# Town of Troy

# Commercial Development Review Ordinance

**Enacted: March 28, 2009**
**Annual Town Meeting**

# Town of Troy

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# Article 1: General Provisions

SECTION 1. TITLE

This Ordinance may be cited as the Town of Troy Commercial Development Review Ordinance and will be referred herein to as "this Ordinance."

SECTION 2. AUTHORITY

This Ordinance is adopted pursuant to home rule authority under the provisions of Title 30-A MRSA Section 3001-3006.

SECTION 3. EFFECTIVE DATE

This Ordinance takes effect upon enactment by the Town Meeting. The effective date is: March 28, 2009.

SECTION 4. RELATIONSHIP WITH OTHER ORDINANCES

Whenever a provision of this Ordinance conflicts with, or is inconsistent with, another provision of this Ordinance or any other ordinance, regulation or statute, the more restrictive provision shall control. Development reviewed under this ordinance may also be required to conform to other ordinances and regulations of the Town of Troy, such as but not limited to Residential Dwelling Unit Ordinance, Shoreland Zoning, Subdivisions and Floodplain Management.

The enactment of this Ordinance automatically repeals the "Town of Troy Telecommunications Towers, Antennas and Associated Facilities Ordinance."

SECTION 5. VALIDITY AND SEVERABILITY

Should any section or provision of this Ordinance be declared by a court to be invalid, such decision does not invalidate any other section or provision of this Ordinance.

SECTION 6. AMENDMENTS

Any amendment to this Ordinance must be adopted by a majority vote of a Town Meeting.

SECTION 7. AVAILABILITY

A certified copy of this Ordinance and any amendments shall be maintained by the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost to be charged to the person making the request.

# Article 2: Purpose

SECTION 1. PURPOSE

The purpose of this Ordinance is to accomplish the following:

A. To establish an orderly procedure for Planning Board review of development of land and buildings for non-residential use, including, but not limited to, industrial, office, community, service, municipal, institutional, utility, and recreational uses.

B. To establish a fair and reasonable set of standards for evaluating each development.

C. To address a wide range of environmental and public health issues associated with non-residential development including: noise, odors, storm water, erosion, water pollution, traffic, parking, light and glare, groundwater, historic resource protection, and the maintenance of agricultural land uses.

D. To mitigate the potential for development impact upon public services and infrastructure.

E. To protect the water quality of lakes, ponds, streams, brooks, and wetlands within the community.

F. To further the expressed purposes of the Troy Comprehensive Plan and generally protect the public health, safety, and general welfare of the Town of Troy.

# Article 3: Applicability

SECTION 1. REVIEW REQUIRED UNDER THIS ORDINANCE

A permit is required from the Town of Troy for new construction or development of specified non-residential uses or the proposed expansion of existing non-residential uses as provided below:

A. The construction or placement of any new building or structure for a nonresidential use, including accessory buildings and structures, if the building(s) exceed five thousand (5,000) square feet in gross floor area, or a structure exceeds thirty-five (35) feet in height.

B. The expansion of an existing nonresidential building or structure, including addition of accessory buildings and structures, where the area to be added exceeds five thousand (5,000) square feet in gross floor area or thirty-five (35) feet in height.

C. The conversion of an existing building, in whole or in part, from a residential use to a non-residential use, where the area to be converted exceeds five thousand (5,000) square feet.

D. The establishment or expansion of a non-residential use where the land area to be utilized exceeds ten thousand (10,000) square feet in area. This is intended to include, without limitation, such uses as golf courses and race tracks. This shall not apply to junkyards receiving an annual license from the Selectmen, or to the ordinary practice of agricultural or forest management.

E. The construction of a building to accommodate three (3) or more dwelling units, the conversion of an existing building or structure into three (3) or more dwelling units or the expansion of an existing multi-family dwelling into additional units. (Multi-family development reviewed under this Ordinance may be exempted from review under the town's subdivision review ordinance).

F. The conversion of an existing non-residential use to another non-residential use, if the converted area exceeds five thousand (5,000) square feet in gross floor area.

G. New or existing resource extraction operations which result in the excavation, movement or processing or more than 400 cubic yards of solid material or 80,000 gallons of liquid within any 1-year period. Permits for mineral extraction shall expire after five (5) years but may be renewed. Permits for water extraction shall expire after three (3) years but may be renewed.

H. Facilities for the storage of bulk fuel, chemicals or other flammable or hazardous substances that exceed 1,000 gallons.

SECTION 2. USES NOT REQUIRING REVIEW

The following uses and activities specifically do not require review under this Ordinance:

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

B. Home occupations as defined by this Ordinance.

C. Agriculture, timber harvesting, and forest management activities, including the direct sale of agricultural and forest products.

D. Single-family residential subdivisions reviewed under the Town's Subdivision Ordinance including roads or driveways covered by that Ordinance.

# Article 4: Administration and Enforcement

## SECTION 1. PLANNING BOARD

The Planning Board shall have the following powers and duties:

A. To administer this Ordinance.
B. To develop application forms and checklists.
C. To hear and decide upon applications according to this Ordinance in a timely manner.
D. To impose such conditions upon permits as it deems necessary to meet the requirements of this ordinance.
E. To provide the Code Enforcement Officer with a written decision of each application.
F. To recommend the adoption of amendments as appropriate.
G. To issue permits as authorized by this Ordinance.

## SECTION 2. CODE ENFORCEMENT OFFICER

The Code Enforcement Officer shall have the following powers and duties:

A. To enforce the provisions of this Ordinance.
B. To issue stop work orders and other appropriate notices of violation.
C. To assist the Planning Board with the review process.
D. To participate in site visits and application review as authorized by this Ordinance.

## SECTION 3. COMMERCIAL DEVELOPMENT REVIEW PERMITS

The Planning Board shall review and decide upon all applications according to the procedure laid out in Article 6 of this ordinance. The Planning Board shall prepare the permit approval, including any conditions, and issue the permit to the applicant. The Planning Board shall submit a written copy of its decision to the applicant and the Code Enforcement Officer.

The Planning Board shall determine whether the proposal meets the review criteria contained in Article 5 of this Ordinance. The Planning Board shall make a written finding of fact to support its decision and vote to approve the application, approve the application with conditions, or deny the application.

No work or other development shall be undertaken on any use or project that requires review until a permit has been issued.

## SECTION 4. PERMIT FEES

Permit and related fees shall be established by the Board of Selectmen. Fees shall be sufficient to pay for the direct costs of review but shall not be excessive. The application fee shall be proportional to the size and complexity of the development.

## SECTION 5. ADDITIONAL FEES

For large or complex applications, The Planning Board may, at its discretion, retain independent expert assistance to evaluate applications, supplement evidence presented by the applicant or interested parties, or assist in developing appropriate conditions of approval. A fee for this purpose

shall be assessed by the Planning Board and collected from the applicant. Monies shall be placed in an escrow account set up at the time the application is submitted. Any portion of the fee not expended shall be returned to the applicant upon completion of the application process. The failure of an applicant to adequately fund an escrow account for such purposes shall excuse the Planning Board from issuing a final decision until such payment is made in full.

## SECTION 6. PERMITS LIMITED

Permits shall be void eighteen (18) months from the date of Planning Board approval if no substantial start has occurred. Permits that have expired shall be required to undergo a new review as required by this Ordinance by submitting another application to the Planning Board.

A permit runs with the property and shall automatically transfer to subsequent owners of the property.

A permit for mineral extraction shall expire after five (5) years but may be renewed. A permit for water extraction shall expire after three (3) years but may be renewed. The renewal of a permit shall be subject to the same application process of Article 6 as a new permit.

## SECTION 7. BURDEN OF PROOF

The applicant shall have the burden of proof to show that the proposal meets the applicable review criteria and the standards contained in this Ordinance.

## SECTION 8. RIGHTS NOT VESTED

The submission of an application to the Town shall not be considered the initiation of the review process for the purposes of bringing the application under the protection of Title 1, MRSA, Section 302. The review process shall begin upon notification to the applicant that a complete application has been received.

## SECTION 9. SITE INSPECTION

The Code Enforcement Officer and/or the Planning Board may perform on-site inspections of the proposed project to obtain knowledge about the site and the surrounding area. Site inspections are considered public meetings and may be attended by interested parties.

## SECTION 10. WAIVERS

A. When one or more of the submission requirements or development standards of this Ordinance are clearly not applicable to the development due to its size, design, nature, location, or other unique features of the proposed land use, a waiver may be requested by the applicant.

B. The applicant shall submit information to support a written waiver request with the application.

C. The Planning Board may only consider a waiver submitted as a written request. Waiver requests for submission requirements shall be acted on prior to a determination that a complete application has been filed. If the Planning Board determines that the waiver request meets the criteria of subsection A, above, it will approve the request, and provide its decision, in writing, to the applicant. If the Planning Board finds that the waiver request does not meet the criteria, it shall deny the waiver and

require the applicant to revise the application, as necessary. No further action shall be taken on the application until the application has been suitably revised.

D. All waivers approved by the Planning Board shall be documented during the review process.

SECTION 11. APPEALS

A. The Board of Appeals is authorized to hear administrative appeals and variance appeals arising from this Ordinance.

B. 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, or failure to act by, the Code Enforcement Officer or Planning Board in the administration of this Ordinance.

C. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance. Variances may be permitted only under the following conditions:

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

2. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

3. The Board of Appeals shall not grant a variance unless it finds that the strict application of this Ordinance would result in undue hardship, as defined in 30-A MRSA, sec.4353.4.

4. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to variances as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

D. Appeal Procedure

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. Such appeal shall be taken within 30 days of the date of the decision appealed from, and not otherwise, except that the Board of Appeals, upon a showing of good cause, may waive the 30- day requirement.

2. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal, which includes:

   a. A concise written statement indicating what relief is requested and why it should be granted.
   b. A sketch, drawn to scale, showing lot lines, location and dimensions of existing buildings and structures and other physical features of the lot pertinent to appeal.

3. Upon being notified of an appeal, the Code Enforcement Officer or the Planning Board, as appropriate, shall transmit to the Board of Appeals any and all documents relating to the case.

