

Town of Lincolnville

Land Use Ordinance

June 16, 1998

Amended:
06-15-1999—Access Mng Rt 1/Errata Sheet
06-20-2000—Access Mng Rt 52/Com Site Plan/Stream Protection/Errata Sheet
06-19-2001—Wireless Communications
06-15-2002—Home Occupation/Special Exceptions
11-05-2002—Home occupations Amendments
04-11-2005—Municipal Sewage Disposal/Public Toilets
11-08-2005—Eminent Domain/Consistency for new Subdivision Ordinance
06-10-2008—State Shoreland Zoning and Land Use Committee Clerical
11-04-2008—Non-public piers & wharves/LRD-LCD/Parking lot placement
06-12-2010—Commercial Site Plan Review/Administration
02-13-2012—Medical Marijuana Dispensaries/Methadone Clinics/Home Occupations
06-15-2013—Timber Harvesting/Board of Appeals
06-11-2015—CEO Review Authority/Max Bldg. Height/Deletion Access Mng/CSPR
06-16-2016—Police Department references to law enforcement
06-12-2018—Shoreland Zoning Provisions Updated
06-13-2019—Shoreland Zoning Provisions Updated
06-15-2023—LD 2003 (P.L. 2021, ch. 672) Update
07-22-2024—Shoreland Zoning Provisions Updated
06-09-2026 – Commercial Site Plan Review Amendments

LINCOLNVILLE LAND USE ORDINANCE

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TOWN OF LINCOLNVILLE

LAND USE ORDINANCE

SECTION 1 - PURPOSES

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in the Town of Lincolnville; and to maintain the present rural/residential character of the community. Interpretation of what may not be clear in this Ordinance shall be according to the intent of the Ordinance and the comprehensive plan.

SECTION 2 - AUTHORITY

This Ordinance has been prepared in accordance with the provisions of Title 38 Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.)

SECTION 3 - APPLICABILITY

This Ordinance applies within the Town of Lincolnville to the actions listed below:

A. Construction, enlargement, alteration, demolition or moving of any building or structure.

B. Change of use of any lot or structure.

C. Resumption of use of any structure if abandoned for twelve months or more.

D. Establishment of new use of abandoned structure.

E. Home Occupations

For the purposes of this Ordinance, the Shoreland Zone includes land areas within 250 feet, horizontal distance, of the normal high water line of any great pond, or river within 250 feet, horizontal distance, of the upland edge of any coastal wetland including all areas affected by tidal action or freshwater wetland; and within 75 feet, horizontal distance, of the normal high-water line of a stream; and also any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

SECTION 4 - EFFECTIVE DATE AND REPEAL OF FORMERLY ADOPTED ORDINANCE

A. This Ordinance, which was adopted by the municipal legislative body of Lincolnville shall become effective immediately upon adoption, except that the Shoreland zoning provisions of this Ordinance adopted on June 24,

1991 as amended herein, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment if the Shoreland zoning provisions of this Ordinance, or Ordinance Amendment are approved by the Commissioner; otherwise by the provisions of the Shoreland Zoning Ordinance adopted on June 24, 1991, as amended March 1998. Upon approval of this Ordinance by the Commissioner of the Department of Environmental Protection, the Shoreland Zoning Ordinance previously adopted on June 24, 1991, is hereby repealed. The General Zoning Ordinance for the Town of Lincolnville, previously adopted, is hereby repealed upon the adoption of this Ordinance.

SECTION 5 - AVAILABILITY

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

SECTION 6 - VALIDITY AND SEVERABILITY

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

SECTION 7 - CONFLICTS WITH OTHER ORDINANCES

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

SECTION 8 – AMENDMENTS

This Ordinance may be amended by majority vote of the legislative body. Copies of amendments affecting the Shoreland Zone, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of the receipt of the amendment, the amendment is automatically approved, and the effective date of such amendment shall be the date of automatic approval.

SECTION 9 - DISTRICT AND ZONING MAP

A. Official Land Use Map

The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Land Use Map. The Official Land

Use Map, and all future amendments thereto, are hereby made a part of and incorporated into this Ordinance:

1. Resource Protection
2. Resource Conservation
3. Limited Residential
4. Stream Protection
5. Harbor District
6. Limited Commercial District
7. General District

B. Scale of Map

The Official Land Use Map shall be drawn at a scale of not less than: 1 inch = 1000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

C. Certification of Official Land Use Map

The Official Land Use Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office.

D. Changes to the Official Land Use Map

If amendments affecting Shoreland Zoning are made, in accordance with Section 8, in the district boundaries or other matter portrayed on the Official Land Use Map, such changes shall be made on the Official Land Use Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

SECTION 10 – INTERPRETATION OF DISTRICT BOUNDARIES

Unless otherwise set forth on the Official Land Use Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. The depictions of the Districts on the Land Use Map for the Town of Lincolnville are merely illustrative of their general location. The boundaries of these districts shall be determined by measurement of the distance indicated on the maps from the normal high-water mark of the water body or the upland edge of wetland vegetation, regardless of the location of the boundary shown on the map. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

SECTION 11 – LAND USE REQUIREMENTS

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

SECTION 12 – NON-CONFORMANCE

A. Purpose

It is the intent of this Ordinance to promote conformity of land uses with this Ordinance, except that non-conforming structures, uses, lots, or aspects of structures that existed before the effective date of this Ordinance or

amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. General

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

2. Repair and Maintenance: This Ordinance allows the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure and such other changes in a nonconforming use or structure as federal, state, or local building and safety codes may require.

3. For purposes of the application of the provisions of this Ordinance, concerning non-conforming structures and lots, no non-conforming structure or aspect of such structure and no non-conforming lot or aspect of such lot shall be deemed to be more non-conforming as a result of any taking or acquisition of a portion of that structure or lot by eminent domain or by action of any governmental authority which occurred after the enactment of the Ordinance on June 16, 1998. Any such non-conforming structure of non-conforming lot, and any non-conforming use which was lawfully in existence on the date of such taking or acquisition by eminent domain or any other action of governmental authority shall be deemed to continue in lawful existence, subject to the requirements set forth in this section; as though such taking or acquisition by governmental authority had not occurred.

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

C. Non-conforming Structures

1. Expansions: All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 16(B)(1). 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. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure, subject to the limitations herein.

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

b. Notwithstanding paragraph (a) above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable local ordinance standards are met and the expansion is not prohibited by Section 12(C)(1).

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

c. All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as all other applicable local ordinance standards are met and the expansion is not prohibited by Section 12(C)(1) or Section 12(C)(1)(a) above.

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

    ii. For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water

body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.

iii. In addition to the limitations in subparagraphs (i) and (ii) above, for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.

d. Notwithstanding the limitations on height imposed under subparagraphs c(i), c(ii) and c(iii), the height of a structure that is a legally existing nonconforming principal or accessory structure may be raised to, but not above, the minimum elevation necessary to be consistent with the floodplain management elevation requirement under the Town of Lincolnville Floodplain Management Ordinance, or to 3 feet above base flood elevation, whichever is greater, as long as the structure is relocated, reconstructed, replaced or elevated within the boundaries of the parcel so that the water body or wetland setback requirement is met to the greatest practical extent. This paragraph applies to structures that (i) have been or are proposed to be relocated, reconstructed, replaced or elevated to be consistent with the local floodplain management elevation requirement; and (ii) are located in an area of special flood hazard, as that term is defined in 38 M.R.S. § 436-A(1-C), as may be amended. For purposes of this subparagraph, "height of a structure" shall mean the vertical distance between the bottom of the sill of the structure to the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances that have no floor area.

e. An approved plan for expansion of a nonconforming structure must be recorded by the applicant in the Waldo County Registry of Deeds within 90 days of approval or else such approval is void. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary, and evidence of approval by the local permitting authority.

2. Foundations: Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback

requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Section 12(C)(3), Relocation, below.

3. Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

   In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 16(S). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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

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

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

4. Reconstruction or Replacement: Any non-conforming structure which is located less than the required setback of a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause by more than 50% of the market value of the structure before such damage, destruction or

removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(3) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board shall consider in addition to the criteria Section 12(C)(3) above, the physical condition and type of foundation present, if any.

5. Change of Use of a Non-conforming Structure:

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

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

D. Non-conforming Uses

1. Expansions: Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a

permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1) above.

2. Resumption Prohibited: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

3. Change of Use: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the Harbor District, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(5) above.

E. Non-conforming Lots

1. Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

2. Contiguous Built Upon 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 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. §§ 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

   If two or more principal 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.

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.

This provision shall not apply to 2 or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on June 24, 1991 and recorded in the Registry of Deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and:

a. Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or

b. Any lots that do not meet the frontage and lot size requirements of Section 12(E)(3)(a) above are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

SECTION 13 - ESTABLISHMENT OF DISTRICTS

Shoreland Zone

A. Resource Protection District

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection and Resource Conservation Districts, except that areas which are currently developed and areas which meet the criteria for the Harbor District shall not be included within the Resource Protection District:

1. Areas of significant wildlife habitat of the Ducktrap River and the Ducktrap Stream for the critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, and the area 250 feet, horizontal distance, of the upland edge adjacent to the freshwater wetland as identified by #117 and #122.

   Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, 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 May 1, 2006. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river

****Local Note- Specifically these wetland have been previously known as Resource Conservation wetlands #118, #119, #121, #123, #144, #146, #147, #148, #149, #153, #154, #156.

Habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; and shorebird nesting, feeding and Staging areas and seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife.

2. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100 year flood plain 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. This district shall also include 100 year flood plains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

3. Areas of two or more contiguous acres with sustained slopes of 20% or greater.

4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a fresh-water or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

5. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

6. Land areas within 250 feet of the upland edge of the freshwater marshes, known as the Pitcher Pond and Knight Pond Bog (known as #130).

B. Resource Conservation District

The Resource Conservation District includes areas where the careful management of wastewater disposal systems, the placement of structures, erosion and sedimentation controls and larger lot requirements will result in the protection from loss and the wise use and prudent use of these natural resources. The Resource Conservation District includes areas with 250 feet, horizontal distance, of the upland edge of wetlands associated with great ponds and rivers which are #145, #150, #151, #152, #155, #157, #158, #162,_#163, and #164. rated "moderate" value by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) as of January 1, 1973.}

C. Limited Residential District

The Limited Residential District includes those areas suitable for residential and recreational development. This District includes areas in the Shoreland Zone other than those in the Resource Protection, Resource Conservation, Stream Protection, Harbor, and the Limited Commercial Districts.

In addition to the land areas set forth in the first paragraph of this Section 13 (C), the following land areas shall also be part of the Limited Residential District: Beginning at the intersection of the easterly side of U.S. Route One and the center line of the McKay Road, so-called; thence running southerly along the center line of the McKay Road to a point that is located at the southwesterly corner of Lot 81; thence running in a westerly direction along the line of the Limited Residential District, as established before this amendment, to a point that is located exactly 250 feet from the normal high water line of the Penobscot Bay; said point being in the westerly line of the shoreland area for purposes of the Land Use Ordinance and that point also being in a line through the middle of Lot 99 shown on the 1989 Town of Lincolnville Tax Map Number 6 and as shown on the amendment of the Official Land Use Map of the Town of Lincolnville in connection with this amendment of the ordinance; thence running northerly along the westerly line of the shoreland area of the Official Land Use Map through so much of Lot 99 which is measured from the foregoing point to the southwesterly corner of Lot 100 which is located within 250 feet of the normal high water mark of Penobscot Bay; thence continuing around the portion of the perimeter facing the water of Penobscot Bay of but not including Lot 100 to the southeasterly corner of Lot 101, and continuing through Lot 101 for so much of Lot 101 as shown on the Tax Map as is located within 250 feet of the normal high water line of Penobscot Bay to the intersection of the easterly side of U.S. Route One and the center line of McKay Road, which is the point of beginning.

Meaning and intending to include so much of the northerly one-half of Lot 99 which is located within 250 feet of the normal high water mark of Penobscot Bay and so much of Lot 101 on the Tax Map which is located within 250 feet of the normal high water mark of Penobscot Bay and also including the area between the center line of McKay Road and the foregoing lots from the 1989 Town Tax Map, but excluding all of Lot 100 on the Tax Map. This amendment of the Official Land Use Map only deletes from the Limited Residential District Lot 100 on the Tax Map (1989), but this amendment does not delete from the Limited Residential District in the Land Use Ordinance any other lot or lots which are located in that District on the date of enactment of this land use amendment.

D. Harbor District

The Harbor District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses, Section 14, and other areas which are suitable for functionally water-dependent uses.

The Harbor District shall include that area of Penobscot Bay enclosed within the boundary lines set forth as follows: The Harbor District shall include all land areas beginning at the normal high water line of Penobscot Bay which said point marks the northeasterly corner of land of the Town of Lincolnville, known as the Town Boat Launching Ramp, shown as Lot 80 on the 1989 Town of Lincolnville Tax Map Number 6 (hereinafter Tax Map); thence southeast along the shoreline boundaries of Lot 80, Lot 81, along all shoreline boundaries of Lot 82 and then northwest along the shoreline boundaries of Lot 81 of the Tax Map, and also along the shore of Penobscot Bay which coincides with the boundaries of those Tax Map Lots to a point marking the

Southeasterly corner of land of the State of Maine, shown as Lot 83 on the Tax Map; thence westerly along the northerly line of aforesaid State of Maine lot of land to a point marking the northwesterly corner of land of the State of Maine as shown on the Tax Map as Lot 84, and also being the northwesterly corner of Lot 81, thence running northeasterly along the northerly line of Lot 81 to a point marking the northwesterly corner of Lot 80; thence easterly along the northerly line of Lot 80 to the point of beginning. Meaning and intending to encompass all of Lots 80, 81 and 82 of the Tax Map.

E. Stream Protection District

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area is located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

The Stream Protection District shall also include the lands adjacent to the following stream boundaries, as depicted on the USGS 7.5 minute quadrangles, subject to the same boundary limits described in the above paragraph:

1. Tucker Brook from the most upstream confluence of perennial and intermittent branches, downstream to Wetland #117, along the Ducktrap River.
2. The perennial portion of the Northwest Branch of the Levenseller Stream beginning 1,300 feet southeast of High Street downstream to Levenseller Stream.
3. The West Branch of Levenseller Stream south of Heal Road downstream to Wetland #153.
4. Minnow Brook from the confluence of its perennial and intermittent branches downstream to Wetland #153.
5. Youngtown Brook's (sic) entire perennial length downstream to Megunticook Lake.
6. Black Brook from the Camden Hills State Park boundary downstream to Wetland #144.
7. Frohock Brook's perennial length downstream to Penobscot Bay.
8. Great Brook's perennial length downstream to Penobscot Bay.

F. Limited Commercial District

The Limited Commercial District includes areas of mixed light commercial and residential uses. This district includes areas of five or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

The three geographic areas for the Limited Commercial District, in the Traditional Beach area, as shown on the Official Land Use Map have the following boundaries:

1. Starting at the centerline of U.S. Route One at the intersection of the centerline of Route 173; thence continuing along the centerline of U.S. Route One generally northerly to a point approximately 250 feet northerly of the northeast corner of the Frohock Brook Bridge;

thence southwesterly to the northeast corner of Lot 61; thence westerly following the northerly boundary of Lot 61 to the northwest corner of Lot 61; thence southerly along the westerly boundary of Lot 61 to the northeast corner of Lot 59; thence westerly along the Northerly boundary of Lot 59 to the northwest corner of Lot 59;thence southerly, along the westerly boundary of Lot 59 to the southwest corner of Lot 59; thence generally southerly, as depicted on the amended Official Land Use Map of the Town of Lincolnville, across Frohock Brook, and crossing through Lot 42, in a straight line, to the northeast corner of Lot 50; thence generally southwesterly, partly along Lot 50 and then through Lot 50 in a straight line to the southeast corner of Lot 47; thence in a general southwesterly direction in a straight line through Lot 50 to the southeasterly corner of Lot 48; thence in a general south-easterly direction in a straight line through Lot 49 to a point in the centerline of Route 173 which is exactly 250 feet from the normal high water line of Penobscot Bay; thence easterly along the centerline of Route 173 to the point of beginning.

2. Starting at the northeast corner of the U.S. Route One bridge over Frohock Brook; thence northerly along the easterly sideline of U.S. Route One a distance of approximately 250 feet to the northwest corner of Lot 74; thence easterly along the northerly boundary of Lot 74 and Lot 76 to the normal high water mark of Penobscot Bay; thence generally southwesterly along the normal high water mark of Penobscot Bay to the place of beginning.

   All references to lot numbers on the zone description shall mean lot number on Tax Map 6 of the tax maps of the Town of Lincolnville.

