TOWN OF CHERRYFIELD LAND USE ORDINANCE

CHAPTER I. ADMINISTRATION and ENFORCEMENT

Section I-1. Purpose

The purposes of this Ordinance are to:

1. Ensure the health, safety and general welfare of all residents of the community.
2. Provide a clear, consistent, and impartial review process and standards for any allowed land use and development proposal.
3. Ensure that no project will create an unduly adverse impact on community property values, services and facilities.
4. Ensure compatible, orderly, and beneficial development of the Town to attract, enhance and support existing and future development while minimizing negative impacts of non-compatible uses and preserving private property rights.
5. Expand and nurture economic growth that contributes to the vitality of the town and retains the historic and rural character of this area through thoughtful planning and the use of development and design standards.
6. Incentivize commercial and industrial development along the U.S. Route 1 corridor, and in in certain areas of the Route 193 and Route 182 corridors.
7. Protect and maintain the historic character of the historic village area and protect known and potential areas of archeological and historic significance.
8. Protect and conserve natural resources, conserve natural beauty and open space, prevent and control water pollution.
9. Protect buildings and lands from flooding and accelerated erosion.
10. Implement the vision and goals of the Comprehensive Plan.

Section I-2. Applicability

1. The provisions of this Ordinance shall govern all land and all structures within the boundaries of the Town of Cherryfield, exclusive of the land and water area subject to the Town's Shoreland Zoning Ordinance.
2. This Ordinance applies to any structure, or any part of a structure, that is proposed to be erected, altered, improved, renovated, enlarged, moved (including removed from, moved onto, or moved within a lot), or demolished; land that is used or occupied; any proposed use, or a change or expansion of a use; and the creation or conveyance of a lot

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Section I-3. Administration

The Planning Board, CEO, Select Board, and Planning Board of the Town are responsible for administering this Ordinance.

A. **Planning Board**. The Planning Board has the following duties and powers in administering this Ordinance:

1. Determine whether uses, structures, and lots comply with Chapter II (Nonconforming Uses, Structures, and Lots).
2. Determine whether a proposed use, or any structure associated with or devoted to such use, is allowed pursuant to Chapter III (Land Use Districts).
3. Review and act on applications for site plan approval in accordance with Chapter IV (Site Plan Review).
4. Review and act on all building permit applications in accordance with Chapter VII (Building Regulations).
5. Serve as the municipal reviewing authority for purposes of holding public hearings pursuant to 30-A M.R.S.A. § 4352 concerning proposed amendments to the Ordinance or the Official Land Use District Map.
6. Recommend to the Select Board whether or not an article to amend the Ordinance or the Official Land Use District Map should be included in the warrant for a regular or special Town Meeting.
7. Interpret the Official Land Use District Map and the location of land use district boundaries and shoreland zoning boundaries.
8. Interpret the provisions of this Ordinance, including the meaning of terms used in this Ordinance, when performing the duties in the preceding subsections.
9. Keep written records of all essential non-enforcement related transactions under this Ordinance, including applications submitted, permits and approvals granted or denied, variances granted or denied, appeals, fees collected, and proposed and enacted amendments to this Ordinance.

B. **Code Enforcement Officer**. The CEO has the following duties and powers in administering and enforcing this Ordinance:

1. Enforce the provisions of this Ordinance and the terms and conditions of permits, approvals, or denials issued under this Ordinance, by inspecting premises, investigating complaints, issuing notices of violation, suspending or revoking permits or approvals, participating in legal prosecution of violations as needed, and processing or acting on consent agreements.
2. Keep written records of all essential enforcement-related transactions under this Ordinance, including revocation and suspension actions, inspections, violations investigated, notices of violation issued, legal prosecution of violations, court actions, consent agreements, and penalties imposed.
3. Interpret the provisions of this Ordinance, including the meaning of terms used in this

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Ordinance, when performing any actions in the preceding subsections A.1-4.

C. **Select Board.** The Select Board, serving as the municipal officers of the Town, has the following duties and powers in administering and enforcing this Ordinance:

1. Establish and maintain a fee schedule and act on any requests for fee refunds, reductions or waivers, in accordance with Section I-15.

2. Review and act on all matters requiring Select Board approval, including applications for automobile graveyards, automobile recycling businesses, and junkyards submitted pursuant to 30-A M.R.S.A. § 3751 *et seq*.

3. Enter into administrative consent agreements or institute, in the name of the Town, legal proceedings to resolve, enforce, or abate any violation of this Ordinance.

4. Fulfill the function of the Board of Appeals, in accordance with Section I-3.D.

D. **Board Appeals**. The Board of Appeals shall be the Select Board, and has the following jurisdiction, duties, and powers in administering this Ordinance:

1. Interpret the location of land use district and shoreland zoning subdistrict boundaries upon referral from the Planning Board.