4. The Board of Appeals shall hold a public hearing on the appeal within 45 days of its receipt of an appeal request.

E. Decision by the Board of Appeals

1. A majority of the Board of Appeals shall constitute a quorum for the purpose of deciding an appeal. A member who abstains or recuses him or herself from the appeal shall not be counted as a member for the purpose of the appeal.

2. The concurring vote of a majority of the voting members shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to affect any variation in the application of this Ordinance from its stated terms.

   The Board of Appeals may reverse an action of the Code Enforcement Officer or Planning Board only upon a finding that the action was clearly contrary to specific provisions of this Ordinance, or that the Code Enforcement Officer or Planning Board failed to act, contrary to their duty under this Ordinance.

3. The person filing the appeal shall have the burden of proof.

4. The Board of Appeals shall decide all appeals within 35 days after the close of the public hearing, and shall issue a written decision on all appeals.

5. All decisions shall become part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, and the appropriate order, relief or denial thereof.

6. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within 45 days from the date of any decision of the Board of Appeals.

7. The Board of Appeals may reconsider any decision within 30 days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

SECTION 12. ENFORCEMENT AND PENALTIES

A. The Code Enforcement Officer shall keep a record of all enforcement actions and shall institute or cause to be instituted in the name of the Town any actions that might be appropriate for the enforcement of this Ordinance, including the use of administrative consent agreements.

B. Except as provided below, any person, agent, or contractor who is responsible for a violation of this Ordinance, or the terms of a consent agreement pursuant to this ordinance, is liable subject to the penalties in Title 30-A, MRSA, Section 4452.

In a case where a violation consists of failure to obtain a permit prior to commencing construction, the consent agreement shall require a permit to be obtained and fee paid as well as assessing a fine of no less than double the original permit fee.

C. The Code Enforcement Officer may represent the Town in District Court pursuant to Rule 80k.

However, should the services of the Town Attorney be required in litigation in a higher court of law, the CEO shall first review the case with the Board of Selectpersons.

# Article 5: Review Criteria

SECTION 1. REVIEW CRITERIA

An applicant for a commercial development permit shall demonstrate that the proposed use or project meets the review criteria listed below. The Planning Board shall not approve an application unless it makes written findings that all of these criteria have been met.

1. The proposed activity will not cause or exacerbate unreasonable storm water runoff or erosion or a reduction in the land's capacity to absorb water so that an unsound or unhealthy condition results.

2. The proposed activity will not have an adverse impact on wetlands.

3. The proposed activity will not have an undue adverse impact upon the water quality of any water body, and, if located within the watershed of a great pond, will not unreasonably increase the pond's phosphorus concentration.

4. The proposed activity will provide for adequate sewage disposal.

5. The proposed activity will not unduly affect any floodplain areas and will conform to the applicable requirements of the Town of Troy Floodplain Management Ordinance.

6. The proposed activity has sufficient water available for the current and foreseeable needs of the development.

7. The proposed activity will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.

8. The proposed activity will dispose of all solid waste in conformance with all local regulations and that the type and quantity of waste proposed to be sent to Town facilities will not exceed their capacity.

9. The proposed activity will not have a significant adverse effect on the residents of the Town of Troy through the generation of waste, noise, light, fumes, smoke, dust, odors or their effects.

10. The proposed activity will not cause unreasonable congestion, deterioration, or unsafe conditions with respect to the use of highways or roads existing or proposed.

11. The proposed activity will not have an undue adverse affect on the scenic beauty and rural character of the area, aesthetics, historic resources, agricultural livelihoods, significant wildlife habitat, rare and irreplaceable natural areas, or any public rights for physical or visual access to the shoreline.

12. The proposed activity will conform to all the applicable requirements of the Town's Shoreland Zoning Ordinance and all other local ordinances.

13. The Town has the capacity to provide fire and rescue services to the development.

SECTION 2. CONDITIONS

Upon consideration of the review criteria, the Planning Board may attach such conditions to the permit that, in its opinion, are necessary to meet the criteria in Section 1. A condition may not be imposed to require or regulate any item not specifically addressed in this Ordinance.

A written finding of fact shall be created stating the rationale for the board's determination that suitable conditions can be imposed that will allow the proposal to meet the purposes of this Ordinance.

The conditions shall be listed in the permit and shall be made enforceable under this Ordinance.

# Article 6: Application Procedure

SECTION 1. PREAPPLICATION MEETING

A. Prior to the submission of a formal application, all prospective applicants shall meet with the planning board. The purpose of the meeting shall be to inform the prospective applicant of relevant ordinance provisions, to educate the planning board on the proposed development, and to determine whether the application will require additional information or a fee for independent technical assistance. The Planning Board shall take no official action upon the merits of the application, except that the Board may act on written requests for waiver of submission requirements, as provided in Article 4, Section 10.

B. No formal application is required for the pre-application meeting. However, the prospective applicant should be able to provide a sketch of the development site with existing and proposed improvements, together with a brief narrative on the purpose and scope of the development.

C. The Planning Board may schedule an on-site inspection at any time following the pre-application meeting. The on-site inspection shall be considered a public meeting. The prospective applicant shall provide sufficient information for Board members to be able to orient themselves on the site.

SECTION 2. APPLICATION PROCEDURE

A. The applicant shall submit the development review application to the Town Office along with the appropriate fees and written evidence that the applicant has provided notice of the filing of the application to abutting landowners.

B. The applicant shall, at least three (3) business days prior to a scheduled meeting of the Planning Board, submit to the Town Office eight (8) copies of the site review application. The Town Clerk shall distribute to the Planning Board copies of the application prior to the meeting. The applicant may provide reduced copies of maps and plans; however, at least one full size (typically 24"x 36" depending on readability) set of plans shall be submitted.

C. The Town of Troy shall issue a dated receipt to the applicant upon receipt of any fees.

D. Within 35 days of receipt of the application, the Planning Board shall make a determination whether the application is complete and notify the applicant of its determination. The Planning Board shall act upon any requests for waiver of submission requirements prior to making a final determination of completeness.

1. If the application is not complete the Planning Board shall notify the applicant of the specific materials needed to complete the application.

2. If the application is complete, the Planning Board will schedule review of the application for the next available meeting consistent with notice requirements, if applicable.

E. The Planning Board shall make a final decision upon the application within sixty (60) days of its determination that a completed application has been received, provided that the timetable for a decision may be extended upon mutual consent of the applicant and the Planning Board.

F. The Planning Board shall issue the permit within fifteen (15) days of the meeting at which a final decision was made. A copy of the approved permit shall be provided to the applicant and to the Code Enforcement Officer. Any conditions imposed upon the permit shall be listed.

SECTION 3. PUBLIC HEARING REQUIREMENTS

A. The Planning Board shall hold a public hearing on each application. The Planning Board may waive the requirement for a public hearing only if it finds that the project is unlikely to have any significant impact on public interests.

B. The public hearing shall be held within 35 days after the proposed application is deemed complete. This period may be extended for up to 30 additional days by mutual consent of the applicant and the Planning Board.

C. The notice of the date, time and place of the public hearing shall be made as follows:

1. Published at least once in a newspaper having general circulation within the Town. The date of the first publication shall be at least 7 days before the hearing.

2. Posted at the Town Office and at least one other public location within the town.

3. Mailed by first class mail to the applicant.

4. Mailed by certified, return receipt requested mail to all property abutters as determined from the current tax assessment roles, at least ten (10) days before the public hearing. The Planning Board shall maintain a list of all property abutters mailed a notice in the application file. Failure of an abutter to receive a notice shall not invalidate the public hearing, nor shall it require the Planning Board to schedule another hearing.

D. The Planning Board may vote to continue the public hearing to receive additional public comment or evidence concerning the application. The Board is not required to meet the notice requirements listed above for the continuation, except that notice shall be posted in the Town Office.

SECTION 4. SUBMISSION REQUIREMENTS

The following materials and information shall be included with each Application, unless a waiver is requested in accordance with Article 4, Section 10 of this Ordinance.

A. Application Cover Sheet (Form available at the Town Office).
B. Application fees.
C. Waiver Request Form, if applicable.
D. General information including the following:
   1. Name, address and telephone number of the landowner, applicant, and applicant's agent.
   2. Property location, including street address, map and lot number.
   3. Verification of the applicant's right, title or interest in the property. If interest is other than outright ownership, documentation evidencing lease, option, contract or otherwise establishing legal interest shall be submitted with the application.
   4. Schedule of construction including anticipated beginning and completion dates.
   5. A description of the project.
E. Location information including the following:
   1. A copy of the tax map showing the property and surrounding parcels to a distance of 500 feet

from property boundaries. The map or a separate attachment should list the names and addresses of all abutting landowners.

2. A copy of a medium intensity soil map showing the property.
3. A copy of the United States Geological Survey (USGS) Topographic map showing the property.
4. A copy of the Town Shoreland Zoning Map showing the property, or documentation from the CEO that it is not located in a Shoreland District.
5. A copy of the Flood Insurance Rate Map (FIRM) showing the property, if located in a designated floodplain.
6. A copy of the National Wetlands Inventory Map showing the property.

F. A map drawn to scale showing the location, boundaries, uses, and size of the following: existing and proposed developed site, type of structures, setbacks, parking areas, driveways and roads, drainage ways, easements and rights-of-way, watercourses, water bodies and wetlands, number of acres within the development, size of all impervious areas, all other significant natural and physical features and true and magnetic north. Note: The Planning Board may require the drawing be done by a licensed surveyor, a licensed engineer, or similar appropriately licensed professional, if the project requires creation of new property lines, construction of new buildings or structures, or improvements to public facilities.

G. The location and design of all proposed wastewater disposal systems.

H. Indication of the water source for the proposal including evidence that an adequate water supply is available to supply all the water needs of the proposal including fire suppression.

I. Evidence that all other local permits have been obtained including but not limited to: Shoreland Zoning and Floodplain Management.

J. An erosion control plan.

K. A storm water management plan.

L. A phosphorus control plan, if the property is located within the watershed of a great pond.

M. The location of any site or structure listed on the National Register of Historic Places or any archeological site identified by the State Historic Preservation Commission or any site or structure identified as historic in the Town of Troy Comprehensive Plan.

N. The location of any significant wildlife habitat or natural areas identified in the Troy Comprehensive Plan or maps produced by the Maine Department of Inland Fisheries and Wildlife.