3. Starting at a point at the southeasterly corner of the U.S. Route One bridge over Frohock Brook; thence easterly, southerly and southeasterly along the shoreline boundaries of Lots 77, 78 and 79 on the 1989 Town of Lincolnville Tax Map Number 6 (hereinafter Tax Map) and also being along the shore of Frohock Brook and Penobscot Bay to a point marking the northeasterly corner of land of the Town of Lincolnville, shown as Lot 80 on the Tax Map, said lot also being known as the Town Boat Launching Ramp thence westerly along the northerly line of the aforementioned Lot 80, to the mid-point of the road known as the McKay Road; thence continuing across McKay Road to the waterside boundary of Lot 100 and continuing along the southerly boundary of Lot 100 to a point at which that boundary intersects with a line which is 250 feet horizontal distance from the normal high water mark of Penobscot Bay; thence running northerly along a line through Lot 100 which is 250 feet horizontal distance from the normal high water line of Penobscot Bay to the common boundary between Lot 100 and Lot 101;thence running generally easterly along the common boundary of Lot 100 and Lot 101 to the mid-point of the road known as the McKay Road; thence running northerly following the mid-point of the McKay Road to the easterly side of U.S. Route One; thence running northerly along the easterly side of U.S. Route One to the southeasterly corner of the bridge crossing Frohock Brook, being the point of beginning, including within the geographic area set forth in Section 13 (F) (3) any portion of Lot 100 located within 250 feet horizontal distance of the normal high water line of Penobscot Bay. Meaning and intending by this amendment to include within the geographic area set forth in

Section 13 (F) (3) the waterside portion of Lot 100 as set forth on the 1989 Tax Map Number 6, which is within 250 feet horizontal distance of the normal high water line of Penobscot Bay. Upon enactment of this amendment, Section 13 (F) (3) shall encompass within the Limited Commercial District all of Lot 77, 78, and 79, and the portion, as set forth above, of Lot 100 of the 1989 Tax Map Number 6.

G. Areas Outside the Shoreland Zone

General District

The General District includes all areas of the Town of Lincolnville which are not included in the Shoreland Zone.

SECTION 14 – TABLE OF LAND USES

All land use activities in the Shoreland Zone, as indicated in Table 1, Land Uses, shall conform with all of the applicable land use standards in Section 16. All land use activities in the General District, as indicated in Table 1, Land Uses, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Land Use Map.

Key to Table 1:
Yes = Allowed (no permit required but the use must comply with all applicable land use standards.)
No = Prohibited
PB = Allowed with permit issued by the Planning Board
CSPR = Allowed with commercial site plan review and approval granted by the Planning Board
CEO = Allowed with permit issued by the Code Enforcement Officer
LPI = Allowed with permit issued by the Local Plumbing Inspector
SE = Special Exception Permit granted by Appeals Board required
* = Subject to specific land use standards
** = Consult with Maine Forest Service regarding applicable statewide standards

Abbreviations: RP=Resource Protection District RC=Resource Conservation District LR=Limited Residential District HD=Harbor District SP=Stream Protection District	LC= Limited Commercial District GD= General District	*= See Section 16 Y = Yes N = No

TABLE OF LAND USES

	Shoreland Zone						Areas Outside Shoreland Zone
LAND USES	SP	RP	RC	LR	HD	LC	GD
Non-intensive recreational uses not requiring structure, such as hunting, fishing, & hiking	Y	Y	Y	Y	Y	Y	Y
Motorized vehicular traffic on existing roads & trails	Y	Y	Y	Y	Y	Y	Y
Timber Harvesting	**	**	**	**	**	**	**
Clearing or removal of vegetation for activities other than timber harvesting	CEO[1]	CEO[1]	CEO[1]	Y	Y	CEO	Y
Fire prevention activities	Y	Y	Y	Y	Y	Y	Y
Wildlife management practices	Y	Y	Y	Y	Y	Y	Y
Soil & Water conservation practices	Y	Y	Y	Y	Y	Y	Y
Mineral exploration	N	Y[2]	Y[2]	Y[2]	Y[2]	Y[2]	Y
Mineral exploration, including sand & gravel extraction	N	PB[3]	N	PB	PB	PB	Y
Surveying & resource analysis	Y	Y	Y	Y	Y	Y	Y
Emergency operations	Y	Y	Y	Y	Y	Y	Y
Agriculture*	Y	PB	N	PB	PB	PB	Y
Aquaculture*	PB	PB	N	PB	PB	PB	Y
Principal structures & uses One & two-family residential, including driveways, not located within shoreland zone*	N/A	N/A	N/A	N/A	N/A	N/A	CEO[16]
Principal structures & uses One & two-family residential, including driveways, located 100 feet or less from the protected shoreland resource	PB[4, 17]	SE[15, 17]	PB[17]	PB[17]	N	PB[17]	N/A
Principal structures & uses One & two-family residential, including driveways, located more than 100 feet from the protected shoreland resource	CEO[17]	SE[15, 17]	CEO[17]	CEO[17]	N	CEO[17]	N/A
Multi-unit residential-3 or more units	N	N	N	PB	N	PB	PB
Affordable Housing Development	N	N	N	N	N	PB[18]	PB[18]
Commercial	N	N[10]	N	N[10]	PB[5]	PB	PB-CSPR
Industrial	N	N	N	N	PB[5]	N	PB-CSPR
Governmental & institutional	N	N	N	N	PB[5]	PB	PB-CSPR
Small non-residential facilities for educational scientific, or nature interpretation purposes	PB[4]	PB	PB	PB	PB[5]	PB	PB-CSPR
Non-conforming non-residential Municipal Uses or Public Utility	SE	SE	SE	SE	SE	SE	SE
Structures accessory to allowed uses*	PB[4]	PB	PB	CEO	CEO	CEO	CEO
Piers, docks, wharves, bridges & other structures & uses extending over or below the normal high water line or within a wetland: a) Temporary b) Permanent	 CEO PB	 CEO PB	 N N	 CEO PB& DEP	 CEO PB[5]& DEP	 CEO PB& DEP	 Y CEO& DEP

* Subject to specific Land Use Standards, Section 16

TABLE OF LAND USES

	(----------Shoreland Zone----------)						Areas Outside Shoreland Zone
LAND USES	SP	RP	RC	LR	HD	LC	GD
Conversion of seasonal residences to year-round residences	LPI	N	LPI	LPI	LPI	LPI	LPI
Home Occupations	CEO	N	CEO	CEO	CEO	CEO	CEO
Private Sewage disposal systems for allowed uses	LPI	N	LPI	LPI	LPI	LPI	LPI
Essential services	PB[6]	PB[6]	PB[6]	PB	PB	PB	CEO
A. Roadside distribution lines (34.5kV and lower)	CEO[6]	CEO[6]	Y[11]	Y[11]	Y[11]	Y[11]	CEO
B. Non-Roadside or cross country distribution lines involving ten poles or less in the shoreland zone	PB[6]	PB[6]	CEO	CEO	CEO	CEO	CEO
C. Non-roadside or cross country distribution lines involving eleven or more poles in the shoreland zone	PB[6]	PB[6]	PB	PB	PB	PB	CEO
D. Other essential services	PB[6]	PB[6]	PB	PB	PB	PB	CEO
Service drops, as defined, to allowed uses	Y	Y	Y	Y	Y	Y	Y
Public and private recreational areas involving minimal structural development	PB	PB	N	PB	PB	PB	CEO
Individual private campsites	CEO	CEO	CEO	CEO	CEO	CEO	Y
Campgrounds	N	N	N	N	N	N	CEO
Road Construction	PB	N[8]	PB	PB	PB[5]	PB	Y
Parking facilities	N	N[7]	N	PB	PB[5]	PB	Y
Marinas	PB	N	N	PB	PB	PB	PB
Filling & earthmoving less than 10 cubic yards	CEO[9]	CEO[9]	CEO[9]	Y[9]	Y[9]	CEO[9]	Y
Filling & earthmoving more than 10 cubic yards	PB[9]	PB[9]	CEO[9]	CEO[9]	CEO[9]	CEO[9]	Y[10]
Signs*	Y	Y	N	Y	Y	CEO	CEO
Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO	CEO	CEO
Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	CEO	CEO
Uses similar to uses requiring A PB permit	PB	PB	PB	PB	PB	PB	PB
Essential Municipal Services for Sewage Disposal Systems, & Public Toilet Facilities	N	N	N	N	PB	PB	CEO
Medical Marijuana Dispensary	No	No	No	No	No	CSPR[12,14]	CSPR[12,14]
Methadone Clinic	No	No	No	No	No	CSPR[13,14]	CSPR[13,14]

* Subject to specific Land Use Standards, Section 16

Notes:

1. In RP not allowed within 75 feet horizontal distance of normal high water line of great ponds, river, and streams, except to remove safety hazards.
2. Requires a permit from CEO if more than 100 square feet of surface area, in total, is disturbed.
3. In RP not allowed in areas so designated because of wildlife value.
4. Provided that a variance setback requirement is obtained from the Board of Appeals.
5. Functionally water-dependent uses and uses accessory to such water-dependent uses only.
6. See further restrictions in Section 16(L)(2)
7. Except when an area is zoned for resource protection, due to floodplain criteria, in which case a permit is required from the Planning Board.
8. Except as provided in Section 16(H)(4).
9. DEP permit is also required within seventy five (75) feet of the normal high water line.
10. Except for commercial uses otherwise listed in the table, such as marinas and campgrounds, that are allowed in the respective district.
11. Permit not required but must file a written "notice of intent to construct" with CEO.
12. See performance standards in Section 15(B).
13. See performance standards in Section 15(C).
14. Use limited to lots with frontage on Route 1 and located south of the intersection of Beach Road (Route 173) and Route 1.
15. Single family residential structures may be allowed by special exception only according to the provisions of Section 21(G)(4), Special Exceptions. Two-family residential structures are prohibited.
16. Accessory dwelling units outside the Shoreland Zone must comply with the performance standards in Section 15(D).
17. Accessory dwelling units within the Shoreland Zone must comply with the performance standards in Section 15(D) and may only be located on lots where the ADU itself can meet the minimum lot area and minimum shore frontage requirements of Section 16(A) (*e.g.*, for a single family residence and an ADU on a lot in the Shoreland Zone, the lot must have twice the minimum lot area and twice the minimum shore frontage).
18. Affordable housing developments must comply with the performance standards in Section 15(E).

A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to Title 38 MRSA, Section 480-C, if the activity occurs on, in, over or adjacent to any coastal or freshwater wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;

B. Draining or otherwise dewatering;

C. Filling, including adding sand or other material to a sand dune; or

D. Any construction or alteration of any permanent structure.

SECTION 15 - TOWN-WIDE LAND USE STANDARDS

A. Building and Land Use Standards - All Areas Outside of the Shoreland Zone:

1. Lot Area: Minimum lot area shall be 40,000 square feet per individual dwelling unit or other principal use. A dwelling unit is defined as a room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking, bathing and eating. The term shall include mobile homes but shall not include trailers or recreational vehicles.

2. Setbacks: 60' setback from the centerline of any public way.
Setbacks: Setbacks from property lines shall be 15' minimum from the back and sides.

3. Frontage: minimum road frontage or lot dimension shall be 100 feet.

4. Maximum Height: In the General District, maximum building height shall be 45 feet measured as the vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

5. Ground Coverage: Structures shall not cover any more than 30% of the lot.

6. Parking: Adequate off street parking shall be provided for commercial and other uses.

7. Sanitation: All subsurface sewage disposal systems and plumbing shall meet the requirements of the State Plumbing Code.

8. Drainage: Surface drainage shall be designed to maintain existing conditions on abutting land.

9. All spreading or disposal of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture, Food and Rural Resources, Nov. 1, 2001, or subsequent revisions.

10. Campgrounds shall conform to the minimum requirements imposed under state licensing procedures and the following:

    1. Campgrounds shall contain a minimum lot area of 5,000 square feet of land, not including roads and driveways, for each site.

11. The minimum lot area and the minimum road frontage requirement for lots within an approved subdivision may be reduced by the Planning Board to the minimum lot area and the minimum road frontage set forth in the Town's Subdivision Ordinance, for Conservation Subdivisions in exchange for the allocation of required percentage of buildable land area for common or reserved space.

12. In the event that the Town's Subdivision Ordinance requires that subdivision plans indicate reserved area for widening or realigning roads, then land reserved for such purposes shall not be included in computing lot areas or setback requirements of the Town's Land Use Ordinance.

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

B. Performance Standards for Medical Marijuana Dispensaries.

Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Section 15(B), when enacted, shall govern any proposed medical marijuana dispensary for which an application has not been submitted and acted on by the Planning Board prior to April 11, 2011. The following standards apply to all medical marijuana dispensaries:

1. Location Criteria. No medical marijuana dispensary shall be sited within 250 feet of the lot lines of any of the following:

   (a) a church, synagogue or other house of religious worship;
   (b) a public or private school;
   (c) a lot used principally for one, two or multi-family residential purposes;
   (d) an athletic field, park, playground or recreational facility;
   (e) any juvenile or adult halfway house, correctional facility, methadone clinic, or substance abuse rehabilitation or treatment center;
   (f) a licensed child care facility; or
   (g) a lot on which another medical marijuana dispensary is sited.

   The distance cited in this subsection shall be measured between the lot line of the proposed site for the medical marijuana dispensary and the lot line of the site of the use listed in (a) through (g) above at their closest points.

2. Hours of Operation. Medical marijuana dispensaries may be open for business only between the hours of 6:00 a.m. and 6:00 p.m., locally prevailing time.

3. Parking. Medical marijuana dispensaries shall provide adequate on-site parking spaces to meet anticipated peak hour parking needs for employees and visitors.

4. Signage and Advertising. All signage and advertising for a medical marijuana dispensary shall comply with all applicable provisions of the Town of Lincolnville Sign Ordinance. In addition, no signage or advertising shall use the word "marijuana" or "cannabis," or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols on the sign. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana qualifying patients and primary caregivers.

5. Security Requirements. Security measures at a medical marijuana dispensary and any associated cultivation facility shall include, at a minimum, the following:

   (a) security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;

   (b) door and window intrusion robbery and burglary alarm systems

with audible and law enforcement notification components that are professionally monitored and maintained in good working condition;

(c) a locking safe permanently affixed to the premises that is suitable for storage of all prepared marijuana and cash stored overnight on the licensed premises;

(d) exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of this Ordinance; and

(e) deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).

All security recordings shall be preserved for at least seventy-two (72) hours by the medical marijuana dispensary. The medical marijuana dispensary shall provide law enforcement with the name and functioning telephone number of a 24-hour on-call staff person to whom the Town may provide notice of any operating problems associated with the medical marijuana dispensary.

6. Fire Safety. All buildings associated with a medical marijuana dispensary, including any associated cultivation facility, shall be protected by use of fire suppression sprinkler systems or such other effective fire suppression system as may be approved by the Fire Chief. A medical marijuana dispensary shall have a Knox Box or shall provide the Fire Department with the necessary information to allow entry by Fire Department personnel in the event of an emergency at the location.

7. Cultivation. If there is both the cultivation and dispensation of marijuana occurring on the same site, the cultivation area shall not be greater than 25% of the total floor area of the portion of the building used for dispensation of marijuana.

8. On-site Consumption of Medical Marijuana. The consumption, ingestion or inhalation of medical marijuana on or within the premises of a medical marijuana dispensary or cultivation facility is prohibited; provided, however, that a medical marijuana dispensary employee who is a qualifying patient, as that term is defined in 22 M.R.S.A. § 2422(9), as may be amended, may consume medical marijuana within the enclosed building area of the premises if such consumption occurs via oral consumption (*i.e.*, eating only). For purposes of this subsection, the term "premises" includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the medical marijuana dispensary's entrance.

9. Visibility of Activities; Control of Emissions; Disposal Plan.

(a) All activities of medical marijuana dispensaries and cultivation facilities, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors in an enclosed, locked facility.

(b) No marijuana or paraphernalia shall be displayed or kept in a dispensary or cultivation facility so as to be visible from outside

the premises.

(c) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a dispensary or cultivation facility must be provided at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

(d) All medical marijuana dispensaries shall have in place an operational plan for proper disposal of marijuana and related byproducts.

10. Sale of Edible Products. No food products shall be sold, prepared, produced or assembled by a medical marijuana dispensary except in compliance with all operating and other requirements of state and local law and regulation, including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.

11. Other Laws Remain Applicable. A medical marijuana dispensary shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana dispensaries, the stricter law or regulation shall control.

12. Maximum Number. The maximum number of medical marijuana dispensaries in the Town shall be capped at one (1).

C. Performance Standards for Methadone Clinics.

Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Section 15(C), when enacted, shall govern any proposed methadone clinic for which an application has not been submitted and acted on by the Planning Board prior to April 11, 2011. The following standards apply to all methadone clinics:

1. Location Criteria. No methadone clinic shall be sited within 250 feet of the lot lines of any of the following:

   (a) a church, synagogue or other house of religious worship;
   (b) a public or private school;
   (c) a lot used principally for one, two or multi-family residential purposes;
   (d) an athletic field, park, playground or recreational facility;
   (e) any juvenile or adult halfway house, correctional facility, medical marijuana dispensary, or substance abuse rehabilitation or treatment center other than a methadone clinic;
   (f) a licensed child care facility; or
   (g) a lot on which another methadone clinic is sited.

