly referred to as "mobile homes" and which are transportable in one or more sections, built upon a permanent chassis and designed to be used as dwellings when connected to utilities, regardless of whether the unit is mounted on a permanent foundation.

b. MODULAR HOMES: Structures commonly referred to as "modular homes" and which are transportable in one or more sections, not built upon a permanent chassis and designed to be used as dwellings when connected to utilities and mounted on a permanent foundation.

MARINA: A business establishment having frontage on navigable water within the town and, as its principal use, providing for hire off-shore mooring or docking facilities for boats and which may also provide accessory services and facilities such as: boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

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.

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

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

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

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

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

MULTI-UNIT RESIDENTIAL: A residential structure containing three (3) or more residential dwelling units.

NATIVE: Indigenous to the local eco-systems.

NON-CONFORMING CONDITION: Non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

NON-CONFORMING LOT: A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage or width requirements of the district in which it is located.

NON-CONFORMING STRUCTURE: A structure which does not meet any one or more of the following dimensional requirements: setback, height, or lot coverage, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

NON-CONFORMING USE: Use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

NORMAL HIGH-WATER LINE: That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. 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.

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

NURSERY, COMMERCIAL: An enterprise which conducts the retail and wholesale sale of plants grown on the site, as well as accessory items (but not power equipment such as gas or electric lawnmowers and farm implements directly related to their care and maintenance). The accessory items normally sold are clay pots, potting soil, fertilizers, insecticides, hanging baskets, rakes and shovels.

NURSING HOME: A facility for the care of the aged or infirm person, or a place of rest for those suffering bodily disorders; but not including facilities for surgical care or institutions for the care and treatment of mental illness, alcoholism, or narcotics addiction.

OPEN SPACE USE: A use which does not disturb the existing state of the land except to restore this land to a natural condition.

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

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

PARKING SPACE: A surfaced area, not less than nine (9) feet wide and eighteen (18) feet long, enclosed or unenclosed, sufficient in size to store one motor vehicle and permit ingress and egress of that motor vehicle without the necessity of moving any other automobile.

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

PERSONAL WIRELESS SERVICES: Any communication service which, for a fee to the public or a substantial portion thereof, provides for the transmission between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information received, and which:

a. Is comprised of for-profit radio communications between mobile and fixed radio stations, and linked to public-switch communications networks (example: commercial ship-to-shore radio facilities);

b. Is transmitted or received by means of devices which do not require individual FCC licenses, but excluding direct-to-home satellite services (example: cellular telephone services); or

c. Offers access to telephone exchange services or facilities for the purpose of origination or termination of telephone toll services by a common carrier of interstate or foreign radio transmissions.

PIERS, DOCKS, WHARFS, BRIDGES, AND OTHER STRUCTURES AND USES EXTENDING OVER OR BEYOND THE NORMAL HIGH-WATER LINE OR WITHIN A WETLAND:

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

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

PLANNED UNIT DEVELOPMENT: See CLUSTER DEVELOPMENT

PORCH: An accessory attachment to a principal structure. It shall be constructed primarily of wood and have a roof, canopy, or awning and may have framed or screened walls. It shall be supported above the ground on post, beams, or by a foundation. It may contain railings with screening and gates to enclose pets or children.

PRINCIPAL STRUCTURE: A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

PRINCIPAL USE: A use other than one which is wholly incidental or accessory to another use on the same premises.

PROFESSIONAL OFFICE BUILDING: A building in which there is located the office of a professional such as an architect, accountant, dentist, doctor of medicine, lawyer, etc., or in which a business conducts its administrative, financial or clerical operations, but not including any other manufacturing, commercial, or industrial activity.

PUBLIC FACILITY: Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

PUBLIC UTILITY: Any person, firm, corporation, municipal department, board or commission authorized by the Maine Public Utilities Commission to furnish gas, steam, electricity, communication facilities, or transportation of water to the public.

RECENT FLOOD PLAIN SOILS: The following soil series as described and identified by the National Cooperative Soil Survey:

| | | |
|---|---|---|
| Alluvial | Cornish | Charles |
| Fryeburg | Hadley | Limerick |
| Lovewell | Medomak | Ondawa |
| Podunk | Rumney | Saco |
| Suncook | Sunday | Winooski |

RECONSTRUCTION: The restoration, remodeling or rebuilding of a structure, whether necessitated by deterioration, obsolescence, casualty or other occurrence, where the costs of such work equal or exceed the value of the property in its existing condition.

RECREATIONAL FACILITY: A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreation activities, excluding boat launching facilities.

RECREATIONAL VEHICLE: A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, must be stationed only in an authorized campground or trailer park or as an accessory use on the premises of a consenting private property owner for use only by members of the property owner's family or social guests, and must be registered with the State Division of Motor Vehicles.

REPLACEMENT SYSTEM: A sewage disposal system intended to replace:

a. an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure; or

b. any existing overboard wastewater discharge.