2. The Board of Appeals does not have jurisdiction to hear appeals from any decision or failure to act of the CEO or Planning Board in the administration of this Ordinance, or from any notices of violation, enforcement orders, suspensions or revocations of permits or approvals, written determinations of no violation, or any other enforcement decisions of the Planning Board, Select Board, or CEO.

Any aggrieved person may appeal a decision of the Planning Board to the Maine Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

Section I-4. Permits NOT Required

No permit or approval from the Planning Board is required for the following activities under this Ordinance as long as the activities are conducted in compliance with applicable standards:

A. Land uses, and any structures associated with or devoted to such uses, that are identified as allowed without a permit in the schedules of uses in Chapter III (Land Use Districts). Repair, maintenance, and improvement of a structure within the footprint of the structure, including insulation, plumbing, painting, re-roofing, and minor efficiency upgrades such as replacement doors or windows, replacement foundations but not replacement foundations in the shoreland zone. If in the shoreland zone, such activities must comply with the Cherryfield Shoreland Zoning Ordinance.

B. Enclosure of a pasture or area with a fence.

C. Outside of the shoreland zone:

1. Erection of free-standing structures not intended for human habitation (such as dog houses, playhouses, tool sheds, storage buildings, and solar panels) that are not more than 100 square feet in floor area in the aggregate and do not exceed 12 feet in height, as long as such structures comply with any applicable dimensional standards in Section III-3.

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2. Construction of farm or fire ponds.

3. Short-term siting of temporary shelters such as tents, recreational vehicles, or similar shelters for a period of no more than 120 days per year (requires approval from the LPI for a wastewater disposal plan).

D. Creation or conveyance of a lot that is not part of a subdivision, as defined in 30-A M.R.S.A. § 4401(4).

E. Repair and maintenance of an existing road culvert, or replacement of an existing road culvert as long as: (a) the replacement culvert is not more than 25% longer than the culvert being replaced and not longer than 75 feet, (b) erosion control measures are taken to prevent sedimentation of the affected water body, and (c) the culvert does not block fish passage. Ancillary culverting activities, including excavation and filling, are included in this exemption.

F. Archaeological excavation, as long as the excavation is conducted by an archaeologist listed on Level 1 or Level 2 approved list in accordance with the MHPC State Historic Preservation Officer's Standards for Archaeological Work in Maine, 94-089 C.M.R. ch.812, and adequate erosion control measures are taken to prevent sedimentation of any affected water body.

G. Outside of the shoreland zone, outdoor storage or stockpiles of winter abrasives (sand and salt) used for the maintenance of private or public roads, except for any storage or stockpiles associated with mineral extraction.

H. Replacement or reconstruction of damaged or destroyed public utility transmission and distribution lines and related equipment.

Section I-5. Permits Required

A. A written permit or written approval from the Planning Board must be obtained before undertaking any activity or use of land or structure requiring a permit in the district in which such activity or use would occur.

B. A written permit or written approval from the Planning Board must be obtained before:

1. Erecting, enlarging, or moving (including removing from, moving onto, or moving within a lot) a structure, or any part of a structure.

2. Establishing, changing, or expanding a land use.

3. Renewing a discontinued nonconforming use.

4. Creating a lot that is part of a subdivision or selling, leasing, developing, building upon, or conveying any land in a subdivision, as defined in 30-A M.R.S.A. § 4401(4).

C. Permits or approvals shall be issued if the Planning Board determines that the application materials, plans, and proposed structures and uses comply with the requirements of this Ordinance and any other applicable Town ordinances, regulations, and rules. Any permits required by this Ordinance are in addition to any other permits or approvals required by other law, rule, or ordinance.

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Section I-6. Types of Permits Required

A. **Building Permits**. A building permit from the Planning Board is required before undertaking any use, and any structure associated with or devoted to such use, listed in the schedules of uses in Chapter III (Land Use Districts) or in the Cherryfield Shoreland Zoning Ordinance as requiring a building permit.

B. **Site Plan Approval.** Site plan approval from the Planning Board pursuant to Chapter IV (Site Plan Review) is required before undertaking any of the following activities:

1. Allowed Uses. Any use listed in the schedules of uses in Chapter III (Land Use Districts) or in the Cherryfield Shoreland Zoning Ordinance as requiring site plan or conditional use approval, any change of use to another land use category listed in the schedules of uses that requires site plan or conditional use approval, and any expansion of any such use.

2. Allowed Structures. Any structure associated with or devoted to a use listed in the schedules of uses in Chapter III (Land Use Districts) or in the Cherryfield Shoreland Zoning Ordinance as requiring site plan or conditional approval, including the construction, alteration, or enlargement of any existing structure associated with or devoted to a use requiring site plan or conditional use approval.