   The distance cited in this subsection shall be measured between the lot line of the proposed site for the methadone clinic and the lot line of the site of the use listed in (a) through (g) above at their closest points.

2. Hours of Operation. Methadone clinics may be open for business only between the hours of 6:00 a.m. and 6:00 p.m., locally prevailing time.

3. Parking. Methadone clinics shall provide adequate on-site parking spaces to meet anticipated peak hour parking needs for employees and visitors.

4. Security Requirements. Security measures at a methadone clinic shall include, at a minimum, the following:

   (a) security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;

   (b) door and window intrusion robbery and burglary alarm systems with audible and law enforcement notification components that are professionally monitored and maintained in good working condition;

   (c) a locking safe permanently affixed to the premises that is suitable for storage of all drugs and cash stored overnight on the licensed premises;

   (d) exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of this Ordinance; and

   (e) deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).

   All security recordings shall be preserved for at least seventy-two (72) hours by the methadone clinic. The methadone clinic shall provide law enforcement with the name and functioning telephone number of a 24-hour on-call staff person to whom the Town may provide notice of any operating problems associated with the methadone clinic.

5. Fire Safety. All buildings associated with a methadone clinic shall be protected by use of fire suppression sprinkler systems or such other effective fire suppression system as may be approved by the Fire Chief. A methadone clinic shall have a Knox Box or shall provide the Fire Department with the necessary information to allow entry by Fire Department personnel in the event of an emergency at the location.

D. Residential Standards.

1. All residential structures must conform to Section 15 (A) in addition to the standards listed under this subsection.

2. An owner of a residential structure and/or accessory dwelling unit must provide written verification that each structure and/or unit is connected to adequate water and wastewater services prior to Town certification of the development for occupancy or similar type of approval process. Written verification must include the following:

   (a) If a residential structure and/or accessory dwelling unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the structure and/or unit and proof of payment for the

connection to the sewer system;

(b) If a residential structure and/or accessory dwelling unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector pursuant to 30-A M.R.S. § 4221. Plans for a subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. ch. 241, Subsurface Wastewater Disposal Rules;

(c) If a residential structure and/or accessory dwelling unit is connected to a public, special district, or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the structure and/or unit; and

(d) If a housing structure is connected to a well, proof of access to potable water, including the standards outlined in 01-672 C.M.R. ch. 10, § 10.25(J), Land Use Districts and Standards. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

3. A lot where a single-family dwelling unit is the principal structure may establish one accessory dwelling unit. The accessory dwelling unit is exempt from any density requirements or lot area requirements related to the area in which the accessory dwelling unit is constructed, except that for any accessory dwelling unit within the Shoreland Zone, it may only be established on a lot where the accessory dwelling unit itself can meet the minimum lot area and minimum shore frontage requirements of Section 16(A) (*e.g.,* for a single family residence and an ADU on a lot in the Shoreland Zone, the lot must have twice the minimum lot area and twice the minimum shore frontage). An accessory dwelling unit must meet the setback requirements set forth in Section 15(A) (and Section 16(B) if located within the Shoreland Zone).

   (a) The accessory dwelling unit must be at least 190 square feet in size, unless the Technical Building Code and Standards Board, pursuant to 10 M.R.S. § 9722, adopts different minimum standard; if so, that standard applies. An accessory dwelling unit may not exceed 800 square feet in size.

4. If a lot does not contain an existing dwelling unit as of July 1, 2023, up to four (4) dwelling units may be permitted on the lot if it is located in an area which housing is allowed, meets the requirements of the State Minimum Lot Size law, 12 M.R.S. Chapter 423-A, and is located within a designated growth area as established in the Town's Comprehensive Plan.

5. If a lot does not contain an existing dwelling unit and is not located within a designated growth area as of July 1, 2023, up to two dwelling units may be permitted on the lot as long as it is a permitted use, provided that the requirements of 12 M.R.S. Chapter 423-A are met. The two dwelling units may be either located within a single structure or may be separate structures.

6. If a lot contains one existing dwelling unit as of July 1, 2023, up to two

additional dwelling units are permitted on site.

(a) Each proposed unit must meet the minimum lot size as outlined under Section 15(A)(1).

(b) The additional dwelling unit(s) may be within the existing structure or attached to the existing structure, detached from the existing structure, or one of each.

7. If a lot contains two existing dwelling units as of July 1, 2023, no additional dwelling units may be built on the lot.

8. This section shall not be construed to exempt a property owner from the applicable provisions of the State subdivision statute, 30-A M.R.S.§§ 4401-4408, or the Subdivision Ordinance.

E. Affordable Housing Development.

1. All structures must conform to Section 15(A) except as expressly modified by this subsection.

2. The proposed development must be located within a designated growth area as established in the Town's Comprehensive Plan and be in a zoning district that permits multifamily dwellings as of July 1, 2023 as set forth in Section 14 of this Ordinance.

3. The proposed development must comply with the minimum lot size standards in accordance with the State Minimum Lot Size law, 12 M.R.S. Chapter 423-A, and this Ordinance.

4. The proposed development must be an affordable housing development, as defined in this Ordinance, where a majority of the units are affordable and meet the following requirements:

(a) The owner of the affordable housing development executes a restrictive covenant that is enforceable by a party acceptable to the Town. This restrictive covenant must be recorded in the Waldo County Registry of Deeds to ensure that for at least thirty years after the completion of construction:

(i) For rental housing, occupancy of all the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy; and

(ii) For owned housing, occupancy of all the units designated affordable in the development will remain limited to the households at or below 120% of the local area median income at the time of initial occupancy.

(b) At least two off-street parking spaces for motor vehicles will be provided for every three dwelling units of an affordable housing development.

(c) The proposed development may have a dwelling unit density of not more than 2.5 times the base density that is otherwise allowed in that location.

SECTION 16 – SHORELAND ZONE LAND USE STANDARDS

All land use activities within the Shoreland Zone shall conform with the following provisions, if applicable:

A. Minimum Lot Standards

	Minimum Lot Area (square feet)	Minimum Shore Frontage (feet)
1. Residential per dwelling unit:		
a. Within the Shoreland Zone adjacent to tidal areas	40,000	160
b. Within the Shoreland Zone adjacent to non-tidal areas	40,000	200
c. In the Resource Conservation District	60,000	240
2. Governmental, Institutional, Commercial or Industrial per principal structure:		
a. Within the Shoreland Zone adjacent to tidal areas exclusive of those areas zoned for Harbor District	60,000	240
b. Within the Shoreland Zone adjacent to non-tidal areas	60,000	300
c. Within the existing Limited Commercial and Harbor Districts of the Shoreland Zone	40,000	160
3. Public and Private Recreational Facilities:		
a. Within the Shoreland Zone adjacent to tidal and non-tidal areas	40,000	200

4. Land below the normal high-water line of a water body and right-of-way area serving more than two (2) lots shall not be included toward calculating minimum lot area.

5. In the Shoreland Zone, 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.

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

7. 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.

8. The minimum lot area requirement for lots within an approved subdivision within the shoreland zone may be reduced by the Planning Board to the minimum lot area set forth in the Town's Subdivision Ordinance, for conservation subdivisions, in exchange for the allocation of the required percentage of buildable land area for common or reserved open space.

9. In the event that the Town's Subdivision Ordinance requires that subdivision plans indicate reserved area for widening or realigning roads, then land reserved for such purposes shall not be included in computing land area in the shoreland zone of the Town's Land Use Ordinance.

B. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back at least one hundred(100) feet from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in areas zoned for Resource Conservation, all new and substantially improved principal and accessory structures shall be setback at least one-hundred fifty (150) feet from the upland edge of the protected resource. No minimum setback distances in the Resource Conservation District shall be reduced by a variance. In the Harbor District the minimum setback shall be twenty-five (25) feet horizontal distance. In the Resource Protection District the 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.

In addition:

a. Building setbacks from property lines shall be fifteen (15) feet and building setbacks from the center line of a Town or State way shall be sixty (60) feet except that there shall be no setback requirement from a road or a property line for essential municipal services for sewage disposal systems and public toilet facilities in the Harbor District (HD) and the Limited Commercial District (LC).

b. The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses; the waterbody or wetland setback provision set forth in Section 16 (B) (1) shall not apply to essential municipal services for sewage waste disposal systems and public toilet facilities in the Harbor District (HD) and the Limited Commercial District (LC), and the waterbody or wetland setback for such essential municipal services shall be twenty five (25) feet. All principal structures along Significant River Segments as listed in 38 M.R.S.A. §

437, shall be set back a minimum of one hundred and twenty five (125) feet, horizontal distance, from the normal high-water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.

c. For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals.

d. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

NOTE: All tidal land which is subject to tidal action during the highest annual tide is coastal wetland.

NOTE: A tributary stream may be perennial or intermittent. Where a tributary stream is present within the shoreland zone, setback standards from that tributary stream are applicable.

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2. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Harbor, Limited Commercial and Stream Protection Districts, shall not exceed thirty-two (32) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

3. All buildings and structures shall conform to the Town of Lincolnville Floodplain Management Ordinance as enacted June 15, 1999 and as amended. Except as otherwise provided in this Ordinance, the lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. Because the Town participates in the National Flood Insurance Program and has adopted the April

2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

4. With the exception of the Harbor District located adjacent to coastal wetlands and rivers that do not flow to great ponds, non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

   In the Harbor District located adjacent to coastal wetlands, or rivers that do not flow to great ponds, non-vegetated surfaces shall not exceed a total of seventy (70) percent of the portion of the lot located within the shoreland zone.

   For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to, the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as nonvegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.

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:

   a. The site has been previously altered and an effective vegetated buffer does not exist;

   b. 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;

   c. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

   d. The total height of the wall(s), in the aggregate, are no more than 24 inches;

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

   f. 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

g. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

i. 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;

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

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

iv. 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

v. A footpath not to exceed the standards in Section 16(P)(2)(a), may traverse the buffer.

NOTE: If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream or coastal wetland, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection.

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 (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A., § 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. 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 and Shoreline Stabilization.

In addition to Federal or State permits that may be required for such structures and uses, they shall conform to the following:

1. No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 16(A), a second structure may be allowed and may remain as long as the lot is not further divided.

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

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

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

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

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

NOTE: A structure constructed on a float or floats is prohibited unless it is designed to function as, and is registered with the Maine Department of Inland Fisheries and Wildlife as, a watercraft.

7. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

8. 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.

9. In the Harbor and Limited Commercial Districts, structures 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 which will obstruct the public view from any point of visual access shall not exceed twelve (12) feet in height above the pier, wharf, dock or other structure.

10. Vegetation may be removed in excess of the standards in Section 16(P) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.

    a. When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.

    b. Revegetation must occur in accordance with Section 16(S).

NOTE: A permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection for Shoreline Stabilization activities.

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. § 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

D. Campgrounds

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

1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.

2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

E. Individual-Private Campsites

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

1. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.

2. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.

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

4. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicles 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.

5. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

6. 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.

7. 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.

F. Commercial and Industrial Uses

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

1. Auto washing facilities;
2. Auto or other vehicle service and/or repair operations, including body shops;
3. Chemical and bacteriological laboratories;
4. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms;
5. Commercial painting, wood preserving, and furniture stripping;
6. Dry cleaning establishments;
7. Electrical circuit assembly;
8. Laundromats, unless connected to a sanitary sewer;
9. Metal plating, finishing, or polishing;
10. Petroleum or petroleum product storage and/or sales associated with marinas;
11. Photographic processing; and,
12. Printing.

G. Parking Areas

1. Except for existing parking areas, parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Harbor District parking areas shall be set back at least twenty-five (25) feet horizontal distance from the shoreline. The setback requirement for parking areas serving public boat launching facilities, in Districts other than the Harbor District 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.

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.

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

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

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

H. Roads and Driveways

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

1. Roads shall be located, constructed and maintained in such a manner that minimal erosion hazard results. Adequate provisions shall be made to prevent soil erosion and sedimentation of surface waters.

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

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

   Section 16(H)(1) does not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline 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 16(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

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

4. New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the

Planning Board in the 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.

5. 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 16(T).

6. Road and driveway grades shall be no greater than ten (10) percent.

7. 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 of at least fifty (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

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

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

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

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

   c. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

   d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.

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

I. Signs

The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, and Limited Residential, and Limited Commercial Districts:

1. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

2. Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.

3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.

4. Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.

5. Signs relating to public safety shall be allowed without restriction.

6. No sign shall be allowed within thirty-three (33) feet of the centerline of any public way if the highway is less than sixty-six (66) feet in width.

7. No sign shall extend higher than twenty (20) feet above the ground.

8. No sign shall be allowed within the full width of the right-of-way of any public way.

9. Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff

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 stormwaters.

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

K. Septic Waste Disposal

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

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

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

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.

L. Essential Services

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

2. The installation of essential services, other than road-side distribution lines is not allowed in Resource Protection, Resource Conservation, or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

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

M. Mineral Exploration and Extraction

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 16(M)(3) below.

2. No part of any extraction operation, including drainage and runoff control features shall be allowed within one hundred (100) feet,

horizontal distance of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet horizontal distance of any property line, without written permission of the owner of such adjacent property.

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

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

   b. The final graded slope shall be two and one half to one (2.5:1) slope or flatter.

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

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

N. Agriculture

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

2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond, classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the 250-foot shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater.

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

4. There shall be no new tilling of soil for agricultural activities greater than forty-thousand (40,000) square feet within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five feet (25), horizontal distance, of tributary streams, and freshwater wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.

5. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams, and 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 Soil and Water Conservation Plan that has been filed with the Planning Board.

O. Timber Harvesting

Effective January 1, 2013, the Town has adopted the statewide standards for timber harvesting and related activities in the shoreland areas and opted to have those standards administered and enforced solely by the Maine Forest Service. More information is available from the Maine Forest Service or the Code Enforcement Office.

P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

1. In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees as described in Section 16(Q). Within areas zoned for Resource Conservation, there shall be no cutting of vegetation within a strip of land extending one-hundred (100) horizontal feet inland from the upland edge of the protected resource.

Elsewhere, in any Resource Protection District the cutting and removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

2. Except in areas as described in Section 16(P)(1), above, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, or within a strip extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

a. There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single

footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.

b. Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 16(P)(2)(b) a "well-distributed stand of trees adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular 1250 square feet) area as determined by the following rating system:

Diameter of Tree at 4.5 feet Above Ground Level (inches)	Points
2 -<4in	1
4< - 8 in	2
8< - 12in	4
12 in or greater	8

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

Note: As an example, adjacent to a great pond, if a 25-foot X 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is: (4x1)+(2x2)+(3x 4)+(2x8)=36 points. Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points (36-24=12) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

i. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
ii. Each successive plot must be adjacent to, but not overlap a previous plot;
iii. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
iv. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
v. 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 16(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at

least five (5) saplings less than two (2) inches in diameter at four and one half (4.5) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level may be removed in any ten (10) year period.

c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and forest duff layer shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 16(P)(2) and (2)(a) above.

d. Pruning of tree branches, on the bottom 1/3 (one-third) of the tree is allowed.

e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section 16(Q) below, unless existing new tree growth is present.

f. In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 16(P)(2).

Section 16(P)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

3. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4.5 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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

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

5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 16 (P).

Q. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal.

1. Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

a. Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.

b. Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

c. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.

d. The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

e. The Code Enforcement Officer may require more than a one–for-one replacement for hazard trees removed that exceed

eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.

2. Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

   a. Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:

      i. The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;

      ii. Stumps from the storm-damaged trees may not be removed;

      iii. Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and

      iv. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.

   b. Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

R. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 16(P), provided that all other applicable requirements of this ordinance are complied with, and the removal of vegetation is limited to that which is necessary:

1. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this ordinance, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 16(P) apply.

2. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 16(B) are not applicable.

3. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility.

4. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 16(N) are complied with.

5. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A § 343-E, and that is located along:

   a. A coastal wetland; or

   b. A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A § 465-A.

6. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

   a. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;

   b. Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and

   c. If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

NOTE: An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program:
http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm

7. The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

S. Revegetation Requirements.

When revegetation is required in response to violations of the vegetation standards set forth in Section 16(P), to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development

that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegation must comply with the following requirements.

1. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

2. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed.

3. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

4. Revegetation activities must meet the following requirements for trees and saplings:

    a. All trees and saplings removed must be replaced with native noninvasive species;

    b. Replacement vegetation must at a minimum consist of saplings;

    c. If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;

    d. No one species shall make up 50% or more of the number of trees and saplings planted;

    e. If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and

    f. A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.

5. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:

    a. All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;

b. Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

c. If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;

d. No one species shall make up 50% or more of the number of planted woody vegetation plants; and

e. Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this ordinance for a minimum of five (5) years.

6. Revegetation activities must meet the following requirements for ground vegetation and ground cover:

a. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

b. Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and

c. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this ordinance for a minimum of five (5) years.

T. Erosion and Sedimentation Control

1. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

a. Mulching and revegetation of disturbed soil.

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

c. Permanent stabilization structures such as retaining walls or rip-rap.