RESEARCH FACILITY: A building or part of a building devoted to scientific inquiry and ancillary functions. No manufacturing is conducted on the premises except as related to the scientific research being conducted.

RESIDENTIAL BACK LOT: A lot created from a conforming lot of record existing on December 20, 1995, that meets the minimum lot size requirement of the zone in which it is located and does not diminish the remainder of the existing lot of record to a size less than the minimum lot size requirement of the zone in which it is located. A back lot is one which does not have frontage on a public or private road but is served by a right-of-way of not less than fifty feet (50') in width to a public road, which right-of-way does not diminish the existing road frontage of the lot of record by more than fifty feet (50').

RESIDENTIAL DWELLING UNIT: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes, and rental units that contain cooking, sleeping and toilet facilities regardless of the time period rented. Recreational vehicles are not residential dwelling units.

RESIDUAL BASAL AREA: The average of the basal area of trees remaining on a harvested site.

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

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

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

c. A carry-out or delivery service, drive-in service, and service or consumption outside fully enclosed structure.

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

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

RIVER: A free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

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

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

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

ROADSIDE STAND: A roadside stand selling at retail on the premises only farm produce, camp firewood, or garden, greenhouse or nursery products, and between Labor Day and Christmas, cut Christmas trees, garlands, wreaths, and wreath materials primarily produced on the property.

RURAL AREA: A geographic area that is designated in the Holden Comprehensive Plan as an area that is deserving of some level of regulatory protection from unrestricted development for purposes that may include, but are not limited to, supporting agriculture, forestry, mining, open space, wildlife habitat, fisheries habitat and scenic lands, and away from which most development over the next 10 years is diverted. The Rural Area includes:

High density Residential Zone (R1)
Low Density Residential Zone (R2)
Rural Resource/Residential Zone (R3)
Shoreland Residential Zone (R4)
Resource Protection Zone (RP)
Shoreland/Flood Hazard Overlay Zone (S/FH)
Aquifer Protection Overlay Zone (AP)
Telecommunications Overlay Zone (TC)

SCHOOL, MUNICIPAL: A publicly owned facility within which educational classes for any grades, kindergarten through twelve, are conducted pursuant to a program approved by the State Board of Education or similar governmental agency.

SCHOOL, PRIVATE: A privately-owned facility within which instruction is provided for a fee.

SELF STORAGE UNITS: A system whereby individuals rent unites of space within a structure to warehouse and store possessions.

SERVICE DROP: Any utility line extension which does not cross or run beneath any portion of a water body provided that:

a. in the case of electric service

   1. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and

   2. the total length of the extension is less than one thousand (1,000) feet.

b. in the case of telephone service

   1. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles; or

   2. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

SETBACK: The nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, or road right-of-way to the nearest part of a structure, parking space, or other regulated object or area.

a. SETBACK, FRONT: The setback between the front lot line and the nearest part of a structure or other regulated object or area. When frontage exists on two (2) roads, the front setback requirements apply to both roads.

b. SETBACK, REAR: The setback between the rear lot line and the nearest part of a structure or other regulated object or area.

c. SETBACK, SIDE: The setback between the side lot line and the nearest part of a structure or other regulated object or area.

d. SETBACK, SHORELINE: The nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, and the nearest part of a structure or other regulated object or area.

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

SHORELINE: The normal high-water line, or upland edge of a freshwater wetland.

SKID ROAD OR SKID TRAIL: A route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

SLASH: The residue, e.g. treetops and branches, left on the ground after a timber harvest.

STREAM: A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river, or flows to another waterbody or wetland within the Shoreland Area.

STREET: Any public way.

STRUCTURE: Anything built for the support, shelter or enclosure of persons, animals, goods, or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring, and other aerial equipment normally associated with service drops as well as guying and guy anchors and well casings. The term includes structures temporarily or permanently located, such as tents, decks, patios, raised walkways, handicapped access ramps and satellite dishes.

SUBDIVISION: The division of a tract or parcel of land into three (3) or more lots within a five (5) year period whether accomplished by sale, lease, development, buildings or otherwise and as further defined in State Statutes, Title 30-A, MRSA, Section 4401, as amended.

SUBSTANTIAL COMPLETION/SUBSTANTIALLY COMPLETED: Completion of seventy percent (70%) of a permitted structure or use measured as a percentage of estimated total cost.

SUBSTANTIAL START: Completion of thirty percent (30%) of a permitted structure or use measured as a percentage of estimated total cost.

SUBSURFACE SEWAGE DISPOSAL SYSTEM: Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields, grandfathered cesspools; holding tanks; and pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed

under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

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

TELECOMMUNICATIONS TOWER: A tower or other structure designed to support, enclose or otherwise attach any antennae, repeater, transmitter or receiver for the transmission/reception of radio-wave communications, including, but not limited to, television, radio, cellular telephone or any other communications. In the Telecommunications Overlay Zone, such towers are considered principal uses. In the General Commercial Zone, such towers are only permitted as accessory uses.