3. Amendments. Any modifications or changes to an approved site plan.

C. **Subdivision Approval**. Subdivision approval from the Planning Board pursuant to the Cherryfield Subdivision Ordinance is required before selling, leasing, developing, building upon, or conveying for consideration any land in a subdivision, as defined in 30-A M.R.S.A. § 4401(4). Such activities may occur only after a final subdivision plan has been reviewed, approved, and endorsed by the Planning Board as required by the Cherryfield Subdivision Ordinance, and an attested copy of the approved and endorsed plan has been recorded in the Washington County Registry of Deeds.

Section I-7. Application Submission for a Permit or Approval

Any application for a permit or approval required under this Ordinance must be submitted in writing to the reviewing authority on forms provided by the Town for that purpose and signed and dated by the applicant. Each application must be accompanied by:

A. The name, address, and telephone number of the applicant and the name, address, and telephone number of the property owner, if different from the applicant.

B. A fee as provided in Section I-15.

C. Except for building permit applications, proof of adequate technical and financial capacity to carry out the proposed activities in conformance with this Ordinance.

D. Proof that the applicant holds right, title, or interest in the affected property.

E. If the applicant is not the property owner, a letter of authorization from the owner.

F. A map showing the location of the affected property in relation to the vicinity and identifying the property tax map and lot number(s).

G. A plan drawn to scale showing, at minimum:

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1. The dimensions and size of the lot (in square feet or acres) affected by the proposal.
2. Names and locations of all public and private roadways, rights-of-way, and easements on or adjacent to the lot.
3. Names of abutting property owners.
4. The exact size and location of all existing structures and other man-made features of the lot, including their setbacks from all property lines.
5. The exact size and location of all structures proposed to be erected, altered, enlarged, moved, or demolished, including their setbacks from all property lines.
6. All water bodies, wetlands, and protected natural resources, within 250 feet of the property boundaries.
7. All minimum setback lines.
8. All land use district and shoreland zoning subdistrict boundaries.
9. Where applicable, the size and location of all areas to be cleared of vegetation and all areas of cut, filling, grading, or other earthmoving activities.
10. Where applicable, the location of soil test pits, subsurface wastewater disposal systems, site drainage, parking lots, driveways, roads, signs, buffer strips, fences, and private wells.

H. A detailed description of the existing and proposed use of each existing and proposed structure and portion of the affected lot.

I. Copies of any notices required by this Ordinance, including verification of mailing of notices to abutters.

J. If the nature of the proposal requires the installation of a subsurface wastewater disposal system, a subsurface wastewater disposal system application (HHE-200 form) approved by the LPI and, if necessary, the DHHS.

K. For structures or uses proposed to be served by a public road, an impact statement from the Road Commissioner identifying any necessary road or culvert upgrades.

L. For structures or uses proposed to be served by a state roadway, a DOT driveway or entrance permit.

M. Estimated cost of the proposal.

N. Copies of any decisions or pending applications of any federal, state, or other local governmental authorities regarding the proposed activities.

O. Any submission requirements specific to the type of permit or approval being sought, including the following:

1. For building permit applications, a written statement and other evidence demonstrating that the proposal satisfies each of the review standards in Section VII-2.

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2. For activities located in the shoreland zone that are allowed with a permit, pre-construction photographs of the shoreline vegetation and development site, and a written statement and other evidence demonstrating that the proposed activity satisfies the applicable dimensional requirements as defined in the Cherryfield Shoreland Zoning Ordinance.

3. For site plan or conditional use applications, the application submission requirements identified in Chapter IV (Site Plan Review).

4. For subdivision applications, the application submission requirements identified in the Cherryfield Subdivision Ordinance.

P. The Planning Board may require the applicant to undertake any study which it deems reasonable and necessary to insure that the requirements of the Ordinance are met. The costs of all such studies shall be borne by the applicant.

Section I-8. Procedures for Administering Permits and Approvals

A. **Pre-Application site review.** The pre-application site review is an optional informational process conducted prior to submission of an application that is intended to speed up the application process by providing a clear understanding of the site and the opportunities and constraints for its use and development. The outcome of the review process shall be determination by the Board of the issues and constraints that must be addressed in the formal site plan review application.

B. **Completeness Review.** Prior to starting its review of an application, the reviewing authority must determine that the application is complete for review by finding that the application is (i) accompanied by the proper application fee; (ii) contains sufficient documentation of right, title, or interest; and (iii) contains sufficient information for the reviewing authority to begin its review.

1. Review; Time Limits – within 35 days of the date of receiving the submission, if the application is found incomplete, the reviewing authority must notify the applicant in writing and direct the applicant to submit any omitted or incomplete information within a specified period of time. If the omitted or incomplete information has not been submitted by then, the reviewing authority may return the application as incomplete and conclude its review. If the application is found complete for review, the reviewing authority must begin its full evaluation of the application.