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

3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount

of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

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

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

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

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

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

U. Soils

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

V. 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.

W. Archaeological Sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on

the National Register of Historic Places, as determined by the permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

SECTION 17 - [INTENTIONALLY OMITTED]

SECTION 18 - COMMERCIAL SITE PLAN REVIEW ORDINANCE

Section 1. Purpose, Intent, Conflict, and Severability

1.1 Purpose:

- To provide municipal review of commercial projects and their impact on the community.
- To provide a thorough review of major impact projects and expedite review for minor projects.

1.2 Statement of Intent:

The site plan review provisions set forth in this (ordinance) (section) are intended to protect the public health and safety, promote the general welfare of the community, and conserve and protect the environment by assuring that nonresidential and multifamily construction is designed and developed in a manner which assures that adequate provisions are made for traffic safety; emergency access; water supply; sewage disposal; management of storm water, erosion, and sedimentation; protection of the groundwater; wildlife habitat, fisheries, and unique natural areas; protecting historic and archaeological resources; conserving the Town's natural beauty and visual character, minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

1.3 Conflicts with Other Ordinances:

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute, the more restrictive provision shall control.

1.4 Severability:

The invalidity of any section of this ordinance shall not be held to invalidate any other section or provision of this ordinance.

Section 2: Activities Requiring Site Plan Review

1.1 Except as set forth in 2 below, a person who has right, title, or interest in a parcel of land or their representative must obtain site plan approval before obtaining a building or plumbing permit, undertaking any alteration or improvement of the site including grubbing or grading, or prior to commencing any of the following:

a. The construction or placement of any new building or structure for a nonresidential use including

accessory buildings and structures.

b. The expansion of an existing nonresidential building or structure including accessory buildings that increases the total floor area.

c. The conversion of an existing building, in whole or in part, from a residential use to a nonresidential use.

d. The establishment of a new nonresidential use even if no buildings or structures are proposed, including uses such as gravel pits, cemeteries, golf courses, campgrounds, junkyards, and other nonstructural nonresidential uses.

e. The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use.

f. The construction or expansion of any surfaced area, including walkways, access drives, and parking lots involving an area of more than 5,000 square feet within any three (3) year period.

g. The removal from or movement within a lot of more than 50 cubic yards of material.

h. The addition of more than 150 cubic yards of material.

i. Any variation from an approved site plan as set forth in Section 18 of the Commercial Site Plan Review Ordinance.

1.2 Activities Not Requiring Site Plan Review:

The following activities shall not require site plan approval. Certain activities will, however, require the owner to obtain a building permit, plumbing permit, or other state or local approvals, including permits, which are required by other Town ordinances.

a. The construction, alteration, or enlargement of a single family or two-family dwelling, including accessory buildings and structures.

b. The placement, alteration, or enlargement of a single manufactured house or mobile home dwelling, including accessory buildings and structures, on individually owned lots which are not part of a mobile home park.

c. Agricultural activities, including agricultural buildings and structures.

d. Timber harvesting and forest management activities.

e. Storage of a commercial fishing boat and related gear.

f. The establishment and modification of home

occupations.

Section 3: Administration and Enforcement:

Administration. The Planning Board shall be responsible for administering the provisions for site plan review including interpreting the provision hereof. The Code Enforcement Officer (CEO) shall interpret the ordinance for purposes of enforcement of the ordinance and to make preliminary classifications and determinations as set forth in Section 6 below.

Enforcement. It shall be the duty of the CEO or their agent to enforce the provisions of this ordinance, including addressing any failure to obtain required site plan review permits and ensuring development is consistent with site plan review applications approved by the Planning Board. If the CEO or their agent shall find that any provision of this ordinance is being violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The CEO shall order discontinuance of illegal use of buildings, structures, additions, or work being done, or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

The CEO is hereby authorized upon approval by the Select Board to institute or cause to be instituted, in the name of the municipality, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this ordinance.

Any person, firm, or corporation being the owner of or having control or use of any building or premises who violates any of the provisions of this ordinance, shall be fined in accordance with Title 30-A, MRSA, Section 4452. Each day such a violation is permitted to exist after notification shall constitute a separate offense. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith or, unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

Section 4: Interpretation of the Commercial Site Plan Review Ordinance

The Planning Board shall be responsible for administering the provisions of the ordinance including interpreting the provisions hereof, in consultation with the CEO as appropriate.

Section 5: Review and Approval Authority

The Planning Board is authorized to review and act on all site plans. In considering site plans under this section, the Planning Board may act to approve, disapprove, or approve with conditions.

Section 6: Classification of Projects

The CEO shall assign each project a preliminary classification of major or minor development and the Planning Board shall make a final ruling. Minor developments are smaller scale, less complex projects for which a less complex review process is adequate to protect the Town's interest. Major developments are larger, more complex projects for which a more detailed review process and additional information are necessary.

1.1 Minor Developments shall include those projects involving the construction or addition of less than four thousand (4,000) square feet of gross nonresidential floor area or projects involving only the installation of impervious surfaces, or projects involving the creation of fewer than three (3) dwelling units in a five (5) year period, or projects involving the conversion, from one use to another without enlargement of the gross floor area.

1.2 Major Developments shall include projects involving the construction or addition of four thousand (4,000) or more square feet of gross nonresidential floor area, or projects involving the creation of three (3) or more dwelling units in a five (5) year period, or other projects requiring review which are not classified as minor development, including projects that have the potential to generate more than fifty (50) vehicle trips per peak hour or four hundred (400) trips per day, sites with poor soil conditions or extensive wetlands, or sites with a slope of twenty (20) degrees or greater, and projects requiring a parking lot for twenty (20) or more vehicles.

1.3 An applicant may request that the CEO classify an application on a preliminary basis prior to its submission. In this case, the applicant must make a written request for a classification. This request must include the following information:

a. The name and address of the record owner and the applicant and the applicant's legal interest in the property.

b. The location of the project, including the tax map and lot number.

c. A brief description of the proposed activities in such detail as to allow a classification to be made.

1.4 Within ten (10) working days of the receipt of a site plan application or a request for a classification, the CEO shall notify the applicant, and the Chair of the Planning Board of the classification of the project in writing.

1.5 If the applicant believes that the CEO erred in the classification of the project, they may appeal the classification to the Planning Board. The appeal must occur within ten (10) working days of the date of the CEO's determination and must be in writing. The appeal must set out the reasons that the petitioner believes that the application is misclassified. Within thirty (30) days of receiving an appeal, if the Planning Board finds that the CEO erred in classifying the project, the Planning Board shall direct the CEO to reclassify, and shall so notify the petitioner(s) in writing.

When the CEO or Planning Board has classified a project based upon a request for classification rather than an application, the subsequent application must be consistent with the activities described in the request for classification. The CEO shall review such application to determine if the classification is still correct and may reclassify the application if the scope of activities has been changed.

Section 7: Procedures Conference

1.1 Review Procedures

The Planning Board shall use the following procedures in reviewing applications for site plan review:

1.2 Preapplication Conference

Prior to submitting a formal application, the applicant may hold a preapplication conference with the Planning Board for a minor development and must hold a preapplication for a major development. The preapplication conference shall be informal and informational in nature but should address whether site plan review is necessary and address any waiver consideration request at that time. There shall be no fee for a preapplication review, and such review shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S.A. Sec 302. No decision on the substance of the plan shall be made at the preapplication conference and no statements made during the review shall be binding on the applicant or the Town.

a. Information required for a Preapplication or Determination

For major developments, the following shall be provided to the Planning Board as part of that preapplication conference:

1. The proposed site, including its location, size, and general characteristics.

2. The nature of the proposed use and potential development.

3. Any issues or questions about existing municipal regulations and their applicability to the project.

4. Any requests and approvals for waivers from the requirements of this ordinance, shall be consistent with Section 10.1 of this ordinance. Based on the information provided, the Planning Board may provide guidance about the potential for a waiver, the need for additional information to do so, or the combination of the two. The waiver is not approved until that waiver is made part of the formal application process required in Section 10 of this ordinance, in particular 10.1.

5. A general site inventory as described under submission requirements.

6. In addition, the Board may schedule a site inspection in

accordance with subsection 7.3g if deemed necessary and resolve any determination if site plan review is necessary or requests for waivers and variations from the submission requirements.

b. Guidance and Determination.

Upon completion of this preapplication process, the board may provide guidance to the applicant that may assist the applicant in preparing the formal application, including but not limited to which waivers may be considered as part of the formal application. The Planning Board will not be bound by any guidance or statements given during the preapplication process.

1.3 Application Submission and Review Procedures

The applicant shall prepare and submit a completed site plan review application, including the development plan and supporting documentation that meets the submission requirements set forth below. This application material shall be delivered to the Code Enforcement Officer along with established fees. The application will then be submitted to the Planning Board.

a. The Planning Board shall give to the applicant written notice of the date, time, and place of the meeting at which the application will be considered. This notice shall be posted and advertised, no later than two (2) weeks prior to said consideration.

b. Applicant shall give written notice of date, time and place of meeting to abutting property owners and anyone within five hundred (500) feet of the property as shown on the most recent tax records, and parties who have filed a notice of interest. Notice shall be by certified mail, return receipt requested. Applicant shall provide as evidence of said mailing the receipts to the CEO. This notice shall indicate the time, date, and place of the Planning Board consideration of the application. The review will not take place until this requirement is met.

c. The Town Clerk shall provide notice of the pending application to the Select Board, Town Administrator, Fire Chief, Police Chief, Road Commissioner, and interested parties who file their interest in writing to the Planning Board.

d. At the first meeting at which the application is considered, the Planning Board shall give a dated receipt to the applicant.

e. Within thirty (30) days of the receipt of a formal site plan review application for minor projects, or within 60 days for major projects, the Planning Board shall review the material and determine whether or not the submission is complete.

f. If the application is determined to be incomplete, the Board shall notify the applicant in writing of this finding, shall specify the additional materials required to make the application complete and shall advise the applicant that the application will

not be considered by the Board until the additional information is submitted. These steps, except the notification requirements, shall be repeated until the application is found to be complete.

g. The Planning Board may hold an on-site inspection of the site to review the existing conditions; field verify the information submitted and investigate the development proposal. The Board may schedule this visit either before or after the first meeting at which the application is considered. The Board may decide not to hold an on-site inspection when the site is snow covered. If an application is pending during a period when there is snow cover, the deadline by which the Planning Board shall take final action on the application as specified in 7.3 (k) may be extended, which extension shall not exceed thirty (30) days after the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties entitled to notice under subsection (c). The applicant is obligated to allow Planning Board and public access to the site as a condition of application review. The applicant may coordinate with the Planning Board Chair to implement any protocols needed to ensure public safety at the site visit.

h. The Planning Board may require the applicant to undertake any study, which it deems reasonable and necessary to ensure that the requirements of this Ordinance are met. The costs of all such studies shall be borne by the applicant. The choice of vendor to perform the studies shall be in the Planning Board's sole discretion, and shall not be appealable.

i. The Planning Board may require that an expert consultant or consultants review one or more submissions of an application and report as to compliance or noncompliance with this ordinance and, advice, if necessary, of procedures, which will result in compliance. The consultant shall estimate the cost of such review and the applicant shall deposit with the Town the full estimated cost, which the Town shall place in a technical review escrow account. The Town shall pay the consultant from the escrow account and reimburse the applicant if funds remain after payments are completed. The consultants shall be fully qualified to provide the required information and shall be mutually acceptable to the Town and the applicant. The escrow account level shall not fall below 50% of the original deposit until site plan approval has occurred. Failure of an applicant to deposit or maintain the required review cost may result in denial of the application. Following the Planning Board's final determination on an application, any unexpended funds in the escrow account shall be returned to the applicant.

As soon as the Board determines that the application is complete, the Board shall notify the applicant in writing of this finding, meet the notification requirements of subsection (k) below, and shall place the item on the agenda for substantive review within thirty (30) days of this finding.

k. The Planning Board shall take final action on said application within thirty (30) days for minor projects, and sixty (60) days for major projects after determining that the application is complete. For major projects, when the Planning Board finds

that the Board may need further technical assistance, the deadline by which the Planning Board shall take final action on the application may be extended, which extension shall not exceed thirty (30) days after the Planning Board has reviewed the additional technical information. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval.

In issuing its decision, the Planning Board shall act to approve, approve with conditions, or deny an application. The Planning Board shall make written findings of fact establishing that the proposed development does or does not meet the standards of approval and other requirements of the Town. The Planning Board shall notify the applicant and all officials who received notice under (c) and all parties who requested to be notified of the action of the Board, including the findings of fact, and any conditions of approval. This requirement can be met through the distribution of minutes of the meeting containing the findings of fact and decision of the Board. That decision and findings of fact shall be based on compliance with Sections 10,11, and 12 of this Ordinance.

j. The Code Enforcement Officer shall have access to the site at all times to review the progress of the work and shall have such authority from the beginning of the application process through the completion of construction.

All time limits for review and decision provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

Section 8:

8.1 Final Approval Filing

a. Upon completion of the formal application requirements of this Section and an approval vote by the majority of the Planning Board, the application shall be deemed to have final approval and the site plan shall be signed by a majority of the members of the Board and filed with the Code Enforcement Officer.

c. For multi-family housing, one copy of the approved site plan must be recorded in the Waldo County Registry of Deeds within thirty (30) days of approval and the book and page number provided to the CEO. Failure to record the plan within thirty (30) days shall void the approval. The Planning Board may extend this period for cause.

8.2 Incorporation of Approved Plan

One copy of the approved site plan must be included with the application for the building permit for the project and all construction activities must conform to the approved plan, including any conditions of approval and minor changes approved by the Code Enforcement Officer to address field conditions.

Section 9: Fees

1.1 Application Fees

All fees are approved and may be amended from time to time by the Select Board, based upon a recommendation by the Planning Board.

The established fee shall accompany an application for site plan review approval. This fee is intended to cover the cost of the municipality's administrative processing of the application, including notification, advertising, mailings, and similar costs. The fee shall not be refundable. This application fee shall be paid to the municipality, and evidence of payment of the fee shall be included with the application.

1.2 Technical Review Fee

In addition to the application fee, the applicant for site plan review must pay for all the municipality's legal and technical costs of the application review

Section 10: Submission Requirements

Applications for site plan review must be submitted on application forms provided by the municipality. The completed application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the Code Enforcement Officer. The submission must contain at least the following exhibits and information unless specifically waived in writing by the Planning Board.

All applications for site plan review must contain the following information:

a. A fully executed and signed copy of the application for site plan review.

b. Evidence of payment of the application fees.

c. Nine (9) copies of written materials plus nine (9) sets of maps or drawings containing the information listed below. The written materials must be contained in a bound report. The maps or drawings must be at a scale sufficient to allow review of the items listed under the approval standards and criteria, but in no case shall be more than twenty (20) feet to the inch for that portion of the tract of land being proposed for development.

10.1 Waiver of Submission Requirements

1. The Planning Board may modify any of the submission requirements when it determines that because of the size of the project, or circumstances of the site, such requirements would not be applicable, and that such modification or waiver would not adversely affect the abutting landowners or the general health, safety, and welfare of the town. The following apply to minor and major application waiver requests:

    - A Minor Development may request a waiver from:
        - Section 10 Submission Requirements
        - Section 11 Standards and Criteria
        - Section 12 Building, Design, and Impact Standards

- A Major Development may request a waiver from:
  - Section 11 Standards and Criteria
  - Section 12 Building, Design, and Impact Standards

a. The Planning Board may grant waivers based upon a written request of the applicant. Such request must be made at the time of the preapplication conference. The request by the applicant shall specify the waivers, with reference to sections 10, 11 or 12 of this ordinance.

b. The above shall not preclude the Planning Board from granting further requests for waivers when deemed appropriate and based on further information presented during the review process.

10.2 General Information

a. Property owner's name, address, and phone number and applicant's name address and phone number, if different.

b. The location of all required building setbacks, and buffers.

c. Names and addresses of all property owners within five hundred (500) feet of any and all property boundaries.

d. The names and addresses of all consultants working on the project.

e. Sketch map showing general location of the site within the municipality based upon a reduction of the tax maps.

f. Boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time.

g. The tax map and lot number of the parcel or parcels on which the project is located.

h. A copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.

i. The name, registration number, and seal of the person who prepared the plan, if applicable.

j. Evidence of the applicant's technical and financial capability to carry out the project as proposed.

10.3 Existing Conditions

a. District classifications(s), including overlay and/or sub- districts, of the property and the location of district boundaries if the property is located in two (2) or more districts or sub- districts or abuts a different district.

b. The bearings and length of all property lines of the property to be developed and the source of this information.

c. Location and size of any existing sewer and water mains, culverts

and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles on the property to be developed, on abutting streets, or land that may serve the development, and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of flow.

d. Location, names, and present widths of existing public and/or private streets and rights-of-way within or adjacent to the proposed development.

e. The location, dimensions and ground floor elevation of all existing buildings on the site.

f. The location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site.

g. Location of intersecting roads or driveways within two hundred (200) feet of the site.

h. The location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, scenic areas, habitat for rare and endangered plants and animals, unique natural communities, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.

i. The direction of existing surface water drainage across the site.

j. The location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.

k. The location, front view, dimensions, and lighting of existing and proposed signs.

l. Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.