O. Traffic data for the site including an estimate of the amount and type of vehicular traffic to be generated on a daily basis. A traffic impact study may be required by the Planning Board if the amount of traffic expected to be generated will exceed fifty (50) vehicle trips during the peak hour.

P. Any proposed areas or structures to be dedicated for public use.

Q. Scaled drawings showing the location and construction specifications for all proposed roads, culverts, curb cuts, driveways, parking areas and other traffic management features.

R. Listing and estimated quantities of flammable or hazardous material to be stored or handled on site and appropriate Material Safety Data Sheets (MSDS).

S. A plan for the disposal of all solid and liquid wastes or by-products generated by the development.

T. If the development is a Wind Energy Conversion System, a Decommissioning Plan and bonding proposal prepared according to Maine DEP guidelines shall be submitted.

The above-listed items are only those required for a determination of a complete application. The Planning Board retains the right to request additional information during the course of its review of the application.

# Article 7: Development Standards Generally

Article 7 contains standards generally applicable to all development subject to this Ordinance. Article 8 contains rules that apply only to specific types of development.

SECTION 1. AIR QUALITY

A. Any development approved under this Ordinance must show how it will minimize emissions of dust, ash, gas, smoke, or other particulate matter or odors likely to cause discomfort or damage to human or animal health, vegetation, or property, by reason of concentration or toxicity. Evidence that relevant state and federal regulatory requirements have been met shall be considered sufficient to meet this standard. This shall not be construed to regulate dust or odors generated by agricultural practices conducted using accepted Best Management Practices (BMP).

SECTION 2. ACCESS TO PUBLIC STREETS

These standards apply to all developments regardless of whether they access a local road or state highway. Compliance with this section shall not relieve the applicant of the need for permitting under State Access Management Regulations.

A. General Provisions.

1. The number of curb cuts shall be the minimum necessary to assure safe and proper access to the site, as determined by the Planning Board. As a general rule, no more than two, limited-width curb cuts onto any single road will be allowed. Where more than one road abuts the development site, the Planning Board may require the developer to access the site from the road with less potential for congestion and traffic hazard.

2. All streets which can be expected to carry traffic to and from the development shall have sufficient capacity or be suitably improved by the applicant to accommodate the amount and types of traffic anticipated to be generated by the development:

   a. Local roads(non-State Roads): No development shall generate traffic exceeding 1,000 Annual Average Daily Trips (AADT), as estimated using the most recent version of the Institute of Transportation Engineers (ITE), *Trip Generation Manual.*

   b. US Route 202, State Route 220, Rogers Road, Burnham Road: No development shall increase the volume of traffic so as to reduce the Level of Service below "C" or increase the volume to capacity ratio above .55, as determined by the Maine DOT.

3. Entry points and driveways shall be of a design and have sufficient capacity to avoid vehicles stopping or standing in the street when attempting to enter the development. Where necessary to ensure safety of drivers and pedestrians and to avoid congestion, the developer may be required to install turning lanes, traffic directional islands, signalization, or other traffic controls within the public street. All such installations shall conform to standards in the *Manual on Uniform Traffic Control Devices* published by the American Traffic Safety Services Association.

4. The Planning Board may require the developer to plan for or install direct access to

adjoining properties where it will serve to reduce demand for travel on public roads.

5. Visibility triangle: In order to provide adequate visibility at the street, all curb cuts shall be kept free from visual obstructions, including signs, within a triangular area defined by legs of 25 feet measured along the driveway and street lines.

B. Location and Design of Curb Cuts

1. Sight Distances:

a. Local Streets -- Curb cuts from development generating more than fifty (50) daily vehicle trips (AADT) shall be located to provide minimum sight distance of three hundred fifty (350) feet in both directions. Sight distance is measured from a point ten (10) feet back from the edge of the traveled way, with the height of the eye at 3.5 feet, to an object 4.5 feet above the street surface.

b. US Route 202, State Route 220, Rogers Road, Burnham Road – Curb cuts will demonstrate adequate sight distance in conformance with MDOT requirements.

2. Curb cuts shall be designed and constructed to a standard consistent with their estimated volume as follows:

*Low Volume*: AADT of fewer than 50 trips.
*Medium Volume*: Any access that is not a low volume or high volume.
*High Volume*: Peak hour volume of one hundred (100) or more trips.

a. Design Criteria:

The portion of a curb cut within the right-of-way of the street shall be paved if the existing roadway is paved.

High volume curb cuts shall intersect the road at an angle as nearly 90 degrees as possible; medium and low volume curb cuts shall intersect the road at a minimum of 75 degrees.

The radius of the outer edge of two-way curb cuts shall be at least 20 feet. The radius for one-way curb cuts or curb cuts with median islands shall be between five and 10 feet on the inside corner and at least 30 feet on the outside corner.

The width of a low volume curb cut shall be no more than 20 feet. The width of a medium or high volume curb cut may be between 20 and 26 feet. Where truck traffic is a major element, curb cut width may be increased to 30 feet.

From the edge of the traveled way, the curb cut should not exceed a grade of 2 percent for a minimum of 40 feet, or, where a traffic study has been done, for the full distance of the predicted queue of vehicles at the peak hour.

b. Median and Channelization Islands

Medians or channelization island(s) are required for high volume curb cuts and may also be required for medium volume curb cuts at the discretion of the Planning Board. Median islands shall be between 6 feet and 10 feet in width and shall create a throat

(entry lane) of adequate length based on the traffic study, but in no case less than 60 feet. All islands shall be curbed with sloped curbing, with proper signs installed to direct traffic.

c. Spacing Standards

No low or medium volume curb cut shall be located within one hundred (100) feet of any street intersection. No high volume curb cut shall be within two hundred fifty (250) feet of any intersection. Distance shall be measured from the edge of the curb cut to the edge of the intersecting street.

The minimum separation distance between two low volume curb cuts or a low- and a medium-volume curb cut is fifty (50) feet. The minimum separation distance between two medium volume curb cuts or a high- and a medium-volume curb cut is seventy-five (75) feet. The minimum separation distance between two high volume curb cuts is one hundred fifty (150) feet.

No curb cut shall be located within ten (10) feet of a property line.

SECTION 3. EROSION CONTROL

A. All soil disturbances must be conducted in a manner that avoids sediment leaving the property. Development must employ best management practices (BMPs) for erosion control unless the Planning Board finds that the nature of the site poses no significant risk of erosion. Erosion of soil and sedimentation of watercourses, including intermittent drainage swales, and water bodies shall be avoided by employing BMPs as established in "Maine Erosion & Sediment Control Handbook for Construction-Best Management Practices" Cumberland County SWCD & MDEP-March 1991.

B. Construction methods will be used which cause the least amount of disturbance with regard to tree removal, de-vegetation, and soil disturbance. In particular, strips of natural vegetation existing down slope of the construction site will be maintained as undisturbed buffer areas. Temporary erosion control measures shall be installed prior to the start of any development. The developer shall be responsible for the proper installation and operation of all erosion control measures. Permanent measures will be installed as appropriate upon completion of the development.

C. Exposed soils on slopes 10% or greater shall be initially stabilized (i.e., mulched, covered, or reseeded) within two working days of disturbance. All exposed soils on slopes less than 10% shall be stabilized within 15 days of disturbance.

D. All watercourses, water bodies and wetlands will be protected from sedimentation by the installation of silt fence barriers or other appropriate means. Such barriers shall be installed before digging, soil removal, stripping of vegetation, scarification, or soil disturbance of any kind occurs within 500 feet of the affected area or on slopes greater than 10%. The barriers shall be installed at all points immediately down slope of soil exposing activities.

E. Silt fencing is preferred as a primary means of erosion control during construction. Erosion control mix placed as a berm may be used in lieu of silt fencing as a sediment barrier, except on frozen ground; Hay bales may be used on frozen ground if properly secured or as a backup to silt fencing.

F. All erosion control measures must be inspected by the applicant and repaired every week, and before and after any significant rainfall events (0.5 inches or greater).

G. Ditches or swales with slopes from 0-3% must be vegetated, those at 3-5% require a geotextile mat and appropriate seeding, and those at 5% or greater require stone lining with an appropriate geotextile underlayment. All ditches not stabilized by vegetation before Oct. 15 shall be stone lined.

H. Areas within 500 feet of water bodies must receive final stabilization within 5 days of final grading. Other disturbed areas must have final stabilizing measures in place within 10 days of final grading.

I After September 15, or if construction activities are to be suspended for more than 30 days, additional stabilization measures must be installed which include seeding, and mulching (including securing of mulch), and water diversions necessary to minimize on-site drainage contribution to erosion.

J. The top of a cut or the bottom of a fill section shall not be closer than ten feet to an adjoining property, except in the case of material extraction operations as regulated by this Ordinance.

SECTION 4. HISTORIC AND ARCHEOLOGICAL RESOURCES

If any portion of the site has been identified, or is found to contain historic or archaeological resources, the development plan shall include appropriate measures for protecting these resources, including, but not limited to, modification of the proposed building and site layout and design. The Planning Board may require analysis and recommendations prepared by a professional archeologist as a part of the review process.

SECTION 5. MATERIALS STORAGE

A. All outdoor storage areas, including areas used for the storage or collection of solid waste, automobiles, auto parts, building materials, machinery, or other such items, shall have screening sufficient to minimize visual impact on roads and neighboring properties. Walls, fencing, dense plant material, or a combination of techniques can be used to achieve this intent. A dense evergreen planting six (6) feet or more in height at the time of installation shall be the preferred means of attaining this standard.

B. Where a potential safety hazard to children is recognized by the Planning Board, a physical barrier sufficient to deter young children from entering the area shall be provided and maintained in good condition.

C. No bulk storage of flammable or explosive liquids, solids, or gases shall be permitted unless storage facilities are located at least seventy-five (75) feet from any property line if above-ground, or forty (40) feet if underground. All materials shall be stored in compliance with requirements of the Maine Department of Public Safety and other appropriate Federal, State, and local regulations. Propane gas tanks with capacities less than two hundred (200) pounds and heating fuel tanks of 330 gallons or smaller are not considered bulk storage for the purpose of these standards except where four (4) or more are aggregated.