TEMPORARY STORAGE ENCLOSURE: Any portable, movable or transportable van, trailer, shipping container, railway car or similar enclosure used for the storage of goods, materials, merchandise or supplies.

TEMPORARY USE: A use established for a fixed period of time with the intent to discontinue such upon the expiration of such time. Such uses do not involve the construction or alteration of any permanent structure.

TIMBER HARVESTING: The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 604, Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

TOWN: The Town of Holden, Maine.

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

TRANSIENT ACCOMMODATIONS I: (Also referred to as "Bed and Breakfast") Include building(s) where accommodations are provided for compensation as a business in the private year-round residence of the host family, consisting of a maximum of three guest rooms and 6 guests at any one time, not including children of the paying guests under twelve years of age. Breakfast is the only meal, if any, to be provided for compensation.

TRANSIENT ACCOMMODATIONS II: (Also referred to as small inns and boarding houses) Include building(s) where accommodations are provided for compensation, where a maximum of 10 guest rooms are provided at any one time and meals, if provided, are provided to guests only.

TRANSIENT ACCOMMODATIONS III: (Also referred to as motels, hotels, and inns) Include buildings where accommodations are provided for compensation, where 25 or more guest rooms are provided at any one time and meals are provided for guests. Accessory uses such as restaurants, cocktail lounges, gift shops, conference rooms, and recreational facilities such as swimming pools and game rooms maybe included on the premises. This type of accommodations and their accessory uses are subject to Site Plan Review.

TRANSIENT ACCOMMODATIONS IV: (Campgrounds) Any land area specifically designed and developed, containing two or more individual campsites which accommodate that segment of the traveling public seeking temporary camping accommodations for tents, recreational vehicles and/or towed travel trailers for compensation. Accessory uses, subject to Site Plan Review, include camper services and facilities such as shower and laundry facilities, electricity, fresh water, propane and gas sales, ice, outlet for camping supplies and equipment, recreational services, etc.

TRANSPORTATION FACILITIES: Structures and grounds used for transportation service activities, such as ticket booths, and waiting shelters for bus, taxi, or touring van.

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 terrestrial vegetation or by

the presence of a bed, devoid of topsoil, containing waterborne deposits on exposed soil, parent material or bedrock, and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the

natural vegetation cover has been removed by human activity. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

UNDERTAKING ESTABLISHMENT: A dwelling or other structure used and occupied by a professional licensed mortician for burial preparation and funeral services.

UPLAND EDGE OF A WETLAND: The boundary between upland and wetland. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

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

USEABLE FLOOR AREA: Any floor area directly under a ceiling height of not less than seven feet (7'), except for the purpose of calculating the floor area of a bedroom, the floor area to a knee-wall, a minimum of five feet (5') high, may be counted as useable floor area.

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

VEGETATION: All live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 ½ feet above ground level.

VOLUME OF A STRUCTURE: The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

WAREHOUSING AND STORAGE FACILITY: A structure for the storage of merchandise or commodities, including bulk storage and bulk sales outlet.

WATER BODY: Any great pond, river, or stream.

WATER CROSSING: Any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland, whether under, through, or over the water course or wetland. Such projects include, but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

WATER-RELATED STRUCTURE: Includes piers, docks, wharves, floats, cribs, pilings, boathouses, breakwaters, causeways and similar structures projecting into water bodies.

WETLAND: A freshwater wetland.

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 one hundred (100) feet in width, and which have a surface elevation at or below the normal high-water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.

## ARTICLE 13: DEFINITIONS

WHOLESALE BUSINESS ESTABLISHMENT: Any business, housed in a permanent structure, engaged in the sale of goods in large amounts to retailers or jobbers, rather than directly to consumers.

WILDLIFE: All vertebrate species (animals with backbones), except fish.

WILDLIFE MANAGEMENT PRACTICES: Activities engaged in for the exclusive purpose of management of wildlife populations by manipulation of their environment for the benefit of one or more species. Such practices may include, but not be limited to, harvesting or removal of vegetation; controlled burning; planting; impounding water; controlled hunting and trapping; relocation of wildlife; predator and disease control; and installation of artificial nesting sites, provided that such activities are specifically controlled and designed for the purpose of managing such species.

WOODY VEGETATION: Live trees or woody, non-herbaceous shrubs.

YARD: The area of land on a lot not occupied by buildings.

a. Front Yard: The open, unoccupied space on the same lot with the principal building between the front lot line and the nearest part of any building on the lot, and extending the entire width of the lot.

b. Rear Yard: The open, unoccupied space on the same lot with the principal building between the rear lot line and the nearest part of any building on the lot, and extending the entire width of the lot.

c. Side Yard: The open, unoccupied space on the same lot with the principal building between a side lot line and the nearest part of any building on the lot, extending from the front yard to the rear line.

ZONE: 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.