10.4 Proposed Development Activity

a. Estimated demand for water supply and sewage disposal together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data if on-site sewage disposal is proposed.

b. The direction of proposed surface water drainage across the site and from the site, with an assessment of impacts on downstream properties.

c. Provisions for handling all solid wastes, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities.

d. The location, dimensions, and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes in traffic flow onto or off-site.

e. Proposed landscaping and buffering.

f. The location, dimensions, and ground floor elevation of all proposed buildings or building expansion proposed for the site.

g. Location, front view, materials, and dimensions of proposed signs together with the method for securing the sign as controlled by the Town of Lincolnville Sign Ordinance.

h. Location and type of exterior lighting.

i. The location of all utilities, including fire protection systems.

j. A general description of the proposed use or activity.

k. An estimate of the peak hour and daily traffic to be generated by the project.

l. Storm water calculations, erosion and sedimentation control measures, and water quality and/or phosphorous export management provisions, if the project requires a storm water permit from the Maine Department of Environmental Protection or if the Planning Board determines that such information is necessary based upon the scale of the project or the existing conditions in the vicinity of the project.

m. Copies of applicable State approvals and permits provided; however, the Board may approve development plans subject to the issuance of specified State approvals and permits where it determines that it is not feasible for the applicant to obtain them at the time of development review.

10.5 Additional Information for Major Projects

Applications for major developments shall include the following additional information.

a. Existing and proposed topography of the site at two (2) foot contour intervals, or such other interval as the Planning Board may determine.

b. Engineering study used to determine drainage requirements based upon the 50-year 24-hour storm frequency.

c. A groundwater analysis prepared by groundwater hydrologist for projects involving common on-site water supply or sewage disposal facilities with a capacity to two thousand (2000) gallons per day.

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

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

streets.

f. 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 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 the town accepts them.

g. A copy of any 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.

h. Written offers of dedication or conveyance to the municipality, in the form satisfactory to the Town Attorney, of all land included in the streets, highways, easements, parks or other open spaces 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.

i. If the development is a condominium or a clustered development, evidence that all the 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.

j. 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.

10.6 Approval Block

Space must be provided on the plan drawing for the signatures of the Planning Board and date together with the following words, "Approved: Town of Lincolnville Planning Board."

Section 11: Standards and Criteria

Approval Standards and Criteria

The following criteria for site plan review shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum site requirements, in addition to the Building, Design Standards of Section 12. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant to produce evidence sufficient to warrant a finding that all applicable criteria have been met.

11.1 Utilization of the Site

a. The plan for the development must reflect the natural capabilities of the site to support development. Buildings, lots, and support facilities must be clustered in those portions of the site that have the most suitable conditions for development.

b. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplain-plains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

11.2 Traffic Access and Parking

The following criteria shall be used by the Planning Board in reviewing applications for site plan review. If a development is on any roadway covered by 23 M.R.S.A. § 704 as may be amended, the provisions of that statute apply and, in addition, the provisions below apply if more restrictive than the statute.

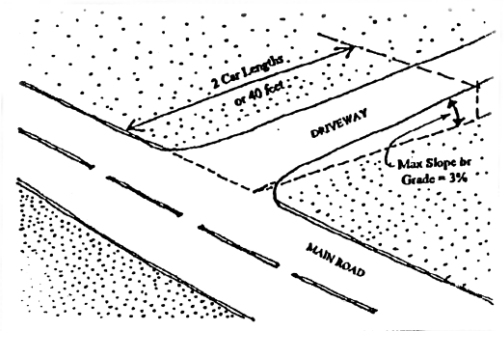
a. Vehicular access to the site must be on roads, which have adequate capacity to accommodate the additional traffic, generated by the development.

b. Vehicular access to and from the development must be safe and convenient.

1. Any driveway or proposed street must be designed so as to provide and maintain the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.

2. Points of access and egress must be located to avoid hazardous conflict with existing turning movements and traffic flows.

3. The grade of any proposed drive or street must be not more than +/-3% for minimum of two (2) car lengths, or forty (40) feet, from the intersection.



4. The intersection of any access/egress drive or proposed

street must function: (a) at a Level of Service of D following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.

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

6. Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, pedestrian and bike safe zones, and traffic controls within public streets.

7. Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.

8. The following criteria must be used to limit the number of driveways serving a proposed project:

   - No use, which generates less than one hundred (100) vehicle trips per day, shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than twenty-four (24) feet wide.

   - No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed forty-eight (48) feet.

9. Where an existing or planned public sidewalk is interrupted by a proposed project driveway, the sidewalk material must continue to be maintained across the driveway, or the driveway must be painted to distinguish it as a sidewalk.

c. Accessway Location and Spacing

Accessways must meet the following standards:

1. Private entrances/exits must be located a minimum of seventy-five (75) feet from the closest intersection without traffic signals and one hundred fifty (150) feet from the closest intersection with traffic signals, as measured from the point of tangency for the corner to the point of tangency for the accessway. The Planning Board may reduce this requirement if the shape of the site does not allow conformity with this standard.

2. Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

3. There shall be no more than two accessways per lot. Shared accessways are encouraged.

d. Internal Vehicular Circulation Frontage (feet)

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

1. Nonresidential projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing of vehicles classified as of [WB-40]. Deliveries shall be directed to the rear of the building and may not conflict with customer and pedestrian movements. Screening of delivery platforms shall be used when appropriate.

2. Clear routes of access must be provided and maintained for emergency vehicles to and around buildings must be posted with appropriate signage (fire lane - no parking)

3. The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.

4. All roadways must be designed to harmonize with the topographic and natural features of the site minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

e. Parking Layout and Design

Off-street parking must conform to the following standards:

1. Where site characteristics and topography permit, parking shall be located to the side or rear of the building to the greatest practical extent. Before approving a parking design that establishes parking between the building and the access road or street, the Planning Board shall consider set back, internal vehicular and pedestrian movement, site characteristics, topography and site buffering. The Planning Board may require relocation, redesign, or reduction of the building's footprint in order to meet this standard. Special consideration shall be given to municipal or privately owned public safety facilities as to their needs

regarding fast, efficient and safe response. Incorporation of shared parking, shared driveways and cross connection of parking lots into the design is encouraged.

2. Parking areas must be arranged so that it is not necessary for vehicles to back into the street.

3. All parking spaces, access drives, and impervious surfaces must be located at least five (5) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within five (5) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.

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

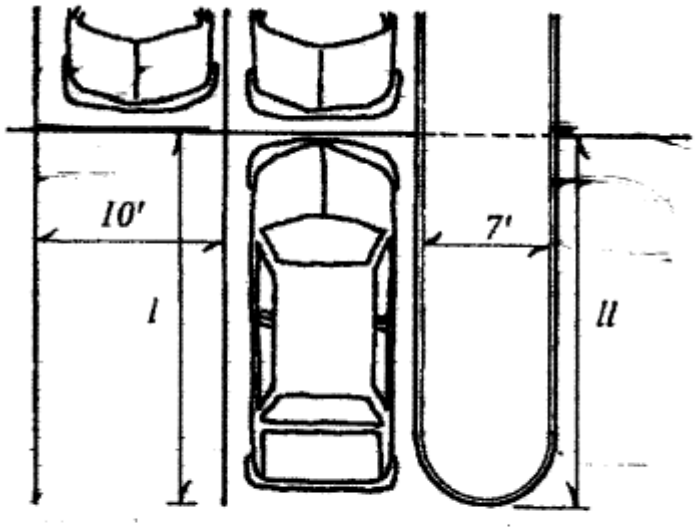
- Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

- Oversized vehicle parking (for trucks, busses or recreation vehicles) shall be provided where appropriate.

f. Landscape of Parking Lots: Landscaping must effectively screen the parking area from adjacent residential uses and the street. Walkways shall be designed with landscaping to create transition between parking spaces, driveways, and building entrances.

g. Off-street parking greater than 20 cars: All off street parking lots designed for twenty (20) or more parking spaces shall provide Interior parking lot landscaping to define circulation within a parking lot and to visually and physically break up long rows of parking spaces. Landscape islands are required to be provided within parking lot areas in one or more of the following options:

1. Parking Aisle Landscape Islands: A landscaped island shall be provided at the end of each parking row. The island shall be protected by a continuous concrete barrier curb and shall have a minimum width of seven feet (7’), measured back of curb to back of curb, and shall have a depth equal to the adjoining parking space. Each parking aisle landscape island shall continue two (2) shade trees.



Parking Space Landscape Island, Detail

Where l = ll

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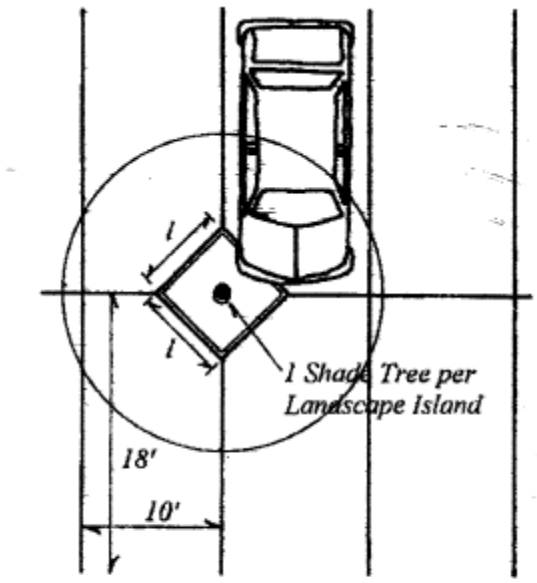
2. Full Parking Space Landscape Island: One landscape island protected by a continuous concrete barrier curb and having a minimum width of seven feet (7′), measured back of curb to back of curb, and a depth equal to the adjoining parking space may be provided for each twenty (20) parking spaces in the parking row. Said landscape islands shall be dispersed throughout the parking row. Each said landscape island shall contain one shade tree: or

3. Partial Parking Space Landscape Island:

    1. One landscape island positioned at the front corner of a parking space, protected by a continuous concrete barrier curb and having minimum dimensions of six and one-half feet (6.5′) square, measured back of curb to back of curb, may be provided for each ten (10) parking spaces in the parking row.

    2. Said landscape islands shall be dispersed throughout the parking row and shall not be used in parking rows along the perimeter of a parking lot. Each said landscape island shall contain one shade tree; or



Partial Parking Space Landscape Island, Detail

Where l = 6.5 feet (measured back-of-curb to back-of-curb)

4. Continuous Parking Row Landscape Island: A continuous landscape island protected by a continuous concrete barrier curb and having a minimum depth of seven feet (7'), measured back of curb to back of curb, may be provided between parking rows. Said landscape island shall not be used in parking rows along the perimeter of a parking lot. Each said landscape island shall contain one shade tree for each twenty (20) parking spaces in the parking row.

h. Pedestrian Access

The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect with amenities such as parks or open space on or adjacent to the site.

i. Accessibility. Parking Lot design shall also comply with applicable provisions in federal law in the Americans with Disabilities Act of 1990, as amended, and any other applicable accessibility provisions of federal and state

law.

11.3 Storm Water Management

Adequate provisions must be made for the collection and disposal of all storm water that runs off proposed streets, parking areas, roofs, and other surfaces, through a storm water drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties. Where appropriate storm water may be collected to provide for on site fire protection. Green technology, including engineering techniques that mimic natural processes, shall be incorporated into the design where appropriate.

1. The Stormwater management plan must retain storm water on site at or below the pre-development flow rate for a 100-year storm, using the natural features of the site and constructed stormwater control measures, blending the built and natural design.
2. The applicant must demonstrate that on and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that they will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.
3. All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.
4. The design of the storm water drainage system must provide for the disposal of storm water without damage to streets, adjacent properties, downstream properties, soils, and vegetation.
5. The design of the storm drainage systems must be fully cognizant of upstream runoff, which must pass over or through the site to be developed and provide for this movement.
6. The biological and chemical properties of the receiving waters must not be degraded by the storm water runoff from the development site. The applicant must demonstrate that a project's stormwater management system includes treatment measures that will provide pollutant removal or treatment. Treatment systems can include the use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swells, wet ponds, and the reduction in use of deicing salts and fertilizers may be required, especially where the development storm water discharges into a gravel aquifer area or other water supply source, or a great pond.

11.4 Erosion Control

All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and/or the need for

retaining walls. Natural vegetation must be preserved and protected wherever possible.

Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the current Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices.

11.5 Water Supply Provisions

The proposed development shall be served by an adequate supply of water for domestic and fire protection purposes. The means of providing this service may be public, private, or a combination of the two.

Determination of adequate supply for "automatic fire protection sprinkler systems" shall be governed by the rules and regulations of the Office of State Fire Marshall and applicable National Fire Protection Association (NFPA) standards, particularly NFPA 1231 Standard on Water Supplies for Suburban and Rural Fire Fighting.

11.6 Sewage/Wastewater Disposal

The development shall provide a method of disposing of sewage/wastewater that is in compliance with the State Plumbing Code. If provisions are proposed for on-site waste disposal, all such systems must conform to the Subsurface Sewage/ Wastewater Disposal rules as stated in the current Land Use Ordinance.

When two (2) or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an owner's association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

Upon the recommendation of the local Plumbing Inspector, the Planning Board may require reserve areas for replacement systems.

11.7 Utilities

The development shall be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. All service to the site and distribution between buildings shall be underground or have as little visual impact as possible. Utility structures shall be screened from view.

11.8 Natural Features

The landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction. Extensive grading and filling must be avoided as far as possible.

11.9 Groundwater Protection

The proposed site development and use must not adversely impact

either the quality or quantity of groundwater available to abutting properties or to public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

a. Water Quality Protection

All aspects of the project must be designed so that:

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

2. All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the office of the State Fire Marshall.

3. If the project is located within the direct watershed of a 'body of water most at risk from development' or 'a sensitive or threatened region or watershed' as identified by the Maine Department of Environmental Protection (DEP), and is of such magnitude as to require a storm water permit from the DEP, the project must comply with the standards of the DEP with respect to the export of total suspended solids and/or phosphorous. If the project does not require a storm water permit from the DEP, it must be designed to minimize the export of phosphorous from the site to the extent reasonable with the proposed use and the characteristics of the site. For Major Site Plan Review Projects, when the project is located in the direct watershed, regardless of structure or impervious surface size, the phosphorus standards of Chapter 500 Stormwater Management Law shall be used to demonstrate no impact and addressed in the site plan review plan.

11.10 Hazardous, Special, and Radioactive Materials

The on-site transportation, handling, storage, and use of materials regulated or identified as hazardous by OSHA, EPA, Maine DEP, or Office of the State Fire Marshal shall be done in accordance with all rules and regulations of those agencies.

In conducting a site plan review the Planning Board, Code Enforcement Officer, and Fire Chief (or designee) shall follow the rules and regulations of the above specified agencies and shall also be governed by the requirements of NFPA 1 - Fire Prevention Code.

11.11 Shoreland Relationship

The development must not adversely affect the water quality or shoreline of any adjacent water body. The development plan must fully adhere to those parts of the Land Use Ordinance applicable to shoreland zoning.

11.12 Solid Waste Management

The proposed development must provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

11.13 Historic and Archaeological Resources

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

11.14 Floodplain Management

If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Town of Lincolnville's Floodplain Plan Management Ordinance.

11.15 General Fire Protection Provisions

The following provisions shall apply to all commercial and multi-family residential buildings reviewed under this ordinance:

a. The proposed project must meet the requirements of the current State Life Safety Code. In addition, all other applicable rules and regulations of the Office of the State Fire Marshal, State Oil & Solid Fuel Board, and State Propane & Natural Gas Board shall apply.

b. For projects reviewed under this ordinance, the town reserves the right to require a fire protection plan showing critical code-required fire protection and life safety features for each level of the structure. The fire protection plan or "code footprint" plan should be produced on an 8-1/2" x 11" sheet.

c. Landscaping or other obstructions placed around structures shall be maintained in a manner that does not impair or impede accessibility for fire department operations. Where necessary to support fire department operations fire lanes shall be designated by the town. The property owner shall be responsible for maintenance and enforcement of fire lanes. Signs designating "No Parking Fire Lane" shall be posted as necessary.

d. Fire department personnel shall have ready access to locking mechanisms on any security gates, which restrict access to a property or fire lane.

e. During construction: (1) vehicular access to all structures, by fire department vehicles, shall be provided and maintained; (2) trash

and debris shall be removed from the construction site as often as necessary to maintain a safe level of fire safety; (3) flammable and combustible liquids and liquefied petroleum gases shall be stored and handled in accordance with state fire codes.

f. Definitions for fire code terms are on file with the Code Enforcement Officer.

Section 12: Building, Design, and Impact Standards

The following Design Standards shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum standards of impact, in addition to the requirements of Section 11. The standards reflect that the community has limited zoning ordinance districts, permitting a variety of mixed uses; these standards are meant to ensure that those uses can coexist with adjacent uses while enhancing the village nature of Lincolnville.