C. **Public Hearing.** If a public hearing is held, it shall be held within 35 days of the date of acceptance of the complete application or at a time agreed upon by the Planning Board and the applicant.

D. **Written Decision.** The reviewing authority must issue a written decision to approve, approve with conditions, or deny each application permit or approval which is deemed complete for review.

1. Decision; Time Limits—The Planning Board must issue a written decision on an application within 35 days of a public hearing or, if no hearing is held, within 60 days of finding the application complete for review. If the Planning Board has a

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waiting list of applications, a decision must be issued on the first available date on the Planning Board's agenda.

E. **Approval.** Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

F. **Burden of Proof.** The applicant has the burden of proving, by demonstrable evidence, that a proposal complies with the requirements of this Ordinance.

G. **Access to and Display of Permits and Approvals.** The permit holder must have a copy of all written permits or approvals on site while the authorized work is performed. Building permits must be displayed conspicuously on or adjacent to the project site, must be clearly visible from the principal traveled road, and must remain displayed until the work is completed.

Section I-9. Notice to Abutting Property Owners

Whenever a provision of this Ordinance requires the notification of owners of abutting properties of an application submission, public meeting, public hearing, site visit, or other filing or event, the following requirements apply unless otherwise specified:

A. The applicant must send a notice, in form acceptable to the reviewing authority, to the owners of property located within 100 feet of the boundary of the lot affected by the proposal and to the Town Clerk. The notice must contain a description of the application and a sketch plan, together with the date, time, and location of any public meeting, public hearing, site visit, or other event (collectively, "Event"). The notice must be sent using certified mail, return receipt requested, at least seven days before the date of the Event. For purposes of this Section I-9, the "owners of property" are the persons listed in the most recent version of the *Town of Cherryfield Real Estate Tax Commitment Book,* prepared by the Tax Assessor and amended periodically, and available at the Town Office.

B. In addition, for subdivision and site plan applications, the Town must send the notice described in subsection A, above, to (i) the municipal clerk and the reviewing authority of any municipalities that abut or include any portion of the subdivision or site plan, and (ii) the public drinking water supplier if the subdivision or site plan is within its source water protection area.

Section I-10. Expirations, Extensions, and Conditions of Permits

A. **Substantial Start**. If the work authorized under a permit or approval is not substantially started within 12 months of the date of issuance of the permit or approval, the permit or approval lapses and becomes void.

B. **Substantial Completion**. A permit or approval expires if the authorized work is not substantially completed within 24 months of the date of issuance of the permit or approval, except that a building permit expires if the authorized work is not substantially completed within 12 months of the date of issuance of the permit.

C. **Conditions of Approval**. The Planning Board may condition its permits and approvals to require authorized work to be phased in or to set a longer or shorter timeframe for the substantial start or the substantial completion of the authorized work if, in the Planning

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Board's judgment, the circumstances of a proposal so require.

D. **Extensions**. The Planning Board may grant up to a 12-month time extension for a lapsed or expired permit or approval upon a showing of good cause by the permit holder. Extensions beyond 12 months require a new permit or approval and must comply with all applicable Ordinance requirements in effect at that time.

E. **Discontinuation of Use**. A permit or approval expires if the use for which the permit or approval was granted is discontinued for 12 or more consecutive months.

F. **Expiration of Permits or Approvals**. Except as provided in this Section I-10, a permit or approval has no expiration date, unless the Planning Board conditions its approval on an expiration date.

Section I-11. Certificate of Occupancy

A certificate of occupancy is not required for any activities within the Town.

Section I-12. Requesting Reconsideration or Appealing a Decision of the Planning Board

A. **Reconsideration.**

1. The Planning Board may reconsider any decision reached under this Ordinance within 45 days of its prior decision. A request to the Planning Board to reconsider a decision must be filed within 10 days of the decision that is to be reconsidered. A vote to reconsider and the action taken on that reconsideration, if any, must occur and be completed within 45 days of the date of the vote on the original decision. The Planning Board may conduct additional public hearings and receive additional evidence and testimony. Notwithstanding subsection C, below, appeal of a reconsidered decision to the Maine Superior Court must be made within 15 days after the decision on reconsideration. All requests for reconsideration must be accompanied by a fee as provided in Section I-15.

2. The Planning Board may reconsider any decision in accordance with the provisions of 30-A M.R.S.A. § 2691(3). All requests for reconsideration must be accompanied by a fee as provided in Section I-15.

B. **No Right of Administrative Appeal.** Neither the Planning Board nor the Board of Appeals has jurisdiction to hear appeals from any decision or failure to act of a reviewing authority or municipal official in the administration or enforcement of this Ordinance, including from any notices of violation, enforcement orders, suspensions or revocations of permits or approvals, written determinations of no violation, or any other enforcement decisions, which are advisory only.