All above-ground facilities for the bulk storage of toxic, flammable, or explosive liquids shall be located on impervious surfaces within containment areas meeting the volume requirements of the Maine Department of Environmental Protection.

## SECTION 6. NATURAL RESOURCE PROTECTION

A. Natural Features

Site development shall minimize, insofar as possible, disturbance of natural features. This shall be done by designating on the site plan the limits on development-related clearing. Outside of the limits, there shall be no tree removal, water channelization, soil disturbance, or grading and filling.

B. Habitat Protection

1. If any portion of the parcel has been identified as a critical natural area by the Department of Inland Fisheries and Wildlife or the Town of Troy, or as containing threatened or endangered species of plants or animals, the subject areas shall be located outside of the clearing limits. The Planning Board may require a mitigation or management plan to be reviewed by the Maine Department of Inland Fisheries and Wildlife (IFW) or the Natural Areas Program of the Department of Conservation, as appropriate.

2. If any portion of the area to be developed includes areas mapped by the Maine IFW as Deer Wintering Areas, the developer shall consult with the Maine IFW on means to limit the impact of the development on the habitat, and incorporate any recommendations into the development plan insofar as practicable.

3. If any portion of the area to be developed includes wetlands or vernal pools, as determined by the Town of Troy, the Maine DEP, or a certified soil scientist, the developer shall avoid such areas to the greatest extent practicable and minimize or mitigate impacts on the area both during and after construction.

C. Groundwater Protection

1. Any development which will generate a demand of 5,000 gallons per day or greater out of groundwater supplies shall not affect groundwater availability beyond the boundaries of the property. Additional standards in Article 8 Section 3, *Large Scale Pumping or Extraction of Groundwater, Spring Water and/or Water from Aquifers* may apply.

2. No activity involving the production, use, or storage of hazardous or toxic chemicals or petroleum products shall be conducted except in accordance with a Spill Prevention and Management Plan developed at the time of application and approved by the Planning Board and Fire Chief.

D. Protection of Agricultural Soils

In order to preserve the potential for agricultural use of prime soils, no development shall occur on any portion of a site exhibiting Bangor soil type, or Dixmont soil type with a slope of less than eight (8) percent.

## SECTION 7. NOISE

A. Noise shall be estimated based on a meter set on the A-weighted response scale, slow response. The meter shall meet the American National Standards Institute (ANSI S1.4-1961) "Specification for General Purpose Sound Level Meters". Sound levels shall be estimated at least 4 feet above ground at the property boundary.

B. Noise generated by the development shall not exceed forty-five (45) dBA, when measured at any existing residential structure.

C. Noise generated by the development shall not exceed fifty-five (55) dBA at the property line of a residential use.

D. On sites abutting a residential use, development construction shall be staged so that exterior activities are not conducted between the hours of 9 p.m. and 7 a.m.

SECTION 8. OUTDOOR LIGHTING

A development may employ outdoor lighting which serves security, safety, and operational needs to the extent that it does not impair the vision of motorists, infringe on the enjoyment of neighboring properties, or contribute unnecessarily to light pollution.

Lighting fixtures shall be shielded or hooded so that the lighting elements are not in view of motorists, pedestrians, or from adjacent dwellings. Under no circumstances will fixtures be located or directed so as to create a nuisance to abutting residential properties or add to area light pollution.

Overall light intensity will not exceed one (1) foot-candle at the property line.

SECTION 9. PARKING

A. General

No new or expanded development shall be permitted unless adequate off street parking is provided in accordance with the following provisions.

B. Parking Lot Design Criteria

1. Location

All parking spaces and aisles shall be at least twenty-five (25) feet from any side or rear lot line. Aisles and parking spaces shall not be located within the right-of-way of the public road.

2. Access to Parking

a. Access to parking lots should be designed to allow continuous and uninterrupted traffic movement on the public road, through the provision of adequate throat length or other measures.

b. No parking spaces shall be directly accessible from the public road, nor shall motorists be required to use the public road to enter or exit a space. All spaces shall be accessible from an aisle without the necessity of moving other vehicles.

c. Any layout that utilizes vehicular access service ("drive-up") windows shall provide a minimum of fifty (50) feet of queuing space on the incoming side of the first stopping point. The required queuing space shall be designed so that it shall not interfere with parking and circulation on the remainder of the site.

3. Dimensions of Parking Stalls and Aisles

a. Parking stalls shall be a minimum of ten (10) feet in width by eighteen (18) feet in length. Stalls designated for handicapped use shall be a minimum of twelve (12) feet in width by eighteen (18) feet in length and marked appropriately. Stalls may be angled, provided aisles are designated one-way, and each stall contains the minimum rectangular dimensions. Stalls for parallel parking shall be no less than nine (9) feet in width by twenty-two (22) feet in length.

b. Two-way aisles shall be a minimum of twenty-two (22) feet in width. One-way aisles shall be a minimum of eighteen (18) feet in width.

c. Oversized parking spaces may be designated in areas that ordinarily serve such vehicles as recreational vehicles, travel trailers, delivery trucks or tractor-trailer trucks.

C. Standards for Number of Parking Spaces

1. Basic Requirements for Parking Space

The developer shall provide adequate off-street parking. The table below shall be interpreted as a guide, subject to adjustments in Subsection 2, following. For uses not listed, the Planning Board shall determine the requirement, based on the most similar use listed.

Any portion of a building or lot with a use that is distinct from a principal use identified on the table below shall be considered as a separate use for the purpose of calculating spaces if the use exceeds in area or seating capacity 25 percent of the overall extent of the development.

| # of Spaces | Land Use Activity |
|---|---|
| ***Places of Residence or Accommodation*** -- spaces per occupancy | |
| 1/3 | Dedicated Retirement Home, Nursing Care Facility |
| 1 | Overnight accommodations |
| 1 1/2 | Multifamily buildings |
| ***Places of Public Assembly*** -- spaces per seat based on maximum seating capacity | |
| 1/4 | Theater, with fixed seating |
| 1/3 | Church, Restaurant, Convention Center, Meeting Hall, Grange, Bottle Club |
| 1/4 | Stadiums, Arenas, Racetracks, other spectator sport venues |
| ***Places of Commerce and Industry*** -- spaces per 1,000 sq.ft. of gross floor area. | |
| 1 | Warehousing, Inside sales of motor vehicles |
| 1 1/2 | Industrial and Manufacturing Facilities, wholesaling |

| | |
|---|---|
| 3 | Grocery Stores over 5,000 sq.ft., offices, professional, and personal services, except as noted. |
| 4 | Retail Sales except as noted |
| 5 | Banks, Medical and Dental Offices, Fitness Clubs, Child Care |
| ***Public and Institutional Facilities*** -- spaces per 1,000 sq.ft. of gross floor area | |
| 2 | Elementary Schools |
| 4 | Secondary School, College, Community Center, Municipal Office, Hospital. |
| ***Miscellaneous*** -- criteria as specified | |
| 1 per 1,000 sf | Indoor Sports Facility (Tennis, Fitness, etc.) -- no spectators |
| 30 per acre | Mini-golf, Go-Carts, moto-cross, other Outdoor Amusements |
| 5 per lane | Bowling Alley |
| 3 per service bay + 1 per 10 vehicles displayed for sale | Motor Vehicle Sales and Service |

2. Flexibility in Standards:

   a. The Planning Board is permitted to modify these standards as minimum requirements, by up to 10 percent, based upon evidence that similar uses under similar circumstances generate greater or less demand.

   b. The Planning Board may waive the requirement for installation of a portion of required spaces provided that adequate provision is made for the development of these spaces as needed in the future, specified by conditions of the permit. Such conditions may require permanent set-aside of adequate area, and provision of construction plans along with specified conditions under which the installation will be triggered.

3. The provision of spaces for vehicles used in the ordinary conduct of the business, such as construction vehicles, tractor-trailers, and vehicles displayed for sale, shall not be included in the above calculations.

4. Impact on Physical and Environmental Resources. Parking lots shall not contain an area more than 25 percent greater than the minimum set by these standards.

   The Planning Board may require use of pervious or semi-pervious materials as an alternative to conventional pavement in order to reduce quantity or improve quality of storm water runoff.

5. Mixed Uses: If a mixed use consists of any residential use combined with any commercial use, the Planning Board may waive or modify space requirements for the residential use unless the residential consists of more than 67 percent of the total floor space.

6. Loading bays shall be provided as necessary. Loading bays shall be a minimum dimension of twelve (12) feet by fifty-five (55) feet and be designed and delineated so as not to interfere with traffic flow or other parking spaces.

7. Handicapped Spaces: Within each development, at least one space, plus one additional space for every twenty-five (25) required, shall be designated as available for handicapped persons.

SECTION 10. SCREENING OF STRUCTURES, PARKING LOTS, AND OTHER COMMERCIAL ACTIVITIES

A. Buffering from the Street: Any parking lot that is located within forty (40) feet of a public street shall be screened as follows:

1. A minimum buffer width of fifteen (15) feet is required if the width consists of undisturbed natural woodland or a landscaped mixture of deciduous and evergreen vegetation a minimum of two (2) feet in height, selected for adaptability to roadside conditions, and continuously maintained.

2. A minimum buffer width of ten (10) feet is required, if the buffer area consists of a combination of landscape elements, including a berm or wall to a height of at least two (2) feet or a decorative-style fence together with a landscaped mixture of trees and shrubs.

B. In cases where a parking lot exceeds one hundred fifty (150) spaces, additional landscaping shall be placed within the lot, sufficient to divide the lot into two (2) or more smaller units of no more than 100 spaces each. Landscaped islands shall consist of fifteen (15) feet planted width, except that a pedestrian walkway may be placed within the area, provided that it occupies no more than one-half the width.

C. Screening of Adjacent Properties

Screening shall be required wherever a proposed commercial use abuts a residential development or pre-existing home, and in other instances where the Planning Board determines uses may be incompatible.