12.1 Building and site plan standards generally.

A building to be renovated or newly constructed within Lincolnville is to be designed to blend with that neighborhood's characteristics. "Neighborhood characteristic" for site review refers to the defining features of the area surrounding a proposed development site, with greatest emphasis placed on features of the area within the visual field of the proposed development, and encompasses aspects including housing types, architectural styles, land use patterns, access to amenities, traffic patterns, overall aesthetic, and any unique historical elements that contribute to the character of the community; essentially, it describes the "feel" of the neighborhood and how the proposed development might fit in or contrast with its surroundings.

Design elements shall be used to shield delivery areas and platforms.

The remaining site, including customer access and movement, parking, outdoor seating, pedestrian, and bike access, loading and delivery areas, shall provide smooth transitions that reflect the characteristics of the neighborhood.

These design requirements shall apply notwithstanding any standard franchise design imposed by a franchisor or brand for small box retail, restaurants, fuel, grocery stores or other branded or franchised business.

12.2 Design Guidelines for building or structures: The following design standards will assist the Planning Board in ensuring that a new or modified building is consistent with neighborhood characteristics and the general building design found in Lincolnville.

i) Scale and Relationships of the Building and its Facade. The scale, height, and width of the front and side facades of a building should be visually compatible with its site and blend with the surrounding neighborhood and its size. Window and door openings, their height and width, shall create a visual rhythm that is consistent with its neighbors. Facades should be broken with window, door or

architectural treatment (color and materials, for example clapboards, shingles, patterned shingles, and brick) avoiding large solid areas in the wall surface of the façade.

ii) Roof Shapes. The shape, proportion and pitch of the roof should be visually compatible with the architectural style of the building, blend with window and door design, and be consistent with those of buildings within the visual field of the development.

Flat roofs are permitted but should not be a dominant form and shall serve to connect adjacent building sections, except in shoreland or flood plain zones. In shoreland or flood plain zones where the increased height of a foundation is required, a flat roof may be used to remain within other height restrictions.

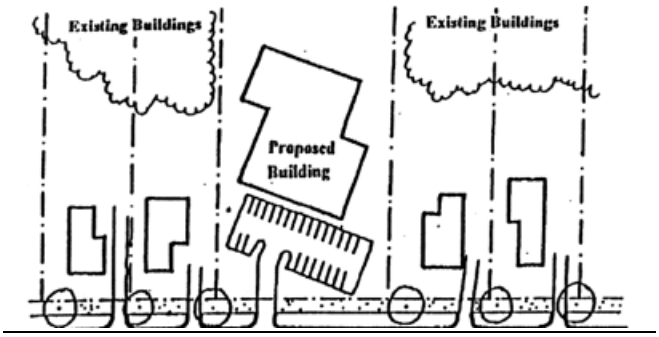
iii) Relationship of Spaces to Building on Streets. The relationship of surrounding open space and space to buildings should be considered when determining visual compatibility with areas and buildings within the visual field of the development, whether it is between buildings or between buildings and the street (setback).

iv) Site Features. The size, placement and materials of walks, walls, fences, signs, driveways and parking areas may have a visual impact on a building. These features should be visually compatible with the building, its site, and other buildings within the visual field.

12.3 Building and Site Design Placement:

a. Setback and Alignment of Buildings: buildings should be placed in alignment with existing, adjacent front and side setbacks. For buildings on corner lots, the setback relationship of both streets should be maintained. In no case shall setbacks be less than the minimum dimensional requirements set forth in Section 15 of the Town's Land Use Ordinance.

b. Building Orientation: New building orientation on the lot shall be compatible with neighborhood characteristics. The visual impact of a building's orientation shall be measured by its relationship to other buildings and natural features on the lot, design of the front of the building, and the visual line of existing buildings and open spaces along the street.



Example: Proposed building in incompatible with the neighborhood because it upsets the rhythm of existing buildings and open space, is placed back from other

structures, and is oriented in a different way.

12.4 Building Materials

a. High quality, exterior building materials must be used. All exterior wall surfaces must include a variation in building materials and color, which are to be distributed throughout the building facades and coordinated into the architectural design of the structure. Acceptable exterior building materials include the following:

1. Brick or similar custom masonry material having brick like appearance.
2. Architectural glass (i.e., curtain wall).
3. Wood or comparable composite materials
4. Metal

b. The Planning Board may approve an alternative material or mix of materials provided the applicant demonstrates that the modification results in a better integration of the building with the surrounding area and will reflect neighborhood characteristics.

c. Front facades and side and rear facades visible from a public right-of-way, parks and adjacent residential uses must be composed of not more than 65 percent of any one acceptable material. Brick with a distinctively different color may be considered a second material. Side and rear facades not visible from a public right-of-way, parks and adjacent residential uses may use any combination of acceptable material. Other materials may be used as accents if found they are compatible with the listed materials and provided it does not cover more than 15 percent of a building face.

d. Where approved, the motor vehicle fuel pump canopy roof must have the same shape, materials, and design appearance as the main structure. There shall be a consistent rhythm and treatment of canopy that ties it to the building façade and roof line.

12.5 Exterior lighting. The proposed development must have an adequate exterior lighting plan which shall demonstrate how that plan will meet the needs of the project. It must have a clear purpose for the lighting and consider safety, security, and how the light will impact the area, including wildlife, their habitat, adjoining properties and vehicle operation. Lights should be directed so the light falls only where it is needed. Lighting shall use shielding and careful aiming to target the direction of the light beam so that it points downward and does not spill beyond where it is needed. Light should be no brighter than necessary and use the lowest light level required. Parking areas and walkways must be adequately lit whenever people are present with a minimum of 10 lumens.

Controls such as timers, motion detectors and the like shall be utilized to ensure that light is available when it is needed, dimmed when possible and turned off when not needed.

Warmer colored light shall be used where possible and the amount

of shorter wavelength (blue-Violet) shall be limited to the greatest extent possible. Light sources must be LED as available or equivalent technology and not exceed a correlated color temperature of 2,000 lumens (150 watt bulb) 3,500 kelvin.)*

The Planning Board may recommend a photometric lighting study if it has reasonable concern that the lighting plan may contribute to light pollution or nuisance.

a. The following types of outdoor lighting are specifically prohibited:

- Lighting that could be confused for a traffic control device;
- Searchlights, beacons, and laser source light fixtures;
- Lights that blink, flash, move, revolve, flicker, change intensity, or change color;
- Lighting inside of an awning when the awning material is translucent.

12.6 Vibrations

Vibrations created by any new activity or use shall not exceed ambient vibrations at the property line those vibrations will be attenuated at the property line.

12.7 Odors

Odors created through process on the site shall be contained within buildings and shall be treated such that their impact shall not exceed ambient air quality and dissipate at the property line.

12.8 Buffering and Landscaping

a. The development shall provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for screening of mechanical equipment, loading and service area, and storage facilities.

b. Buffering shall be designed and maintained to provide a year-round visual screen in order to minimize adverse impacts. It may consist of fencing, evergreens, berms, rocks, boulders, mounds, or a combination thereof. The use of native species is encouraged.

c. A development shall provide sufficient buffering when topographical or other barriers do not provide reasonable screening and where there is a need:

1. Shield neighboring properties from any adverse external effects of the development, or
2. Shield the development from the negative impacts of adjacent uses.

d. A vegetated buffer strip must, where deemed necessary, be established and maintained along the edge of the road right-of-way. Wherever possible, existing vegetative areas will be left intact. This buffer strip must soften the appearance of the site and parking lots from the road and must create defined points of access to and egress from the site. For new or additional plantings, use of native species is encouraged.

e. The depth and height of buffers shall be designed to reduce the visual and noise impacts on abutting properties. Areas adjacent to mechanical services, loading, or storage shall be screened from the view of abutting properties and the public right of way.

12.9 Noise

a. The development must control noise levels such that it will not create a nuisance for neighboring properties. Noise levels shall not exceed the ambient noise levels at the property line. The Planning Board may require a noise mitigation plan.

b. No person shall engage in construction activities, on a commercial site abutting any residential use between the hours of 9 PM and 7 AM, and Sundays.

12.10 Storage of Materials

a. Exposed nonresidential storage areas, dumpsters, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets. The screening design shall be incorporated into the overall site plan.

12.11 Business Signs

Business signs shall be consistent with the Town of Lincolnville Sign Ordinance and incorporated into the building and design standards of this section.

12.12 Canopies and Drive-Through Facilities

a. The roof of any canopy, whether freestanding or attached, shall have a 1-3 pitch; and the eaves shall be no more than twelve (12) feet above the level ground. The horizontal area (footprint) of the canopy shall not exceed six hundred (600) square feet in the area. There shall be only one canopy per premises.

b. Drive-Through facilities create traffic safety hazards and contribute to traffic congestion and air pollution, and are therefore prohibited. Gas stations are not considered drive-through facilities for the purposes of this ordinance.

12.13 View Protection

When a proposed development is located within the viewshed, from a public street, road, water body or facility, of a view that is identified in the Scenic View Map on file in the Lincolnville Town Office, the development must be designed to minimize the encroachment of all buildings, structures, landscaping, and other site features on the identified view.

Design modifications to minimize encroachment may include, but are not limited to, orientation of the building on the site, building height limits, clustering of buildings, and maintaining open space areas free of tall shrubs and fences. The following viewshed protection may be applied where appropriate.

Ridgeline Protection

When a proposed development is located on a hillside that is visible from a public street, road, water body, or facility, the development must be designed so that buildings, structures, and other improvements do not extend above the existing Ridgeline or alter the ridge profile significantly when viewed from the public streets, roads, water bodies, or facilities. This provision may be waived for spotting towers and similar facilities that must be located above the ridgeline for operational reasons.

Hillside Development

A development located on a hillside visible from a public road, water body, or facility must be designed to fit harmoniously into its visual setting to the maximum extent possible. In built-up areas the appearance of a new development visible from public areas must be compatible with existing visual character in scale, massing and height. In undeveloped areas, site clearing must be minimized and vegetation retained (or provided) to lessen the visual impact of the development.

Shoreland Development

When a proposed development is immediately visible from a great pond, river, stream, or Penobscot Bay, the development must be designed so that it fits harmoniously into the visual environment when viewed from the water body. In predominantly natural environments, site clearing must be minimized, natural vegetation must be maintained adjacent to the shoreline to soften the appearance of the development, and vegetation must be retained or provided to minimize the visual intrusion of the development. In developed shoreland environments, the appearance of the new development when viewed from the water must be compatible with the existing visual character in terms of scale, massing, and height to the maximum extent possible. Storage and service areas must be screened or landscaped to minimize their visual impact.

13.1 Limitation of Approval

Substantial construction of the improvements covered by any site plan approval must be commenced within twelve (12) months of the date upon which the written approval was issued. If construction has not been commenced and substantially completed within the period specified in the current Land Use Ordinance, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to the expiration of the period. Such request must be made in writing to the Planning Board. The Planning Board may grant up to two (2) six (6)-month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is requested and any and all federal and state approvals and permits are current.

13.2 Site Conditions

a. During construction, the site shall be maintained and left each day in safe and sanitary manner. Site area shall be sprayed if necessary to prevent dust from becoming a nuisance to adjacent properties.

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

b. No change shall be made in the elevation or contour of any lot or site by the removal of earth to another lot or site other that as shown on an approved site plan. Minimal changes in elevations or contours necessitated by field conditions may be made only after approval by the Code Enforcement Officer.

Section 14: Improvement Guarantees

14.1 The Planning Board shall require the posting of an improvement guarantee in such amount as is reasonably necessary to ensure the proper installation of all off-site improvements that are presented as a component of the application or are required by the Planning Board as a condition of approval. The improvement guarantee may be in the form of an escrow agreement, performance bond or irrevocable letter of credit, in such form and amount as may be approved by the Planning Board, which may require review and approval by the Town Attorney.

14.2 Upon substantial completion of all required on-site improvements, the developer must notify the Code Enforcement Officer of the completion or substantial completion of improvements. The Code Enforcement Office shall inspect all improvements and shall file a report indicating approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection. A report shall be filed to the Planning Board.

14.3 The Planning Board shall approve, partially approve, or reject the improvements on the basis of the report of the Code Enforcement Officer.

14.4 If the improvements are approved, the guarantee shall be released. Where partial approval is granted, the developer may be released from liability only for that portion of the improvements approved.

Section 15: Submissions of As-Built Plans

Any project involving the construction of more than two thousand (2000) square feet of gross floor area, must provide the Code Enforcement Officer with a set of construction plans showing the buildings and site improvements as actually constructed on the site. These "as-built" plans must be submitted within thirty (30) days of the request for issuance of a certificate of occupancy for the project or occupancy of the building.

Section 16: Minor Changes to Approved Plans

Minor changes in approved plans necessary to address field conditions may be approved by the Code Enforcement Officer provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal. If the developer wishes to make minor changes in field plans, he/she must have these changes endorsed in writing on the approved plan by the Code Enforcement Officer before changed work can proceed.

Section 17: Amendments to Approved Plans and Change of Use

Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals, and supporting documents or a Change of Use as defined in Section 2.1.e, except minor changes that do not affect approval standards, is subject to review and approval.

17.1.1 Procedure

An applicant for a revision to a previously approved plan shall, at least fourteen days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. The Board shall determine if the proposed revision or amendment to the previously approved plan would have no materially significant effect on the standards outlined in Sections 10, 11 and 12 of the Commercial Site Plan Review Ordinance. In making this determination the Board shall first determine which Standards apply to the proposed revision. Applicable standards shall be discussed and findings made regarding the degree of impact proposed changes might have on the originally approved Plan.

17.1.2 Submissions

The applicant shall submit a copy of the approved plan as well as seven copies of the proposed revisions and any relevant supporting documentation. The revised plan shall indicate that it is the revision of a previously approved plan and shall include an approval block as described in Section 10.6 of the Commercial Site Plan Review Ordinance.

17.1.3 Scope of Review

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

Section 18: Appeal of Planning Board Actions

Appeal of any actions taken by the Planning Board with respect to this section shall be to the Board of Appeals. Any such appeal shall be filed with the Board of Appeals within thirty (30) days of the date upon which the Planning Board by vote makes a final decision concerning the application. Any aggrieved party with standing may appeal the decision of the Planning Board to the Board of Appeals. The Board of Appeals shall consider all appeals under this section on an appellate basis.

There shall be no appeal from a decision made by the Code Enforcement Officer in relation to enforcement of or any failure or decision not to enforce the provisions of this section.

SECTION 19 - WIRELESS COMMUNICATION

Section 1 Purpose and Intent

The purpose of this ordinance is to provide a process and a set of standards for the construction of wireless telecommunications facilities and to establish clear guidelines, standards and time frames for the exercise of municipal authority to regulate wireless telecommunications facilities. Additional objectives of this ordinance are as follows:

- Encourage the co-location of wireless telecommunications facilities, thus helping to minimize adverse visual impacts on the community.
- Further the goals and policies of the Comprehensive Plan, while promoting orderly development of the town with minimal impacts on existing uses.
- Protect the scenic and visual character of the community.

Section 2 Applicability

This section applies to all construction, expansion and co-location of wireless telecommunications facilities, including communication facilities and towers.

2.1 Exemptions

The following activities and structures are exempt from the provisions of this Ordinance:

1. Wireless telecommunication facilities for communication by public officials, including specifically emergency communications.
2. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).
3. Parabolic Antennas less than seven (7) feet in diameter, that are an accessory use as permitted under the Town's Land Use Ordinance.
4. Maintenance or repair of a wireless telecommunications facility and related equipment provided that there is no change in the height or any other dimension of the facility.
5. An antenna that is an accessory use to a residential dwelling unit.

6. Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) consecutive days.
7. Short Term facilities for media or events for a maximum period of fourteen (14) consecutive days.

Section 3 Review and Approval Process

No person shall construct or expand a wireless telecommunication facility without approval of the Planning Board or, the Code Enforcement Officer (CEO), as set forth below.

3.1 New Construction and Expansion of an Existing Facility

Approval by the Planning Board and issuance of a building permit is required for construction of a new telecommunications facility and for expansion of an existing facility.

3.2 Co-Location within an Existing Wireless Telecommunication Facility

Approval by the CEO and issuance of a building permit is required for co-location within an existing wireless telecommunications facility.

3.3 Written Findings

The Planning Board or the CEO, as applicable, shall review applications for wireless telecommunications facilities, as set forth above, and make written findings in connection with the issuance or denial of permits for such facilities. Those written findings shall state whether the proposed facility complies with this ordinance.

Section 4 Approval Process

4.1 Pre-Application Meeting

Applicant shall meet with the Planning Board no less than 30 days prior to filing an application. The purpose of this meeting shall be for the Planning Board to explain the ordinance requirements as well as application forms and submissions required. It shall not be used to pre-approve or discuss the merits of the project.