C. **Appeal to Superior Court.** Any aggrieved person may appeal a decision of the reviewing authority directly to the Maine Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

Section I-13. Variance Process

A. **Review Procedures.** The Planning Board hears and decides variance requests in accordance with the following review procedures:

1. Variance Application. An application for a variance must be submitted in writing

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to the Planning Board on forms provided by the Town for that purpose and signed and dated by the applicant. Each application must be accompanied by:

(a) A fee as provided in Section I-15.

(b) A written statement and other evidence demonstrating that the proposal satisfies each of the applicable standards in subsection B, C, D, or E, below.

2. Copy of Variance Application to DEP. For any variance request within the shoreland zone, the Planning Board must forward a copy of such variance request, including the application and all supporting information supplied by the applicant, to the DEP Commissioner at least 20 days prior to action by the Planning Board. Any comments received from the DEP Commissioner prior to the action by the Planning Board must be made part of the record and must be considered by the Planning Board prior to taking action on the variance request.

3. Notice and Public Hearing. The Planning Board must hold a public hearing on each variance request. The applicant must give notice of the public hearing in accordance with Section I-9. Failure of any property owner to receive notice of the public hearing will not necessitate another public hearing or invalidate any action of the Planning Board.

4. Written Decision. The Planning Board must state the reasons and basis for its decision in writing. The Planning Board must cause written notice of its decision to be mailed or hand-delivered within seven days of the decision to the applicant and, when a variance is issued for property located within shoreland zone, to the DEP Commissioner.

5. Certificate; Recording. If the Planning Board grants a variance pursuant to this Section I-13, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title, and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, must be prepared in recordable form. This certificate must be recorded by the applicant in the Washington County Registry of Deeds within 90 days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection. For the purpose of this subsection, the date of the final written approval is the date stated on the written approval.

6. Conflict with State Law. In the event of a conflict between this Section I-13 and 30-A M.R.S.A. §§ 4353(4), 4353(5), 4353-A, or 38 M.R.S.A. § 438-A(6-A), the state law provision controls.

B. **Undue Hardship.** The Planning Board may grant a variance if a proposed structure or use complies with all of the provisions of this Ordinance except for the specific provisions from which relief is sought, and only when strict application of this Ordinance to the applicant and the applicant's property would cause undue hardship. The term "undue hardship" as used in this subsection B means:

1. The land in question cannot yield a reasonable return unless a variance is granted;

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

3. The granting of the variance will not alter the essential character of the locality; and

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

Within the shoreland zone, the specific provisions from which relief is sought are limited to dimensional standards. The establishment of a new use or the expansion of an existing use that is otherwise prohibited in the district in which the use is located is not allowed by variance.

C. **Variance from Dimensional Standards; Practical Difficulty.**

1. The Planning Board may grant a variance from certain dimensional standards of this Ordinance when strict application of the dimensional standards to the applicant and the applicant's property would cause a practical difficulty and when the following conditions exist:

   (a) The need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood;

   (b) The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;

   (c) The practical difficulty is not the result of action taken by the petitioner or a prior owner;

   (d) No other feasible alternative to a variance is available to the applicant;

   (e) The granting of a variance will not unreasonably adversely affect the natural environment; and

   (f) The property is not located in whole or in part within the shoreland zone.

2. As used in this subsection C:

   (a) "Dimensional standards" means and is limited to those provisions of this Ordinance relating to minimum lot size, maximum lot coverage, minimum road frontage, and minimum setback requirements.

   (b) "Practical difficulty" means that the strict application of the dimensional standards of this Ordinance to the property for which a variance is sought would preclude the ability of the applicant to pursue a use of the property which is allowed in the district in which the property is located and would result in significant economic injury to the applicant.

   (c) "Significant economic injury" means the value of the property if the variance were denied would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land.

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D. **Setback Variance for Single-Family Dwellings.** Outside the shoreland zone, the Planning Board may grant a variance from the minimum setback requirements of this Ordinance for a single-family dwelling that is the primary year-round residence of the applicant only when the Planning Board determines that strict application of the Ordinance to the applicant and the applicant's property would cause an undue hardship. A variance granted under this subsection D may not exceed 20% of the applicable setback requirement and may not be granted if the variance would cause the area of the single-family dwelling to exceed the maximum lot coverage. For purposes of this subsection D, "undue hardship" means:

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

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

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

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

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

E. **Disability Variances.**

1. Disability Variance. The Planning Board may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Planning Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" includes railing, wall, or roof systems necessary for the safety or effectiveness of the structure.

2. Disability Vehicle Storage Variance. Outside of the shoreland zone, the Planning Board may grant a variance to an owner of a dwelling unit who resides in the dwelling unit and who is a person with a permanent disability for the construction of a place of storage and parking for a noncommercial vehicle owned by that person and no other purpose. The width and length of the structure may not be larger than two times the width and length of the noncommercial vehicle. The owner must submit proposed plans for the structure with the request for the variance pursuant to this subsection E to the Planning Board.