1. Screening shall consist of a natural (preferred) or artificial visual buffer sufficient to ensure continuous year-round screening. Screening shall be sufficient to minimize the impacts of large buildings, vehicle movements, outdoor storage areas, glare, and related commercial activity. Areas shall be maintained and vegetation replaced as necessary. The following is intended as a guide:

   a. A fifty (50) foot minimum will be required if the buffer will consist of undisturbed, natural woodland, provided that the Planning Board may require supplemental plantings to achieve an effective visual screen.

   b. If natural vegetation has been removed or is unsuitable, the developer may substitute a double row of spruce, hemlock, or other shade-tolerant evergreen species, a minimum of three (3) feet tall at time of planting and spaced no further than twelve (12) feet apart.

   c. Where no vegetation can be maintained, or due to unusual site conditions, the Planning Board may approve a screen consisting of fences, walls, berms, or combinations thereof.

SECTION 11. SIGNS

A. Purpose

The purpose of this section is to allow advertising and informational signs that will not, by their nature and location, endanger the safety of individuals, or confuse, mislead, or obstruct the vision necessary for traffic safety, or otherwise endanger the public health, safety, and welfare.

B. Illuminated Signs

Signs may be illuminated internally or externally by lights that are shielded or directed so that the light source is not a nuisance to traffic or neighboring properties or contribute to overall light pollution. Neon-style lighting is prohibited. Lighting shall be constant in color, location, and brightness. Signs shall not give off or reflect light at intensity greater than fifty (50) foot candles as measured one hundred (100) feet from the sign.

D. Sign Area and Placement

No more than two signs, building-mounted or free-standing, which in combination are not more than fifty (50) square feet in size, shall be permitted per premise. Parking and directional signage shall not count in this computation. The height of any sign shall not exceed twenty (20) feet from the elevation of the road adjacent to the sign.

A sign may be placed within the front setback area but may not protrude beyond the property line. All signs must be mounted on buildings or secured to the ground in such a manner as to prevent them being dislodged by strong winds. Signs in the vicinity of an curb cut shall be placed so as not to obstruct driver vision.

Any free-standing sign which advertises a business conducted, product sold, or activity no longer in existence, or which, through lack of maintenance or other reason, becomes a hazard shall be removed by the owner, agent, or person responsible for the lot upon on which the sign is located. If said sign is not removed within ninety (90) days, the Town of Troy may have the sign removed. The cost of removal shall become a lien against the property.

SECTION 12. STORM WATER MANAGEMENT

A. All new construction and development shall be designed to reflect or resemble, as nearly as possible, natural runoff conditions in terms of volume, velocity, and location of runoff. All systems shall be designed so as to have no significant adverse effect on neighboring properties, downstream water quality, soil stability, or the public drainage system. Where possible, existing natural features, such as berms, swales, terraces, and wooded areas shall be retained in order to control runoff and encourage infiltration of storm water.

B. Storm water drainage systems shall be designed to minimize the volume and rate of outflow from the development, including engineered measures and off-site improvements such that the downstream system can accommodate any additional runoff. The storm water management system shall be designed to accommodate the peak discharge of two (2) year, ten (10) year, and twenty-five (25) year frequency, twenty-four (24) hour duration storms.

1. Storm water practices shall be as described in *Maine Storm Water Best Management Practices Manual*, Maine DEP, 2005 or most recent edition.

2. A storm water control plan prepared according to the requirements of DEP Regulation chapter 500, "Storm Water Management" and Chapter 502 "Direct Watersheds of Water bodies most at Risk from New Development" shall be deemed suitable to meet these standards.

C. Storm water collection systems shall include runoff from roof drains and camp roads to encourage infiltration and minimize phosphorus loading.

D. Storm water systems shall be maintained as necessary to ensure proper functioning.

SECTION 13. WASTES

A. The development shall provide for the disposal of all solid and liquid wastes and byproducts on a timely basis and in an environmentally safe manner. The development will not produce wastes that exceed the Town's solid waste disposal capability, in either volume or type of waste. Any toxic, hazardous, or special waste must be disposed of in compliance with state and federal regulation and in a manner approved by the Planning Board.

B. The waste management plan submitted with the application shall specify the amount and exact nature of all industrial or chemical wastes to be generated, and how such wastes will be discharged in such quantities and/or quality as to be able to be accepted into the disposal system or shipped to an approved facility off site. All such plans shall be in conformance with applicable State and Federal regulations.

SECTION 14. WATER QUALITY

A. General Standard

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quality, toxicity, or temperature that run into or mix with surface or ground waters so as to contaminate, pollute, or degrade such waters with objectionable shore deposits, floating or submerged debris, oil, scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life.

B. Impact on Groundwater.

1. The Planning Board may require an assessment of the impact of a development on groundwater quality and quantity based on the proposed size or nature of the development. This assessment shall contain at least the following information.

   a. A map showing the basic soils types, and the location of any subsurface wastewater disposal systems and drinking water wells within the development and within three hundred (300) feet of the development boundaries.

   b. Depth to the water table at representative points throughout the development.

   c. Data on the existing groundwater quantity and quality, either from test wells or from existing wells on neighboring properties.

d. An evaluation of the effect of the development on groundwater. This evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within one thousand (1,000) feet from potential contamination sources as well as concentrations of any other liquids or chemicals proposed to be placed into or onto the ground.

2. The assessment shall demonstrate that the development will comply with the following standards:

a. No development shall increase any contaminant concentration in the groundwater to more than one half (½) of the Primary Drinking Water Standards, nor to an amount to exceed the Secondary Drinking Water Standards as established by the Maine Dept. of Health and Human Services at the time of the permit issuance.

b. If existing groundwater contains contaminants in excess of the primary standards, the applicant shall demonstrate no significant further deterioration. If groundwater contains contaminants in excess of the secondary standards, the development shall not cause the concentration of contaminants to exceed one hundred fifty (150) percent of the pre-existing concentration.

c. Groundwater withdrawals or alteration of surface recharge characteristics by a proposed development shall not lower the water table beyond the boundaries of the development. No proposed development shall result in a lowering of the water table at the development boundary.

3. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If any measures to reduce groundwater contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the Plan.

C. Impact on Lake Water Quality

Any new or expanded development within the watershed of a "great pond" (see Article 9: Definitions) shall be designed to limit the post-development phosphorus export consistent with methodologies set forth in the Maine DEP manual: Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, revised May 1992 or most recent edition.

## SECTION 15. AVOIDANCE AND MITIGATION OF DAMAGES TO PUBLIC ROADS AND DRAINAGE SYSTEMS

A. The application shall identify all local streets to be used for the purpose of transporting parts, concrete, and/or equipment for construction, operation or maintenance of the development and applicable weight and size permits as obtained from the Board of Selectmen prior to construction.

B. If, in the opinion of the Planning Board, there is potential for significant impact on the public road system, a pre-construction survey, conducted jointly with the developer, road commissioner, and Board of Selectmen shall be conducted to determine existing road and drainage system conditions. The survey shall include photographs and a written agreement to document the condition of the road.

C. Developer will be responsible for restoration or repair of damage to roads, bridges, and public drainage systems stemming from construction, operation or maintenance of the development. Such repairs must be completed within the time frame directed by the Code Enforcement Officer. Such repairs must be completed in a manner satisfactory to the road commissioner and Board of Selectmen.

SECTION 16. ELECTROMAGNETIC INTERFERENCE

The applicant shall mitigate, to the extent deemed reasonable by the Planning Board, any interference with electromagnetic communications, such as radio, telephone or television signals caused by any commercial activity.

# Article 8: Development Standards for Specific Activities

## SECTION 1. ADULT BUSINESSES

The purpose of this section is to permit the establishment of adult businesses, as defined, in such manner and location as will protect the general welfare and preserve the community standard.

A. Physical Separation: Adult businesses shall not be located within 2,000 feet of existing residences, nor within 2,000 feet of an existing educational or religious use, or child care center; and shall be separated from one another by a distance of at least 1,000 feet.

B. Signs: In addition to the provisions of Section 7.11 of this Ordinance, signs for adult business shall not depict the human figure or human sexual organs in any unclothed or suggestive manner. No sexually explicit message, materials, or activity shall be visible outside the building.

## SECTION 2. GRAVEL, TOPSOIL, AND OTHER RESOURCE EXTRACTION OPERATIONS

A. Special Permit Requirements

Initial applications for a resource extraction permit shall contain all of the submission requirements of Section 6.3 of this ordinance, plus those required by this section. Renewal permits may contain only the following elements, unless the Planning Board requires additional information:

1. A site plan including the following features:
   a. Topography indicating not greater than ten (10) foot contour intervals, based on United States Geological Survey (USGS) data.
   b. The location and slope of previously-worked and proposed extraction areas
   c. Proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits.
   d. Location and operating features of crushing or processing equipment.

2. A written statement of the proposed operating procedure and working hours.

3. A five-year plan, showing new areas to be mined, and old areas to be reclaimed, together with estimates of volumes to be extracted and detailed plans for reclamation of completed excavation.

4. The Planning Board may require a hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality in the vicinity;

B. Development Standards

1. No part of any extraction operation shall be permitted within fifty (50) feet of any property or street line, except
   a. roads and drainage ways may be allowed provided suitable erosion control measures are in place. Natural vegetation shall be left and maintained on the undisturbed land.
   b. if the adjoining property is also used for extraction operations, the cuts may be blended.

2. No slopes steeper than 2 feet horizontal to 1 foot vertical (2:1) shall be permitted at any

extraction site unless a fence at least six (6) feet in height is erected to limit access to such locations.

3. The sides and bottom of cuts, fills, channels, and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to accepted Best Management Practices.

4. Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The developer shall obtain written approval from the Maine Department of Environmental Protection, and/or the Department of Inland Fisheries and Wildlife, as applicable.

5. The Planning Board may require hours of operation at an extraction site to be limited, if necessary to ensure compatibility with neighboring residences.

6. All driveways from the extraction site shall be treated with suitable materials to reduce dust and mud for at least 100 feet from the point at which they join a public road.

7. All driveways into the site shall be gated, barred, or otherwise blocked to discourage access by unauthorized vehicles, including ATV's, during non-working hours.

8. The five-year plan shall demonstrate that within twelve (12) months following the completion of extraction operations at a site, ground levels and grades shall be established so that the restored drainage exits the site resembling pre-development volumes and locations. "Completion" means when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period. Debris, stumps, boulders, and similar materials shall be removed and disposed of on the property in a location indicated on the site plan or, in the case of inorganic material, buried and covered with a minimum of two (2) feet of soil. Only materials generated on-site may be buried or covered.