4.2 Application

All persons seeking approval of the Planning Board or the CEO (for co-location of facilities) under this ordinance shall submit an application as provided below. The CEO shall be responsible for ensuring that the notice of the application has been published in a newspaper of general circulation in the Town of Lincolnville.

In addition to the submission requirements set forth below, all new wireless telecommunication facilities and expansion of such facilities, and co-location communication facilities, must comply with all ordinances of the Town of Lincolnville and shall comply with the Application Submission and Review Procedures of Section 18 of the Town's Land Use Ordinance (Commercial Site Plan Review).

4.3 Submission Requirements

Applications submitted for wireless telecommunications facilities shall also include the following additional information:

1. Documentation of the applicant's right, title, and interest in the lot where the facility will be sited, including the name and address of the

landowner and the applicant.

2. A copy of the FCC license for the facility, or a signed affidavit from the owner or operator of the facility attesting that the facility will comply with FCC regulations.
3. A USGS 7.5 minute topographic map showing the current location of all structures and wireless telecommunications facilities above 150 feet in height from ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed facility. This requirement shall be deemed to have been met if the applicant submits current information (i.e., within thirty days of the date the application is filed) from the FCC Tower Registration Database. Include documentation of longitude and latitude.
4. A site plan prepared and certified by a professional engineer registered in Maine indicating the location, type and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines. The site plan must include certification by a professional engineer registered in Maine that the proposed facility complies with all American National Standards Institute (ANSI) and other applicable technical codes.
5. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level.
6. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.
7. A visual impact assessment by a qualified professional which shall include photo simulations of the proposed facility taken from perspectives determined by the Planning Board during the pre-application meeting pursuant to Section 4.1 of the ordinance. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photo must show the color of the facility and method of screening.
8. A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.
9. Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility for any of the following reasons:
    1. Evidence that no existing facilities are located within the targeted market coverage area as required to meet applicant's engineering requirements.
    2. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements.
    3. Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:
        1. Necessary equipment would exceed the structural capacity of the existing facility, considering the

existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.

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

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

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

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

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

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

    3. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location and such co-location will not work jeopardizing the existing facility. Reasonable charges for co-location and such co-location will not jeopardize the existing facility.

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

11. A form of surety or other performance guaranty approved by the Planning Board in an amount to pay for the costs of removing the facility if it is abandoned, which may include the

following performance guaranties:

1. A certified check payable to the Town of Lincolnville;
2. A savings account passbook issued in the name of the Town of Lincolnville;
3. An irrevocable letter of credit from a financial institution acceptable to the Planning Board; or
4. A performance bond running to the Town of Lincolnville and issued by a surety company or insurance company licensed to do business in the State of Maine.

12. Evidence that notice of the application has been published in a newspaper of general circulation in the Town of Lincolnville.

4.4 Waivers

A waiver of any submission requirement may be granted only if the Board makes a written finding that the information or the document is not required to determine compliance with the standards of Section 7.

1. The Planning Board may waive any of the submission requirements when it determines that because of the size of the project, or circumstances of the site, such requirements would not be applicable, and that such waiver would not adversely affect the abutting landowners or the general health, safety, and welfare of the town.

2. Subject to the provisions of Section 4.4.1 above, the Planning Board may waive any of the submission requirements based upon a written request of the applicant. Such request must be made at the time of the pre-application conference.

3. A waiver of any submission requirement may be granted only if the Board makes a written finding that the information or the document is not required to determine compliance with Section 7.

4.5 Fees

1. An application for CEO approval for a co-location facility shall include payment of an application fee which is approved annually by the Board of Selectmen. This fee is intended to cover the cost of the municipality's administrative processing of the application, including notification and similar costs. This fee shall not be refundable.
2. An application for Planning Board approval, as required by this ordinance, shall include payment of an application fee which is approved annually by the Board of Selectmen. The application shall not be considered complete until the fee is paid. The fee is intended to cover the cost of the municipality's administrative processing of the application, including notification, and similar costs. This fee shall not be refundable.
3. Upon order of the Planning Board, an applicant for approval by the Planning Board shall pay all reasonable fees incurred by the Town that are necessary to review the application including without limitation, independent engineering or similar professional consulting services. Such review fees shall be determined at the pre-application meeting and shall be payable without regard to the outcome of the application. The review fees shall be paid in full

prior to the meeting of the Planning Board at which the Planning Board considers whether to approve the application.

4.6 Public Hearing

For applications requiring Planning Board approval under Section 3.1, a public hearing shall be held within forty-five (45) days of the notice of a complete application.

Section 5 Site Restrictions

The following shall be restricted from having telecommunication facilities constructed within them.

- Shoreland zones
- Lincolnville municipal parks
- From 1,000 ft inland of Route 1 to the shoreline of Penobscot Bay.

Section 6 Conditions of Approval

6.1 Planning Board Approval for New or Expanded Construction

Any approval issued by the Planning Board shall include a signed statement that the owner of the wireless telecommunications facility and his or her successors and assigns agree to the conditions outlined in section 4.3.10.1-4. A reference to the agreement shall be clearly noted on the final approved site plan.

6.2 CEO Approval for Co-Location Application

The following standards shall be met for approval before issuance of a permit by the CEO when a request is received for co-location facilities.

1. Copy of agreement between the facility owner and company requesting co-location permit, showing that the applicant has sufficient right, title, or interest to locate the proposed facility on the existing structure; economic terms need not be disclosed.
2. Copy of FCC license.
3. The proposed facility is an accessory use, or co-location to a structure existing at the time the application is submitted.
4. Co-location shall not be considered an expansion.

Section 7 Standards

7.1 Standards for Facilities

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

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

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

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

4. New wireless telecommunication facilities on municipal property shall also meet the standards set forth in Section 7.2 below.

7.2 Standards of Approval

1. No telecommunication tower shall exceed a height of 195 feet including height of the antenna. New wireless telecommunications facilities and related equipment must be designed and constructed reasonably to accommodate expansion for future co-location of at least three additional wireless telecommunications facilities or providers.

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

3. The base of a new or expanded wireless telecommunications facility must be screened with plants from view by abutting properties, as stated in the Good Neighbor Standards on Buffering (12.2) of the Commercial Site Plan Review of the Land Use Ordinance.

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

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

6. All access roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation. The design shall take all practical steps possible to prevent a visible scar up or across a ridgeline visible from public streets, roads, or water

bodies.

7. A new or expanded wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable**,** and except as FAA requirements, as may be amended, provides. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.

8. The development shall be provided with electrical, telephone and telecommunication service adequate to meet the anticipated use of the project. All service to the site and distribution between buildings shall be underground. Utility structures shall be screened from view.

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

10. The telecommunications facility shall not cause any nuisance or generate any offensive noise, vibration, smoke, or dust which has an undue adverse impact on the environment or the neighborhood. All waste material from the facility shall be removed promptly from the premises, and disposed of according to law.

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

12. The proposed wireless telecommunications facilities shall not unduly obstruct, or have an unreasonably adverse impact upon a scenic view as identified in the Comprehensive Plan Scenic View Map on file in the Lincolnville Town Office; and certified by the Chairperson of the Board of Selectmen.

    1. In determining the potential unreasonably adverse impact of the proposed facility upon the designated scenic resources, the Planning Board shall consider the following factors:

        1. The extent to which the proposed wireless telecommunications facility is visible above tree line, from the viewpoint(s) of the impacted designated scenic resource as viewed from the public road, public land or public waterway;

        2. The type, number height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;

        3. The extent to which the proposed wireless telecommunications facility would be visible from the viewpoint(s) set forth in (a) above

4. The amount of vegetative screening;

5. The distance of the proposed facility from the viewpoint and the facility's location within the designated scenic resource;

6. The evidence set forth in the visual impact assessment submitted with the application pursuant to Section 4.3 (7) above and any conclusions based upon that visual impact assessment;

7. The presence of reasonable alternatives that allow the facility to function consistent with its purpose.

13. The proposed facility, to the greatest degree practicable, shall have no unreasonable adverse impact upon districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places.

7.3 Conditions of Approval

When necessary to ensure that an approved project meets the criteria of this ordinance, the Planning Board can impose additional conditions of approval. Reference to the conditions of approval shall be clearly noted on the final approved site plan.

The Planning Board may also impose conditions on the approval of the application to ensure that the siting of a wireless telecommunication facility on any parcel of land does not have an unreasonably adverse impact on the designated scenic resource (s).

1. Upon request of the Planning Board, the applicant shall certify compliance with all applicable FCC radio frequency emissions regulations.

Section 8 Abandonment

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

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

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

If the surety bond must be used to pay for the removal of the facility and returning the land to pre-construction condition, any balance of funds remaining after the land has been returned to the pre-construction condition shall be returned to the owner by the Planning Board.

Section 9 Amendment to Approved Application

Any changes to an approved application must be approved by the Planning Board.

Section 10 Appeals

Any person aggrieved by a decision of the CEO or Planning Board under this ordinance may appeal the decision of that official to the Board of Appeals as an administrative appeal under the Land Use Ordinance. Written notice of an appeal must be filed with the Board of Appeals within thirty days of the decision. A notice of appeal should clearly state the reasons for the appeal.

Section 11 Enforcement

This ordinance shall be enforced pursuant to the provisions of the Land Use Ordinance.

Any person who owns or controls any building or property in violation of this ordinance shall be subject to a penalty in accordance with Title 30-A M.S.R.S. §4452. Each day such a violation continues after written notification by the CEO shall constitute a separate offence.

Section 12 Conflict with Other Ordinances

Whenever a provision in the ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation, or statute, the more restrictive provision shall apply.

The invalidity of any part of this ordinance shall not invalidate any other part of this ordinance.

SECTION 20 – HOME OCCUPATION

The Town of Lincolnville recognizes that Home Occupations, when managed conscientiously and with respect for the neighborhood in which they are situated, offer benefits to both the proprietors and the community.

A. It is the intent and purpose of this section to provide liberal, flexible standards for the establishment and maintenance of Home Occupations as defined in the Lincolnville Land Use Ordinance while simultaneously providing the community with a practical mechanism by which to regulate their use. The following provisions shall apply to the maintenance of a Home Occupation.

   1. Not more than 2 persons outside the family shall work simultaneously on the premises in connection with the home occupation.

   2. One unlighted sign restricted to a maximum finished size of 3 square feet to be affixed to the residential dwelling, accessory structure or located at a driveway entrance to the residence is

permitted. This sign shall in all other respects conform with the standards of the Town of Lincolnville Sign Ordinance.

3. Exterior storage of materials is permitted, provided that such storage is not incompatible with the residential/rural character of surrounding properties in the neighborhood, and is not in the setback area.

4. A Home Occupation must not generate noise, vibration, smoke, fumes, dust, odors, heat, light, glare, electrical interference, or other effects such that levels common to the surrounding area are exceeded beyond the property lines or beyond the walls of the dwelling unit, if the unit is part of a multifamily dwelling.

5. Such Home Occupation shall not cause undue traffic in the neighborhood where the proposed use is located, and such home occupation shall not cause a significant adverse effect on parking on roads located outside the boundaries of the subject property.

6. Retail sales are allowed but limited to the sale of products or goods produced, fabricated, or substantially altered on the premises as a direct result of the resident's labor in the Home Occupation.

7. It may include products that are not manufactured on the premises of the Home Occupation, but which are customarily incidental to the product created by the Home Occupation.

8. Home Occupations shall be allowed in a Multi-unit residential structure, mobile home park, cluster housing unit or apartment – in compliance with the following restrictions:

    a. Only residents of the residential dwelling may be employed in the Home Occupations.
    b. No posting of signs.
    c. No retail sales of products in the residential dwelling or accessory structures.

B. The Code Enforcement Officer shall issue permits for home occupations upon a showing by the Applicant that the proposed use has met the requirements set forth in Section 20(A). Any decision by the Code Enforcement Officer concerning a permit for a home occupation may be appealed to the Board of Appeals within thirty (30) days of the date of the written decision appealed from, in accordance with the appeal procedure set forth in Section 21(G)(3) of this ordinance.

C. Activities which were in existence prior to the enactment of this ordinance and fall under the definition in this ordinance of home occupation are exempt from any provisions of this ordinance which were not already in force on the date on which it was approved, providing the proprietor of the home occupation registers the home occupation with the Code Enforcement Officer within ninety (90) days of the enactment of this ordinance. Failure to register within this grace period will lead to a permit being required in accordance with Section 20(A). Any change to a Home Occupation which makes the business less conforming, will cause that activity to be regulated by this ordinance.

SECTION 21 – ADMINISTRATION

The following provisions shall apply for all districts in the Town of Lincolnville.

A. Administering Agents

1. Code Enforcement Officer.

The Code Enforcement Officer shall be responsible for the administration of this Ordinance. A Code Enforcement Officer shall be appointed or reappointed annually by the Selectmen no later than July 1. In addition, the Board of Selectmen is authorized to appoint or re-appoint an Alternate Code Enforcement Officer annually by July 1 of each year.

In the absence of the Code Enforcement Officer, the Alternate Code Enforcement Officer shall have all of the duties and responsibilities as the Code Enforcement Officer. The Code Enforcement Officer and Alternate Code Enforcement Officer, if applicable, shall be responsible for the administration and enforcement of this Ordinance.

For the purposes of this Ordinance, upon the appointment of an Alternate Code Enforcement Officer by the Board of Selectmen, each reference to the Code Enforcement Officer shall also mean a reference to the Alternate Code Enforcement Officer in this Ordinance.

2. Board of Appeals

A Board of Appeals has been created in accordance with the provisions of 30-A M.R.S.A. Section 2691.

3. Planning Board

The Planning Board has been created in accordance with the provisions of State law. The Planning Board shall review applications for building permits when the Planning Board is the permit-issuing authority for such permits, and shall have such other duties as set forth in this Ordinance.

B. Permits Required

After the effective date of this Ordinance no person shall engage in any activity or use of land or structure requiring a permit in the District in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use without first obtaining a permit. Building permits shall be required for the following activities:

1. Work that involves new construction.
2. Work that involves any change to the footprint of the building or structure.
3. Renovation, enlargement, alteration, demolition, or moving of existing building or structure when the fair and reasonable value of such work and materials exceeds $500.00

4. All other activities requiring a permit as defined in Section 14 of the Town's Table of Land Uses.

Notwithstanding the above, a building permit is not required for general maintenance and repair of a structure. The following activities are excluded from permitting: re-roofing a legally existing structure, repair of masonry, including chimneys, installation or replacement of exterior siding on legally existing structures; painting; and landscaping activities not part of projects or developments requiring site plan review.

IN THE SHORELAND ZONE ONLY:

1. A permit is not required for the replacement of an existing road culvert as long as:

   a. The replacement culvert is not more than 25% longer than the culvert being replaced;

   b. The replacement culvert is not longer than 75 feet; and

   c. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

2. Permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

3. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application

1. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14 (Table of Land Uses).

2. All applications shall be signed by an owner or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, who can show evidence of right, title or interest in the property and certifying that the information in the application is complete and correct.

3. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.

4. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface sewage disposal system.

5. When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

6. For applications for permits involving work within the Shoreland Zone, the applicant shall provide to the Code Enforcement Officer or Planning Board, as appropriate, pre-construction photographs and, no later than twenty (20) days after completion of the permitted development, post-construction photographs of the shoreline vegetation and development site.

D. Procedure for Administering Permits

Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board and/or the Code Enforcement Officer may require the submission of whatever additional information may be necessary to determine conformance with the provisions of this Ordinance. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, or Code Enforcement Officer, the administering authority shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

1. Will maintain safe and healthful conditions;

2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve Shoreland cover vegetation and visual (as viewed from public facilities), as well as actual, points of access to inland and coastal waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan
7. Will not adversely affect existing commercial fishing or maritime activities in a Harbor District;
8. Will avoid problems associated with flood plain development and use; and,
9. Is in conformance with the provisions of Section 15, Townwide Land Use Standards in the General District or Section 16 in the Shoreland Zone and conforms with Section 14.

If a permit is denied, or approved with conditions, the reasons for the denial as well as the conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or any State law which the municipality is responsible for enforcing.

E. Initiation/Expiration of Permit

Any building permit issued shall be valid for:

1. A period of one year, from the date of issuance of the permit, for the beginning of the actual and substantial physical construction of the proposed project; and,

2. A period of two years, from the date of issuance of the permit, for completion of actual physical construction of the proposed project.

In the event that the applicant has good cause for a failure to commence the construction as required above, then the person with a permit may apply to the Planning Board/Code Enforcement Officer (CEO) for a one time extension in which to commence construction. Only one one-time extension shall be allowed and this extension shall not exceed six months in duration. In the event that actual physical construction is not completed as required above, the person with a permit may apply to Planning Board/CEO for an extension of time in which to complete the proposed construction project. The time extension shall not exceed one (1) year in duration.

Applications shall be acted upon by the Planning Board/CEO within thirty (30) days following submission and acceptance of an application by the Planning Board/CEO. Approval or disapproval shall be indicated on the application form and the reason(s) for disapproval shall be set forth in writing. The applicant must pick up his or her completed building permit from the Town Office prior to the start of construction. An applicant must post the building permit in a location on the construction site, which is visible from the roadway, within 48 hours of the date of notification by the Town that the permit has been granted. Applicants whose applications are denied by the Planning Board/CEO shall be notified

by the Town by regular mail of the disapproval and the reason(s) for the disapproval.