   (a) The person with the permanent disability must prove by a preponderance of the evidence that the person's disability is permanent.

   (b) For purposes of this subsection E.2, "noncommercial vehicle" means a motor vehicle as defined in 29-A M.R.S.A. § 101(42) with a gross vehicle

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weight of no more than 6,000 pounds, bearing a disability registration plate issued pursuant to 29-A M.R.S.A. § 521, and owned by the person with the permanent disability.

3. Confidentiality of Medical Records. All medical records submitted to the Planning Board and any other documents submitted for the purpose of describing or verifying a person's disability are confidential.

F. **Limitation; Conditions.** The Planning Board must limit any variances granted pursuant to this Section I-13 as strictly as possible to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible. The Planning Board may impose conditions on any variance granted under this Section I-13.

Section I-14. Waivers from Requirements

Upon written request from an applicant, the reviewing authority may grant the following waivers.

A. **Submission Requirements.** The reviewing authority may waive any of the submission requirements contained in this Ordinance if it finds that: (i) due to special circumstances of the application, the information is not necessary for it to determine compliance with the standards governing its review of the application; and (ii) granting a waiver would not adversely affect abutting properties or the general health, safety, and welfare of the residents of the Town and would be consistent with federal and state law.

B. **Site Plan Review**. The Planning Board may modify or waive any of the review criteria contained in Chapter IV (Site Plan Review) if it finds that: (i) due to special circumstances of the site or the proposals, the standards are not applicable or would be an unnecessary burden upon the applicant; and (ii) granting a waiver would not adversely affect abutting properties or the general health, safety, and welfare of the residents of the Town.

Section I-15. Application and Approval Fees

A. **Fee Schedule**. The Select Board must establish a schedule of fees which bears a substantial relationship to the cost of processing, reviewing, and administering applications. The fee schedule may be amended from time to time by order of the Select Board as it deems necessary, fair, and reasonable. For administrative ease, the fee schedule may also identify Town-imposed fees, costs, rents, assessments, fines, and penalties other than those associated with the processing, review, and administration of applications (including fees, costs, rents, fines, and penalties related to cemetery plots, assessing records, parking tickets, photocopying and printing, recreational programming, facility rentals, and statutorily mandated fees) to which this Section I-15 does not apply.

B. **Special Fee**.

1. If the reviewing authority determines that an application, by virtue of its size, uniqueness, complexity, or other factors, is likely to require a disproportionate share of Town resources to process, review, or administer, the reviewing authority may designate the application as a "special application" and may assess a special fee in addition to any applicable fees established by the fee schedule in subsection A, above, or any other ordinance or law. The reviewing authority may designate an application as a special application at any time during the processing of the

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application. The designation by the reviewing authority of an application as a special application is final.

2. The special fee may not exceed the actual costs associated with processing, reviewing, and administering the special application. The special fee may include the actual fees and costs of (i) Town personnel time, administration, supplies, advertising, legal notices, mailings, postage, or photocopies and other document reproductions; (ii) administering Town meetings, referenda, public hearings, public information sessions, or workshops; (iii) specialized computer software or technical support necessary or advisable to process, review and administer the special application; (iv) in-house or third party attorneys' fees; (v) in-house or third party professional reviews of the special application or the record related thereto, or other expert or consulting fees, including the costs of services of state or federal reviewing agencies, professional consultants, planners, visual impact experts, traffic impact experts, and economic development and finance consultants.

3. The reviewing authority must notify the applicant in writing of the special application designation and provide the applicant with an estimate of the special fee. The applicant must pay to the Town the estimated special fee within 14 days of receipt of the notification; otherwise, the special application must be returned as incomplete. If the estimated special fee is depleted prior to the completion of processing, reviewing, and administering the special application, the reviewing authority may provide the applicant with a revised estimate of the special fee from time to time, and the applicant must pay to the Town the revised estimate, less any prior estimate already paid, within 14 days of receipt of the notification.

4. The Town must deposit the special fee into an escrow account and may draw on the account to pay for the actual costs associated with processing the special application.

5. After the reviewing authority renders its final decision on the special application, the Town must provide the applicant with an accounting of the actual costs of processing the special application and must return any unspent portion of the special fee to the applicant within 60 days.

C. **Refunds; Waivers.** The Select Board, in its sole discretion, may refund, reduce, or waive any fee or special fee assessed under this Section I-15 when the person requesting the refund, reduction, or waiver demonstrates to the satisfaction of the Select Board that an extreme hardship or injustice would result from payment of the fee.