Final slopes shall not exceed two feet horizontal to one vertical (2:1). All areas shall be properly restored to a stable condition adequate to meet the provisions of the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District, 1991, or most recent edition. Any temporary shelters or structures erected for operations and equipment shall be removed within thirty (30) days following completion of extraction operations.

C. Existing Operations and Discontinued Operations

1. Any extraction process in lawful operation as of the effective date of this Ordinance must comply with the provisions herein within five (5) years.

2. Within ninety (90) days of the enactment of this Ordinance, the Code Enforcement Officer shall notify, by certified mail, return receipt requested, the owners of all property which, to the best of his or her knowledge, contain existing operations, informing them of the requirements of this Section.

3. Cessation of any existing, permitted operation for a period of more than two (2) years shall terminate existing permits. Cessation is defined as removal of less than 400 cubic yards per year. Resumption of operations shall not occur until a renewal permit has been obtained.

4. Permits are issued based on information from the applicant regarding the extent of the

excavation. If the extent of the extraction operation exceeds representations made at the time of application, the permit shall automatically be suspended until a renewal permit has been applied for and issued.

## SECTION 3. GROUNDWATER EXTRACTION

### A. Purpose

The purposes of this section is: to protect the quality and quantity of groundwater, spring water and/or water in aquifers and their recharge areas located wholly or partially within the Town of Troy; to insure that any large-scale water extraction is subjected to prior review and approval; to establish the ongoing sustainability and quality of said water supplies; to avoid any interruption or degradation of water quality and quantity; and generally to protect the health, safety, and welfare of persons dependent upon groundwater in the Town of Troy.

### B. Large-Scale Water Extraction

#### 1. Permit Inapplicability

No permit is required for the extraction of water which is to be used for traditional agricultural purposes; domestic water supply to individual private residences; or fire suppression.

#### 2. Permit Required

Any existing or proposed extraction of more than 80,000 gallons of ground water in any one year by any person, regardless of the number of extraction facilities utilized, shall require a written permit issued by the Planning Board.

#### 3. Application Requirements

a. The application for a permit shall be in writing and be accompanied by site plans prepared by a licensed surveyor or engineer.

b. The application shall include, in addition to the submission requirements specified in section 6.3 of this Ordinance:

(1) A statement of the total maximum daily quantity of water to be extracted, from all extraction points operated by the applicant.
(2) The location(s) of the points of extraction.
(3) The method(s) of extraction.
(4) The proposed use for which the water is to be extracted, including processors or bottlers whose facilities (for use, processing, transporting, storage, bottling, sales or other activities) are located outside the Town of Troy.
(5) A copy of any application, exhibits, and reports for such extraction filed or to be filed with any other municipality or the State of Maine, as required by 22 MRSA 2660 et seq. (transport of water for commercial purposes,) or under applicable Maine Department of Health and Human Services rules.
(6) A copy of any permit, approval, or denial for such extraction as may have been issued by any agency referred to in (5) above.
(7) A written report of a hydrogeologic investigation and study, conducted and prepared by a licensed professional hydro-geologist, geologist, hydrologist,

registered professional engineer or other appropriately-licensed professional. The report must address at least the following:

(a) The rates of draw down and recharge of any aquifer or other ground water source in accordance with accepted standards within the geology and engineering professions.

(b) The characteristics of the aquifer or other ground water source, including sustainable extraction rates, aquifer boundaries, recharge areas, impacts on the water table, and relationships to other water bodies, including lakes, ponds, streams, wetland areas, private wells, or other existing extraction locations within the zone of contribution.

(c) Possible effects on the ground water resource which might result in the disturbance of existing minerals such as, but not limited to, iron, manganese, arsenic, and uranium, and any health hazards raised by such disturbance(s) or other impacts including issues such as drinking water turbidity, clarity, and aroma.

(8) A large-scale site plan depicting at least the following:

(a) The boundary lines of the parcel or parcels to be utilized.

(b) The location of all water bodies located within 1,000 feet of the extraction.

(c) The location of existing wells or developed springs within 1,000 feet of the proposed extraction site.

(d) The location(s) of the proposed extraction points.

(e) The existing networks of public or private roads leading to or from the extraction points(s).

(f) Any proposed new roads or driveways to be constructed for access to and egress from the extraction point(s), and the point(s) of intersection of such proposed roads or driveways with existing roads.

(g) Any existing or proposed utility lines to be utilized in the extraction operation(s).

(h) The location and type of monitoring and test wells.

(i) Any means (such as, but not limited to, pipes, pipelines, and aqueducts) that is intended to transport extracted water from the extraction point(s) to the intended end user.

(j) Any other relevant details bearing on the proposed extraction process, the omission of which would tend to hinder the ability of the Planning Board, affected land owners, or the public, from developing a full understanding of the scope and impact of the proposal.

c. The application shall be accompanied by written notification of the application to the owners of record of all parcels of land lying within 1,000 feet of the outside perimeter of the property on which the extraction operation will be located, together with an explanation of the intent, scope and location of the proposed extraction to be addressed and mailed via certified mail, return receipt requested.

For purposes of these notification requirements an applicant is entitled to rely on the information on file at the Troy Town Office as represented by its most recent asessors' maps and the mailing addresses maintained by the Town as to the owners of the affected parcels shown thereon. Actual posting of the certified mail notices is not required until the application is declared or deemed to be complete.

4. Performance Standards

No approval shall be granted any application until and unless the Planning Board finds that each of the following performance standards has been or will be met. The applicant bears the burden of establishing and demonstrating compliance with these standards. Applicant must also demonstrate to the Planning Board that it possesses the expertise and financial resources to provide continuing adherence to these standards.

a. Geologic and Hydrologic Standards

(1) The quantity of water to be extracted will not cause undesirable changes in ground water flow patterns within the Town.

(2) The quantity of water to be extracted will not negatively impact, diminish or alter any surface waters within the Town, including during any periods of drought or near-drought.

(3) The quantity of water to be extracted will not cause any ground water subsidence beyond the property lines of property being utilized.

(4) The quantity of water to be extracted will not adversely affect the long-term sustainability of the groundwater source, including during periods of drought or near-drought.

(5) The proposed extraction will not create a health risk or issues such as drinking water turbidity, clarity, or aroma resulting from the disturbance of existing minerals, or from any other cause.

(6) The establishment of an ongoing follow up monitoring system and development of a system of recording and documenting extraction and recharge data, within the zone of contribution, to be reported in writing to the Town of Troy. At least 25% of monitoring locations shall be at private wells located within the zone of contribution.

b. Impacts on the General Vicinity

(1) The applicant assumes any and all liability for the loss, interruption, degradation or interference with the preexisting beneficial domestic use of groundwater by a land owner or lawful land occupant, or other public or private water supply, caused by applicant's withdrawal or extraction of water.

For purposes of this section "beneficial domestic use", "groundwater", and "preexisting use" shall be as defined by Title 38 MRSA Section 404, Subsections 1 A-C.

For purposes of this section, liability of applicant shall be for compensatory as well as punitive damages and shall include, but not be limited, to the following:

(a) All costs necessary to restore the landowner and/or lawful land occupant to the pre-development status, including quantity and quality of ground water, made available on a similarly-accessible and economic basis;
(b) All costs incurred by landowner and/or lawful land occupant due to loss of habitability of residence;
(c) All litigation costs, including expert witness and attorney fees.

(2) To the extent the extraction facility(ies) will be served by any method to transport water (such as, but not limited to, pipes, pipelines, and aqueducts) from the extraction point(s), such installations will be sited and constructed in a

manner which will not interrupt the public's use of any existing roadway, public facility, or great pond, and will not pose the risk of damage to any property along or through which such installation traverses.

c. Extraction for Commercial Purposes and/or Bulk Water Transport Out of Troy

The Planning Board shall receive a copy of any application filed with any state agency under the provisions of 22 MRSA 2660-A, or of the Bulk Water Transport Rules of the Maine Department of Health and Human Services, contemporaneous with its filing with the State, as well as a copy of any decision pertaining thereto.

SECTION 4. TELECOMMUNICATIONS FACILITIES

A. Application Requirements

In addition to the submission requirements of Article 6, section 3 of this Ordinance, the following materials must be submitted with each application for a telecommunications facility:

1) A description and construction detail of the facility, including: tower dimensions; structural supports, if any; lighting; color; and equipment located on the structure. Also, identify and describe any accessory structures that will be built in connection with the facility.

2) A visual impact analysis prepared by a landscape architect or other qualified professional that quantifies the amount of visual impact on properties located within 500 feet, within 2,500 feet and within 2 miles of the proposed telecommunication structure. This analysis will include recommendations to mitigate adverse visual impacts on such properties.

3) An analysis prepared by a professional engineer with experience in communications technology that describes why this site and structure is necessary to the operation of the system. The analysis shall address, at a minimum;
   a) existing and proposed service area maps;
   b) how this structure is integrated with network operations, particularly other structures in Troy and surrounding communities;
   c) future expansion needs in the area;
   d) other sites evaluated for location of this structure and how such sites compare to the proposed site;
   e) alternative signal distribution modes or technologies, if any, which could be used to deliver similar services;
   f) whether proposed equipment can be co-located (shared use) on an existing structure; and
   g) an estimate of the projected life cycle of this structure and location.

4) Certification by a structural engineer that construction of the structure will satisfy all Federal and State code requirements including the ability to support the maximum permitted co-location at the site (as approved by the Planning Board) per the height limits of this ordinance.

5) Evidence that a contract with an established service provider is in place.

B. Performance Standards

In addition to meeting the general performance standards in Article 7 of this Ordinance all proposed telecommunications facilities must meet the following standards:

1) Height

Telecommunications facilities shall not exceed a height of 100 feet unless designed for co-location. When evidence is provided to the Planning Board of structural or design elements of the facility to support co-location, or of signed agreements with multiple service providers, the Board may permit an additional 25 feet of height for each additional user. No telecommunications facility shall exceed a height of 195 feet.

2) Safety Zone

a) All free-standing towers shall be located a minimum of 100 feet, but no less than 1 ¼ (1.25) times the height of the tower from streets, homes, property lines, or existing utility lines. The calculation shall be based on the actual design height specified in the permit application.

b) Alternative tower structures shall be separated a minimum distance equal to the height of the structure from streets, lot lines, and existing utility lines, except where the existence of the structure predates the effective date of this ordinance.