F. Installation of Public Utility Service

No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

G. Appeals

1. Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers:

a. Administrative Appeals: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by, the Code Enforcement Officer or Planning Board in the administration of this Ordinance; provided, however, that the Board of Appeals shall not have the authority to hear an appeal from a decision by the Code Enforcement Officer to undertake or not undertake enforcement action or from a determination by the Code Enforcement Officer that no violation has occurred.

b. Variances: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

c. Special Exceptions: A permit granted by the Board of Appeals to allow the acquisition and use of a nonconforming, non-residential lot for municipal and/or public utilities. To review and permit certain proposed land uses which are specifically listed as special exceptions in the regulations governing the district in which the use is proposed. By majority vote to grant such exceptions with such conditions and safeguards as are appropriate under this ordinance or deny such exception when the use does not meet the standards set forth in Section 21.G.4.a below.

d. In the event that the Harbor Ordinance of the Town of Lincolnville makes Planning Board decisions concerning non-public piers or wharves in connection with Article IV of that Ordinance appealable to the Board of Appeals, then the Board of Appeals shall have the power, solely in an appellate capacity, to hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Planning Board in connection with such decisions.

2. Variance:

Variances may be granted only under the following conditions:

a. Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

b. Variances shall not be granted for the establishment of any uses prohibited by this Ordinance.

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

1. The proposed structure or use would meet the provisions of Section 15 in the General District or Section 16 in the Shoreland Zone except for the specific provision which has created the non-conformity and from which relief is sought; and

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

(i) That the land in question cannot yield a reasonable return unless a variance is granted;
(ii) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
(iii) That the granting of a variance will not alter the essential character of the locality; and
(iv) That the hardship is not the result of action taken by the applicant or a prior owner.

3. Not withstanding Section 21(G)(c)(2), Board of Appeals 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 subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. 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.

d. The Board of Appeals 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.

e. A copy of each variance request in the Shoreland Zone, 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 action by the Board of Appeals. Any comments received from

the Commissioner prior to action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

f. In accordance with Title 30-A Section 4353(5), the property owner granted a variance shall be responsible for recording a Certificate of the Variance in the Waldo County Registry of Deeds within ninety (90) days of the date of final written approval of the variance by the Board of Appeals. In the absence of such a recording of the Certificate of Variance, the Variance shall be void as provided in that statute.

3. Administrative Appeals

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a "de novo" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

4. Special Exceptions:

a. For all non-residential uses outside of the Resource Protection portion of the Shoreland Zone:

A special exception may be granted only if the petitioner has established to the satisfaction of the Appeals Board that the following standards for acceptance are met:

(i) The proposed use and site for that use does not have an undue adverse impact upon the value or quiet possession of the surrounding properties. In determining whether the proposed use will have an undue adverse impact, the following criteria shall be considered: generation of noise, dust, odor, vibrations and other nuisances; and the physical characteristics of the site, including the size of the lot, size and design of the structure, shape of the lot and topography.

(ii) The proposed use would not create unreasonable demand for municipal services.

(iii) The proposed use would not result in an inordinate increase

in the amount of pedestrian and/or vehicle traffic.

(iv) The proposed use meets all applicable land use standards including commercial site plan review.

b. For single-family residential uses within the Resource Protection portion of the Shoreland Zone only:

A special exception for a single family residential structure in a Resource Protection District may be granted only if the petitioner has established to the satisfaction of the Appeals Board that, in addition to the criteria specified in Section 21(D) above, excepting structure setback requirements, the following standards are met:

(i) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.

(ii) The lot on which the structure is proposed is undeveloped and was established and recorded in the Waldo County Registry of Deeds before the adoption of the Resource Protection District.

(iii) All proposed buildings, sewage disposal systems and other improvements are:

(a) Located on natural ground slopes of less than 20%; and

(b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

(iv) The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.

(v) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Appeals Board shall consider the depth of the lot, the slope of the land, the potential for

soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

c. If the Appeals Board determines and approves a form of surety or other performance guaranty is required, the amount shall be sufficient to pay the costs of removing the facility if it is abandoned. Surety may include any of the following:

1. A certified check payable to the Town of Lincolnville;

2. A savings account passbook issued in the name of the Town of Lincolnville;

3. An irrevocable letter of credit from a financial institution acceptable to the Planning Board; or

4. A performance bond running to the Town of Lincolnville and issued by a surety company or insurance company licensed to do business in the State of Maine.

d. To aid the Appeals Board in the decision making process before granting any Special Exceptions the Appeals Board shall refer the application to the Planning Board for an informational report to determine any effect the request may have on the surrounding area or incompliance with the comprehensive plan of the Town of Lincolnville.

e. Application for a Special Exception Permit shall be made to the Code Enforcement Officer on forms provided for the purpose, accompanied by such fee as the Board of Selectmen shall set on an annual basis for such applications.

The applicant shall:

1. Provide proof of right, title or interest in the parcel of land, to support the standing of the applicant.

2. Clearly specify the location of the proposed use, including: street addresses, assessor's tax map and lot number and a location map.

3. Describe the exact nature of the proposed use.

4. Submit such other materials as will enable the Appeals Board to determine that the standards for approval have been met. The burden of providing the information upon which the Board bases its findings and providing conformity with the standards shall be the applicants.

f. If the proposed facility is not operated for a continuous period of twelve (12) months it shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing, certified mail, return receipt requested, ordering the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from receipt of the notice to demonstrate to the CEO that the facility

has not been abandoned.

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

5. Appeal Procedure

a. Making an Appeal or Variance

1. An administrative appeal or variance may be taken to the Board of Appeals by an aggrieved party from any decision of Code Enforcement Officer or the Planning Board. Such an appeal shall be taken within thirty (30) days of the date of the written decision appealed from, and not otherwise.

2. Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:

(i) A concise written statement indicating what relief is requested and why the appeal or variance should be granted.

(ii) 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 sought.

(iii) In the case of variances, Section B of the Application for Variance #1 through #4 must be completed in concise written form since all four must be satisfied for a variance to be granted.

3. Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

4. 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.

b. Decision by Board of Appeals

1. A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.

2. The person filing the appeal shall have the burden of proof.

3. The Board shall decide all administrative appeals and variance requests within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

4 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 if the decision involves the Shoreland area 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.

6. Appeal to Superior Court

Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

7. 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 within ten (10) days of the decision that is being 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 abuttors and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

H. Enforcement

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

2. Code Enforcement Officer

a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person

responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

b. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance. Said complaints shall be made on forms provided by the Town.

c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On an bi-annual basis, a summary of this record for the Shoreland Zone shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

3. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by the Planning Board when acting as a Board or the Code Enforcement Officer, and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard public health and safety or will result in substantial environmental damage.

4. Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

SECTION 22 – DEFINITIONS

Accessory dwelling unit: A self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the

same parcel of land. An accessory dwelling unit must be a minimum of 190 square feet and no more than 800 square feet.

Accessory structure or use: A use or structure which is incidental and subordinate to the principal use or structure (e.g., garages, woodsheds, fish houses, or other non-residential uses or structures). 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. Accessory structures, except those that require direct access to the water, must also meet all setback requirements.

Affordable housing development:

1. For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs; and

2. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs.

3. For purposes of this definition, "majority" means more than half.

4. For purposes of this definition, "housing costs" means:

   (a) For a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and

   (b) For an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner's insurance, condominium fees, and homeowners' association fees.

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 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 green-house products. Agriculture does not include forest management and timber harvesting activities.

Antenna: Any system of poles, panels, rods, reflecting discs or similar

devices used for the transmission or reception of radio or electromagnetic frequency signals.

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

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

Area median income: The midpoint of a region's income distribution calculated on an annual basis by the U.S. Department of Housing & Urban Development.

Attached: Connected by a shared wall to the principal structure.

Basal Area: The area of cross-section of a tree stem at 4.5 feet above ground level and inclusive of bark.

Base density: The maximum number of units allowed on a lot not used for affordable housing based on dimensional requirements in this Ordinance or the Subdivision Ordinance.

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.

Campground: Any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

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

Coastal wetland: All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

NOTE: All areas below the highest annual tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

Co-Location: The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

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.

Density requirements: The maximum number of dwelling units allowed on a lot, subject to dimensional requirements.

Designated growth area: An area that is designated in the Town's 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 ten (10) years is directed. Designated growth areas may also be referred to as priority development zones or other terms with a similar intent.

Designated scenic resource: That specific location, view or corridor, as identified as a scenic resource in the municipally-adopted comprehensive plan or by a State or Federal agency that consists of:

1. a three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, a lake, or a bay, or a group of objects, such as a downtown skyline or mountain range, or island, resulting in a panoramic view corridor; or

2. lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.

Development: A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

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

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

Driveway: A vehicular access-way less than five hundred (500) feet in length serving two lots or less.

Dwelling unit: Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, time-share units, and apartments.

Eminent Domain: Any taking or acquisition of any structure, or portion thereof, or of any land, or portion thereof, by a municipal, state, or federal governmental authority, upon payment of just compensation to the owner or owners of such structure or land, including, without limitation, any taking pursuant to condemnation procedures as set forth in 23 M.R.S.A. § 154; the

voluntary acquiescence of any landowner or owner of a structure in such taking or acquisition by a governmental authority shall also be considered taking or acquisition within the scope of eminent domain.

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

Essential municipal services for public sewage disposal and public toilet facilities: The construction, alteration or maintenance of municipal sewage lines, collection or supply systems, and public toilet facilities; such facilities may include wires, mains, drains, conduits, cables, hydrants, buildings housing such essential services, and similar accessories. Allowed structures for such municipal essential services shall be subject to a twenty five (25) foot waterbody or wetland setback requirements in the shoreland district in which such uses are permitted.

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

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

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

Expansion of a wireless telecommunication facility: The addition of towers, height and/or increased foot print, of the existing facility.

Family: One or more persons occupying a premises and living as a single housekeeping unit.

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 areas of the floor(s) of a structure enclosed by exterior walls.

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

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 which are:

1. 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

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

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

Functionally water-dependent uses: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to coastal and inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

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

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

Ground cover: Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

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

driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

Height of a structure: The vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Height of structures for a wireless telecommunication facility: The vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure, to the highest point of the building or structure. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads or other building accessory features usually erected at a height greater than the main roofs of buildings.

Home Occupations: The creation of a product or service from any business activity conducted within a principal residential dwelling and/or its surrounding property and accessory structures on the same lot that are clearly incidental and subordinate to the use of the dwelling as a residence and which are compatible with surrounding residential uses in the neighborhood and complies with the provisions of Section 20 (Home Occupations) of the Land Use Ordinance.

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 standard 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 gravel pad*s*, parking area*s*, fire place*s*, or tent platform*s*.

Industrial: The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

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.

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

Lot: A single parcel of developed or undeveloped land described in a deed or other legal instrument.

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

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

Medical marijuana dispensary: A "registered dispensary" as that term is defined in 22 M.R.S.A. § 2422(6), as may be amended. A medical marijuana dispensary includes a location at which marijuana is cultivated by a registered dispensary pursuant to 22 M.R.S.A. § 2428, as may be amended. A medical marijuana dispensary is only authorized as a principal use, and not as an accessory use.

Methadone clinic: A substance abuse treatment program that provides treatment for persons with heroin or other opiate addictions where the treatment provided includes administration or prescription of methadone or other opioid replacements (*e.g.*, methadone, methadone hydrochloride or LAAM (levo-alpha-acetyl-methadol)) for either detoxification or maintenance purposes.

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.

Minimum lot width: The closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Multifamily dwelling: Refer to Multi-unit residential.

Multi-unit residential: A residential structure containing three (3) or more residential dwelling units.

Municipal Uses: A use of land, structure or building owned or controlled by the Town of Lincolnville or any district, agency, or subdivision thereof, which serves a public purpose.

Native: Indigenous to the local forests.

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, lot coverage or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming, non-residential lot for Municipal Use and/or Public Utility: A lot for a municipal use or a public utility that is smaller than the allowable minimum lot size standard set forth in section 15 of the Lincolnville Land Use Ordinance.

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 to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

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

Normal high-water line (**non-tidal waters**)**:** 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. With the following exceptions:

For the water bodies listed below the following shall be used to determine the normal high-water line:

1. Megunticook Lake/Norton's Pond -- the normal high-water is equal to the elevation of the top of the East Dam concrete spillway;

2. Pitcher Pond -- the normal high-water line is equal to the elevation of the Kendall Brook Dam spillway; and,

3. Coleman Pond – the normal high-water is equal to the elevation of the Coleman Pond Dam spillway.

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

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

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.

Piers, docks, wharfs, breakwaters, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland:

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

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

Potable: Safe for drinking as defined by the U.S. Environmental Protection Agency's (EPA) Drinking Water Standards and Health Advisories Table.

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

Principal use: The primary or predominant use of any lot; a use other than one which is wholly incidental or accessory to another use on the same lot.

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: Those essential services, as defined in Section 21 of this ordinance, which are offered to the public, such as, but not limited to, water, electricity, telephone, gas, and transportation, whether publicly or privately owned, which are regulated by the Maine Public Utilities Commission, the Maine Department of Transportation, the Federal Communications Commission, or a similar state agency, which are intended to serve both activities outside the Town of Lincolnville and activities within the Town of Lincolnville. This term also includes buildings and structures which are necessary for the furnishing of such essential public services, whether local or greater in scope.

Recent flood plain soils: The following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles	Suncook
Fryeburg	Hadley	Limerick	Sunday
Winooski	Lovewell	Medomak	Ondawa
Podunk	Rumney	Saco	

Recreational facility: A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational 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, and must be registered with the State Division of Motor Vehicles.

Replacement system: A system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

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.

Restrictive covenant: A provision in a deed restricting the use of the land.

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

River: A free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

NOTE: The portion of a river that is subject to tidal action is a coastal wetland.

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

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

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

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

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

Service drop: Any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. In the case of electric service

    a. 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

b. the total length of the extension is less than one thousand (1,000) feet.

2. In the case of telephone service

a. the extension, regardless of length, will be made by the installation of telephone wires to any existing utility poles, or

b. 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, property boundary line, centerline of a road, or other features from which the setback is measured to the nearest part of a structure.

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

Shoreland zone: The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river, within 250 feet horizontal distance of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet 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 or coastal wetland.

Significant River segments: See 38 M.R.S.A. section 437.

Single-family dwelling unit: A building containing one (1) dwelling unit.

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

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

Structure: Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground as defined in 38 M.R.S. § 436-A(12). The term includes structures temporarily or permanently located, such as decks, patios, steps, landings and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in 30-A M.R.S.A. § 4201(5); geothermal heat exchange wells as defined in 32

M.R.S.A. § 4700-E(3-C); or wells or water wells as defined in 32 M.R.S.A. § 4700-E(8).

Substantial start: Completion of thirty (30) percent 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; 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. § 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.

Tidal waters: All waters affected by tidal action during the highest annual tide.

Targeted Market Coverage area: The area which is targeted to be served by a proposed telecommunications facility.

Timber harvesting: The cutting and removal of timber for the primary purpose of selling or processing forest products. Timber harvesting does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 16 (P).

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

Tributary stream: Means a channel between defined banks created by the action of surface water, 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 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.

NOTE: Water setback requirements apply to tributary streams within the shoreland zone.

Unreasonably adverse impact: That the proposed project would produce an end result which is:

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

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

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

Vegetation: All live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4.5 feet above ground level.

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

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

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

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

Water crossing: Any project extending from one bank to the opposite bank of a river or stream, tributary stream or wetland whether under, through, or over the water 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.

Wetland: A freshwater or coastal wetland.

Wireless telecommunications facility: Any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (MR) , common carrier wireless exchange phone services, and personal communications service (PAS) or pager services.

Woody Vegetation: Live trees or woody, non-herbaceous shrubs.

CERTIFICATION OF ADOPTION

I hereby attest that this is a true copy of the Land Use Ordinance, as amended, of the Town of Lincolnville, Maine duly adopted at a Town Meeting held on June 9, 2026.

SELECT BOARD

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ATTESTATION BY TOWN CLERK:

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DAVID B KINNEY, TOWN CLERK
TOWN OF LINCOLNVILLE

AMENDED: 06-15-1999
AMENDED: 06-20-2000
AMENDED: 06-19-2001
AMENDED: 06-15-2002
AMENDED: 04-11-2005
AMENDED: 11-08-2005
AMENDED: 12-20-2007
AMENDED: 06-10-2008
AMENDED: 11-04-2008
AMENDED: 06-12-2010
AMENDED: 02-13-2012
AMENDED: 06-15-2013
AMENDED: 06-11-2015
AMENDED: 06-16-2016
AMENDED: 06-12-2018
AMENDED: 06-13-2019
AMENDED: 06-15-2023
AMENDED: 07-22-2024
AMENDED: 06-09-2026