CHAPTER II. NONCONFORMING USES, STRUCTURES, AND LOTS

Section II-1. Purpose

It is the intent of this Chapter that all nonconforming conditions comply with this Ordinance over time. Nonconforming conditions that legally existed before the effective date of the provisions of this Ordinance, or that are created by amendments to this Ordinance, are allowed to continue if they comply with the requirements in this Chapter II (Nonconforming Uses, Structures, and Lots).

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Section II-2. General

A. **No Greater Nonconformity.** Except as otherwise expressly provided in this Chapter II (Nonconforming Uses, Structures, and Lots), a nonconforming condition may not become more nonconforming. An increase in nonconformity includes: (i) any change to a nonconforming use that expands the nonconforming use or the introduction of a new nonconforming use, and (ii) any change to a structure or lot that causes further deviation from any dimensional standard creating the nonconformity (such as a reduction in the minimum shoreland setback, increase in lot coverage, or increase in height of a structure). Lot changes or structural expansions that meet dimensional standards or cause no further increase in the linear extent of nonconformance of an existing structure are not increases in nonconformity.

B. **Conversion to Conformity.** Once converted to a conforming condition, a lot, structure, or use may not be reverted to a nonconforming condition.

C. **Prohibited Nonconformity.** A nonconformity not expressly allowed by this Chapter II (Nonconforming Uses, Structures, and Lots) is prohibited and must cease or be corrected immediately.

D. **Burden of Proof.** The burden of establishing that a nonconformity is legally existing rests on the owner of such nonconformity and not upon the Town or any reviewing authority.

E. **Transfer of Ownership.** Legally existing nonconforming uses, structures, or lots may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming structure or lot, subject to the provisions of this Chapter II (Nonconforming Uses, Structures, and Lots).

F. **Repair and Maintenance:** This Ordinance allows, without a permit pursuant to this Ordinance, the normal upkeep and maintenance of nonconforming uses and structures including repairs or renovations which do not involve expansion of the nonconforming use or structure, and such other changes in a nonconforming use or structure as Federal, State, or local building and safety codes may require.

Section II-3. Nonconforming Uses

The nonconforming use of a structure or lot, or any portion of a structure or lot, may be continued but only in strict compliance with the following requirements:

A. **Actual and Substantial Use.** A use is nonconforming if: (i) the use existed prior to the enactment of the Ordinance provision that restricts or prohibits the use; (ii) the preexisting use was actual and substantial, as demonstrated by substantial investment in the use or substantial financial loss if the use is discontinued; and (iii) the nonconforming use reflects the original nature and purpose of the preexisting use, is not different in quality or character as well as in degree of the preexisting use and is not different in kind in its effect on the neighborhood where it is located.

B. **Expansion of Nonconforming Use—Outside Shoreland Zone.** Outside of the shoreland zone, a nonconforming use may be expanded within the boundaries of a lot or within one or more existing structures located on a lot if the expanded use complies with dimensional standards to the greatest extent possible, as determined by the Planning Board.

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C. **Expansion of Nonconforming Use—Within Shoreland Zone.** Within the shoreland zone, the expansion of a nonconforming use is prohibited except that a nonconforming residential use may, after obtaining a permit from the Planning Board, be expanded within one or more existing residential structures or within any expansions of such structures allowed pursuant to Section II-4.C. For purposes of this subsection C, and notwithstanding the definition of expansion of a use in Section VI-3, "expansion" means an enlargement in the footprint, floor area, or ground area devoted to a use; a change in the location of a use; or the addition of one or more months to a use's operating season.

D. **Resumption Prohibited.** Except as provided in subsection E, below, if a nonconforming use ceases or is discontinued for any reason for a period of 24 or more consecutive months, any subsequent use must comply with the requirements of this Ordinance in all respects. The Planning Board may, for good cause shown by the applicant, grant up to a 12-month extension to that time period. If a nonconforming use is superseded by a conforming use for any period of time, the prior nonconforming use must not be resumed.

E. **Resumption of Nonconforming Residential Uses.** A nonconforming residential use on a lot may resume if it is discontinued for any reason for a period of 24 or more consecutive months but not more than a period of five years, as long as the residential structures on the lot comply with dimensional standards to the greatest extent possible, as determined by the Planning Board.

F. **No Change of Nonconforming Use.** A nonconforming use may not be changed to another nonconforming use.

Section II-4. Nonconforming Structures

A nonconforming structure may be continued, but only in strict compliance with the following requirements:

A. **Repair, Maintenance, and Improvement.** A nonconforming structure may be maintained, repaired, and improved within the footprint of the structure as it existed at the time the structure became nonconforming.