3) Visual and Environmental Impact

a) Facilities shall be designed, constructed, and finished so as to minimize visual impact. Towers, buildings and related structures shall, to the extent possible, use materials, colors, textures, and landscaping that will blend the tower facilities to the natural setting and built environment.

b) The Planning Board may require planting or preservation of vegetation within the required safety zone to enhance the quality and effectiveness of the visual screen. The size and quantity of plantings shall be subject to Planning Board approval.

c) Towers shall not be artificially lighted, unless required by the FAA or other Federal or State authority. If lighting is required, the Planning Board may review the available lighting alternatives and choose the design that would cause the least disturbance to the surrounding properties and minimize overall light pollution.

d) The base of a telecommunications tower may not be located in a wetland, floodplain, or vernal pool.

e) Development of the site will not allow soil or sediment to enter waterbodies, wetlands, or adjacent properties. The procedures outlined in the erosion and sedimentation control plan shall be implemented during site preparation, construction, and clean-up stages.

4) Evaluation of Alternative Towers, Sites & Structures

Applicants shall identify all existing and proposed facilities providing similar services located in the town and within one mile of the town boundaries. The evaluation must demonstrate a lack of coverage, antenna space, or co-location rights on existing towers, and shall identify sites and technologies which have been investigated as an alternative to constructing the proposed tower. The evaluation must demonstrate that adequate communication service cannot be provided utilizing existing towers or structures.

5) Co-Location

a) The applicant shall either design for or prohibit co-location of additional wireless service carriers. If the applicant is requesting additional height for co-location, he must show adequate design for co-location.

b) At the time of review, the Planning Board may direct the applicant to plan for the provision of space at no charge to any emergency service agency using functionally equivalent personal wireless technology to co-locate antennae, equipment and facilities.

6) Removal of Abandoned/Unused Facilities

The owner of a telecommunications facility shall be required to remove any tower on which all uses have ceased for a period of twenty four (24) consecutive months.

A performance guarantee covering removal costs must be equal to at least 125 percent of the current estimated cost of removing the tower. The performance guarantee covering such removal shall be for a minimum term of five (5) years. It must contain a mechanism, satisfactory to the town, for review of the cost of removal of the structure every five years, and for altering the amount of the guarantee should the revised cost estimate so necessitate.

7) Safety and Security

a) All telecommunications facilities shall be designed, constructed and maintained in conformance with applicable Federal, State and Local building, electrical and safety codes.

b) A security fence or wall not less than eight (8) feet in height from the finished grade shall be provided around the tower and related structures. The fence shall be constructed of chain link or similar material sufficient to deter trespass. Access to the tower and associated buildings shall be through a locked gate.

c) A free-standing tower shall be designed to be unclimbable to a minimum of 12 feet above the ground.

## SECTION 5. WIND ENERGY CONVERSION SYSTEMS

A. Purpose

The purposes of this section is to permit the development of the Town of Troy's wind power resources, while retaining the rural character of the Town; to protect public health and safety; and to preserve existing use and enjoyment of neighboring properties.

B. Performance Standards

In addition to meeting the performance standards in Article 7 of this Ordinance, proposed wind energy conversion systems shall meet the following:

1. The minimum distance between the ground and any part of a rotor blade system shall be

fifty (50) feet.

2. All access doors to towers and electrical equipment shall be lockable.

4. Appropriate warning signage shall be placed on turbine towers, electrical equipment, and wind energy facility entrances.

5. Towers shall not be artificially lighted, except to the extent required by the FAA or other applicable authority. All lights shall be designed to minimize visibility from the ground to the extent allowed by the FAA or other applicable authority.

6. All turbines shall have an automatic braking, governing, and/or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades and turbine components caused by extremely high winds, icing or other weather phenomena.

7. All turbines shall be equipped with a fire suppression system that will extinguish any fire located in the nacelle portion of the turbine. Installation of such equipment shall not interfere with safe turbine operation or void turbine warrantees.

8. Turbines shall be equipped with systems that will automatically shut down the turbine in response to excessive vibration or abnormal relation between wind speed and rotational speed of the rotor blades.

9. Prior to the start of construction an applicant shall provide the town proof of adequate liability insurance.

10. All wiring between generating facilities and transformers or substations shall be underground unless the developer provides evidence that underground wiring is unfeasible.

11. Setbacks:

a) Retention of farmland and the potential for supplementing farm incomes through lease of wind power sites are priorities for the Town. Harvesting the power of the wind is seen as a compatible use of farmland. If a facility is to be sited on existing farmland, towers shall be a minimum setback distance from all surrounding property lines equal to 1.25 times the height of the tower.

b) Facilities *not* on farmland will be required to meet a minimum setback distance from all property lines equal to 1.5 times the height of the tower plus the length of one blade. The wind energy site, including substations, transformers and associated structures, shall be surrounded by a security fence at a distance equal to the height of the tower plus one-half the height of one rotor blade.

c) The minimum setback from all pre-existing residential structures shall be a distance of at least four (4) times the height of the tower, or one thousand (1,000) feet, whichever is greater, unless the residence is owned by the operator of the facility.

d) Towers shall be set back at least 2,500 feet from wildlife sanctuaries or wetlands of high value for waterfowl and wading bird habitat as identified by Maine Department of Inland Fisheries and Wildlife.

12. Environmental and Visual:

a) Towers and turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.

b) Colors and surface treatment of the installation shall minimize visual disruption, consistent with industry and/or manufacturer standards.

c) The facility shall avoid, to the extent practicable, the creation of artificial habitat for raptors or raptor prey, such as a) electrical equipment boxes on or near the ground that can provide shelter and warmth, or b) horizontal perching opportunities on the towers or related structures.

13. Towers shall be designed and sited to minimize shadow flicker on residences, as demonstrated by modeling software approved by Maine DEP.

14. The applicant shall prepare and submit a plan for the decommissioning and subsequent removal of the facility. The decommissioning plan shall be prepared in accordance with Section 29 of the Rules for Site Location of Development, of the Department of Environmental Protection, regardless of whether DEP Site Location approval is also required.

15. If the facility requires DEP approval, the financial performance guarantee submitted to DEP to cover the cost of decommissioning and removal shall be considered sufficient. If DEP approval is not required, the Town shall collect and administer the bond or other form of guarantee. The form and content of the guarantee shall be approved by the Board of Selectmen prior to Planning Board approval of the application.

SECTION 6. OVERNIGHT ACCOMMODATIONS

A. Hotels, motels, rental cottages, and inns designed and constructed without individual kitchen and toilet facilities (except for Bed and Breakfast) are subject to the following requirements:

1. Unless part of an existing structure, no part of any building shall be closer than fifty (50) feet to the front lot line, rear lot line, or either side line of such lot.

2. Each rental room shall be equipped with an approved, hardwired smoke detector.

B. Bed & Breakfast operations shall comply with the following:

1. The application for permit shall include a scale drawing of the lot showing the location of: existing buildings, existing and proposed parking, and existing and proposed sewage disposal systems.

2. In addition to parking required by this Ordinance for overnight accomodations, two spaces shall be provided for the owners or operators of the business.

3. There shall be at least one bathroom provided for the exclusive use of the rental rooms, in addition to the bathroom for the dwelling unit.

4. Each rental room shall be equipped with an approved, hardwired smoke detector.

C. Hotel, motel, or cottage units with self-contained kitchen and toilet facilities or otherwise designated as housekeeping units are considered to be dwelling units. The creation of three or more such units may be subject to review under the Town of Troy Subdivision Ordinance.

SECTION 7 CAMPGROUNDS.

A. General

Campgrounds, including tenting grounds and RV parks, may be subject to review under the Town of Troy Subdivision Ordinance. Applications may be reviewed and approved concurrently.

In addition to meeting the performance standards in Article 7 of this Ordinance and of the Subdivision Ordinance, campgrounds shall meet the following:

B. Siting and Design

1. A campground must be constructed on a lot containing a minimum of 10 acres. All RV or trailer sites and all structures shall be located at least 100 feet from any property line.

2. Campsites shall be laid out or screened in such a manner that none are within view from public roads, neighboring residences, or approved subdivision lots. Any combination of vegetative planting, landscaped earthen berms, or solid fencing may be used to screen this activity, when sites would otherwise be visible from the locations described above.

3. No trailers other than recreational or utility trailers shall be permitted within any campground, temporarily or otherwise. No RV or trailer shall be exhibited for sale for commercial purposes within the park.

4. Tent sites and sites for trailers and RVs shall be laid out so that the overall density does not exceed the standards below:

| | Non Shoreland | Shoreland District |
|---|---|---|
| Tent sites | 14 per acre | 8 per acre |
| Trailer/RV sites | 11 per acre | 7 per acre |

5. The minimum setback from the normal high-water mark shall be 100 feet for all recreational vehicles, tents, or other vehicles, or temporary or permanent structures.

6. No campsite shall be located within a Resource Protection District or within the 100 year floodplain.

C. Parking and Circulation

1. Adequate parking plus maneuvering space shall be provided for each RV, tent, or shelter site. Individual spaces shall be laid out so that there shall be a minimum of 75 feet between RV sites and all public roads.

2. Camp site access shall be provided onto a road adequate for the volume and type of traffic likely to be generated. All roads shall be constructed to the standards for a private right-of-way as per the Town of Troy Ordinances and surfaced or treated in such a way as to minimize dust. No

vehicle parking shall be permitted on the roadway.

D. Health and Safety

1. Each recreational vehicle, tent, or shelter site shall be provided with a picnic table and trash receptacle. The park management shall dispose of refuse from said containers at least once every three days.

2. A campground shall provide water and sewage systems, sanitary stations, and convenience facilities in accordance with the regulations of the State Wastewater Disposal Rules. At least one toilet, one shower, and one lavatory shall be provided for each gender for every ten campsites. All RV and trailer sites shall be equipped with water and sewage hookups, and connected to approved distribution or disposal systems.

3. Fire extinguishers capable of dealing with electrical and wood fires shall be kept in all service buildings. A suitable ingress and egress shall be provided so that every campground may be readily serviced in emergency situations. 24-hour emergency communication service (e.g. telephones) shall be available at the campground office or other facility.

4. Any building intended for group gatherings shall be designed to comply with applicable state and local standards for places of public assembly.

## SECTION 8. KENNELS AND VETERINARY CLINICS

In addition to meeting the performance standards in Article 7 of this Ordinance, kennels and veterinary clinics shall meet the following:

A. Structures or pens for housing or containing the animals shall be located not less than one hundred (100) feet from the property line.

B. All pens, runs, kennels, and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties.

C. The owner or operator shall maintain the premises in a clean, orderly, and sanitary condition at all times. No garbage, offal, feces, or other waste material shall be allowed to accumulate on the premises. The premises shall be maintained in a manner that they will not provide a breeding place for insects, vermin, or rodents.

D. Temporary storage containers for any wastes containing or including animal excrement shall be kept tightly covered at all times and emptied no less frequently than once every four days. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required for outdoor runs.

E. If outdoor animal "runs" are created, they shall be completely fenced in, and shall be paved with cement, asphalt or a similar material to provide for cleanliness and ease of maintenance.

F. Incineration devices for burning excrement-soaked waste papers and/or animal organs or remains shall be located a minimum distance of 400 feet from any property line, and shall have a chimney vent not less than 35 feet above the average ground elevation. Approval shall be obtained from the Maine Department of Environmental Protection for the proposed incinerator.

## SECTION 9. WASTE STORAGE AND PROCESSING

Waste storage and processing facilities, including operations for resource recovery, recycling, and composting, may be subject to the provisions of 38 MRSA, chapter 13 *Waste Management*, including separate licensing provisions.

In addition to meeting the performance standards in Article 7 of this Ordinance, all waste storage and processing facilities shall meet the following standards:

A. Location

1. No waste storage or processing facility shall be located within a wetland or vernal pool, nor on a sand and gravel aquifer as mapped by the Maine Geological Survey or a qualified hydrogeologist.

2. No waste, scrap storage, or processing facility shall be located within the 100-year floodplain, as it appears on federal Flood Insurance Rate Maps on file at the town office.

B. Submission Requirements

1. All applications shall, in addition to the basic submission requirements, be accompanied by required state permits or licenses and the following information:

   a. A written statement of the proposed operating procedure and working hours.

   b. Evidence of adequate insurance liability arising from the proposed operations, to be maintained throughout the period of operation.

2. The Planning Board may require the additional submission of a hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality within the area.

C. Performance Standards

5. The hours of operation shall be limited as the Planning Board deems advisable to ensure operational compatibility with nearby residences.

6. Storm drainage and water courses shall leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not significantly increased.

5. Safe and healthful conditions shall be maintained within and about the proposed use.

# Article 9: Definitions

Words and phrases, unless their context requires otherwise, shall be defined as follows: first as set forth below, second in accordance with their generally accepted technical meaning within the involved scientific disciplines, third as defined by Maine Statutes, and fourth their common dictionary definition.

Abutter: Any lot which is physically contiguous with the lot in question or within a horizontal distance of the lot line as specified by this ordinance. Also, any lot which is located directly across the public or private street from the lot in question.

Accessory building, accessory structure or use: A detached, subordinate building or structure, the use of which is clearly incidental and related to that of the principal building or structure and which is located on the same lot as that of the principal building, structure or use.

Adult Business: Any commercial enterprise, including but not limited to bookstores, amusement centers, video stores, and theaters, which as a substantial or significant portion of its enterprise rents, sells, or keeps for display books, videos, motion pictures or any other form of representation of sexually explicit material or activities. Sexually explicit means the depiction or display of human sex organs.

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, or a person whose land abuts land for which a permit or variance has been granted, or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture: The production, keeping or maintenance for sale or lease, of plants and /or animals, including but not limited to forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products, livestock; fruits and vegetables; and ornamentals and green house products.

Applicant: A person, group of people, business or corporation applying for a permit under this Ordinance.

Aquifer: A saturated permeable geologic unit that can transmit significant quantities of water under ordinary hydraulic gradients.

Building: Any structure having a roof supported by columns or walls that is intended to shelter or house people, animals, business processes or activities, equipment, goods or materials of any kind or nature.

Building footprint: The area of land covered by a building. This area is measured from the exterior surface of the exterior walls at grade level exclusive of cantilevered portions of the building. Where the building is elevated above the grade level on post or similar devices, the building footprint is the area the building would cover if it were located at ground level.

Campground: A plot of ground upon which 2 or more campsites are located, established, or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education, or vacation purposes, including erection of tents, trailers, lean-tos, overnight cabins, or similar structures and parking facilities.

Commercial Use(Development): The use (development) of a land or structure where the intent and result of such use is the production of income from the buying or selling of goods and/or services, exclusive of rentals of single residential homes, or home occupations, as defined.

Critical Natural Area: Any area identified and listed by the Natural Areas program of the Maine Department of Conservation as containing rare or unique botanical features or habitat for rare, threatened, or endangered plant species or rare and unique natural communities.

Developed Area or Disturbed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas and streets.

Development: Any man-made changes to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations.

Extraction (or "water extraction" or "extraction of water"): Withdrawal, removal, diversion, taking, or collection by any means of water from ground water sources, aquifers, springs, wells, pumps or similar means.

Extraction Point or Extraction Facility: The physical location where water is extracted, whether by well, pump, pipeline, catchments, or other method.

Great Pond: As defined by state law, this includes Unity Pond (Lake Winnecook) and Carleton Pond.

Historic or Archeological Resource: Areas identified by the Maine Historic Preservation Commission as having significant value as an historic or archeological resource, or with the potential to be so identified.

Home Occupation: An occupation or profession which is carried on in a dwelling unit or accessory building, which is clearly incidental and secondary to the residential use of the dwelling; carried on by a member of the family residing in the dwelling unit; which does not alter the residential character of the neighborhood; and which does not generate traffic in excess of 50 vehicle trips per day on average. Examples include small day cares, home beauty shops, accountant offices, and farm stands.

Impervious Surface: Land covered by buildings and associated constructed facilities, areas which have been or will be covered by a low permeability material, such as asphalt or concrete; and areas such as gravel roads and unpaved parking areas, which have been or will be compacted through design or use to reduce their permeability.

Kennel: Any place or building where three or more domestic animals are kept for commercial purposes, including but not limited to fee-based lodging, breeding, and training facilities.

Material (Resource) Extraction Operation: The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of bulk product from the earth. Includes any activity or process that results in the extraction or removal of product and overburden; and the preparation, washing, cleaning or other treatment of that product so as to make it suitable for commercial, industrial or construction use, but it shall not include excavation or grading incidental to a construction project.

Non-residential Use (Development): The use (development) of land for any purpose other than farming, timber production, or a single-family dwelling or related structures, if such use results in the creation of structures or impervious surface.

Occupancy: The storage or use of equipment, merchandise, or machinery in any public, commercial, or industrial building or structure.

Occupiable: Space in a structure that can be lived in, worked in or used for any significant human purpose such as residences, places of worship, business establishments, schools, hospitals or municipal buildings.

Peak Hour Volume: The highest number of vehicles found to be passing over a section of a lane or roadway during any 60 consecutive minutes. Typically there is a peak hour condition in the A.M. and a peak hour condition in the P.M. for which the roadway or intersection is analyzed.

Sight Distance: The visible distance available to a motorist at an access point to a public road, sufficient to allow a vehicle to enter the road without inhibiting the progress of other vehicles. For the purpose of calculation, sight distance is measured from the height of a hypothetical driver 3 ½ feet above the driveway at a point ten (10) feet behind the street line, to an object 4 ½ feet above the street.

Sign: An advertising message, graphic illustration, or insignia erected or inscribed for public view for the purpose of promoting the interests of the occupant of the premises or owner of the sign.

Sign Area: The surface area of that portion of the sign containing the advertising matter. Signs which have no separate sign surface shall be measured by taking the smallest area of a rectangle or circle which encloses the advertising matter. For two-sided signs, only one side of the sign shall be counted towards sign area.

Sign, freestanding: A sign that is physically separated from a building.

Street, Public: An existing state, state aid, or town way; or a road which is dedicated for public use and shown upon a plan approved by the Planning Board and recorded in the Waldo County Registry of Deeds.

Structure: Anything constructed or erected on the ground or which is attached to something located on the ground.

Substantial Start: The completion of 30% of a permitted structure or use measured as a percentage of estimated total cost.

Telecommunication Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self supporting lattice towers, guyed towers and monopoles for the purpose of transmitting or relaying radio frequency signals, including, but not limited to radio, television, cellular, and personal communication service frequencies. Towers established for personal use such as citizen band and ham radio operations, and which are less than 50 feet in height, shall not be included in this definition.

Vernal Pool: Areas within a forested wetland that contain standing water for an extended period during the spring and not during other seasons.

Water body or watercourse or surface water(s): Any river, stream, brook, pond, lake or wetland.

Wetland: An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland includes swamps, marshes, bogs, certain forest areas and similar areas.

Wind Energy Conversion System(WECS): An electricity-generating facility whose main purpose is to supply electricity to off-site customer(s). The facility is comprised of one or more wind turbines and accessory facilities (including but not limited to: power lines, transformers, substations and metrological towers). The energy may be used on-site or distributed into the electrical grid.

Zone of Contribution: An area of an aquifer that contributes water to a well or other extraction point under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at approved yield with no recharge from precipitation). It is bounded by the groundwater divides that result from pumping the well and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries. In all cases, the zone of contribution shall extend upgradient to its point of intersection with prevailing hydrogeologic boundaries (a groundwater flow divide, a contact with till or bedrock, or a recharge boundary).

# CERTIFICATION OF ORDINANCE BY MUNICIPAL OFFICERS

**We, the following Board of Selectmen for the Town of Troy certify this Ordinance entitled:**

**"COMMERCIAL DEVELOPMENT REVIEW ORDINANCE"**

**Date:** 4/6/09

**Board of Selectmen for Town of Troy:**

Brian Pepin

Kathleen A. Mattingly

**Enacted:** **Date: March 28, 2009 at Annual Town Meeting**

**Certified by:** Sharon C. Moody

**Sharon E. Moody, Clerk**

4/6/09

Stem

**(Seal)**