B. **Expansion of Nonconforming Structure—Outside Shoreland Zone.** An accessory dwelling unit may be constructed on a lot containing one or more single-family dwellings that is nonconforming as to minimum lot size without increasing the nonconformity of the existing structure or creating a new nonconformity. Additionally, a nonconforming structure located outside of the shoreland zone may be added to or expanded only if:

1. The addition or expansion satisfies all applicable dimensional standards, including height limits and setback requirements, of the district in which the structure is located;

2. The addition or expansion results in no new nonconforming conditions; and

3. The addition or expansion does not cause or worsen safety problems (including reduction of sight distances from driveways, entrances, or intersections) and does not increase any adverse impact on adjacent properties.

C. **Expansion of Nonconforming Structure—Within Shoreland Zone**. A nonconforming structure located in the shoreland zone may be added to or expanded as follows:

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1. All new principal and accessory structures, excluding functionally water-dependent uses, must comply with the minimum shoreland setback requirements in Section III-3.B. A nonconforming structure may be added to or expanded after obtaining a permit from the Planning Board, if such addition or expansion does not increase the nonconformity of the structure and complies with subsections C.2 and C.3, below.

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

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

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

3. All other legally existing nonconforming principal and accessory structures that do not comply with the minimum shoreland setback requirements may be expanded or altered as follows, as long as other applicable standards are met and the expansion is not prohibited by subsections C.1 or C.2, above:

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

4. An approved plan for expansion of a nonconforming structure must be recorded by the applicant in the Washington County Registry of Deeds within 90 days of approval. The recorded plan must show the existing and proposed footprint of the nonconforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zoning subdistrict boundary, and evidence of approval by the review authority.

D. **Foundations—Within Shoreland Zone**. Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure located in the shoreland zone, the structure and new foundation must be placed such that the minimum shoreland

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setback is met to the greatest extent possible, as determined by the Planning Board, basing its decision on the considerations specified in the definition of "greatest extent possible."

E. **Relocation.** A nonconforming structure may be relocated within the boundaries of the lot on which the structure is located as long as (i) the site of relocation complies with all setback requirements to the greatest extent possible, as determined by the Planning Board, and (ii) the existing subsurface wastewater disposal system or replacement system, if any, complies with the requirements of the state wastewater disposal rules. In no circumstance may a structure be relocated in a manner that causes the structure to be more nonconforming.

1. In determining whether the relocation of a structure complies with setback requirements to the greatest extent possible, the Planning Board must base its decision on the considerations specified in the definition of "greatest extent possible."

2. When it is necessary to remove vegetation within the water body or wetland setback area in order to relocate a structure, the Planning Board must require replanting of native vegetation to compensate for the destroyed vegetation in accordance with the Cherryfield Shoreland Zoning Ordinance. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting must comply with the provisions of the Cherryfield Shoreland Zoning Ordinance.

F. **Reconstruction or Replacement—Outside Shoreland Zone.** A nonconforming structure located outside of the shoreland zone that is removed, demolished, damaged, or destroyed, regardless of the cause, may be reconstructed or replaced within the footprint of the structure as it existed immediately prior to the event of removal, demolition, damage, or destruction. Reconstruction or replacement of the structure must commence within two years of the event of removal, demolition, destruction, or damage; otherwise, the reconstructed or replacement structure must comply with all requirements of the district in which the structure is located. In no case may a structure be reconstructed or replaced so as to increase its nonconformity. A structure reconstructed or replaced pursuant to this subsection F may be added to or expanded pursuant to subsection B, above.

G. **Reconstruction or Replacement—Within Shoreland Zone.**

1. A nonconforming structure in the shoreland zone that is located less than the required setback from a water body or wetland that is removed, damaged, or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such removal, damage, or destruction may be reconstructed or replaced as long as (i) a permit is obtained within 18 months of the date of the removal, damage, or destruction and (ii) such reconstruction or replacement is in compliance with the minimum shoreland setback requirement to the greatest extent possible, as determined by the Planning Board.

2. In no case may a structure be reconstructed or replaced so as to increase its nonconformity.

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3. If the reconstructed or replacement structure is less than the required setback it must not be any larger than the original structure, except as allowed pursuant to subsection.C.1, as determined by the nonconforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure may be replaced or constructed at less than the setback requirement for a new structure.

4. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation must be replanted in accordance with subsection E (Relocation).

5. A nonconforming structure that is located less than the required setback from a water body or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Planning Board within one year of such damage, destruction, or removal.

   a) In determining whether the reconstruction or replacement complies with the setback to the greatest extent possible, the Planning Board must base its decision on the considerations specified in the definition of "greatest extent possible," as well as the physical condition and type of foundation present, if any.

Section II-5. Nonconforming Lots

A. **Nonconforming Lots.** A nonconforming lot of record may be built upon, without the need for a variance, if the lot is in separate ownership and not contiguous with any other lot in the same ownership, and if all provisions of this Ordinance except the minimum lot size, minimum road frontage, minimum shore frontage, and minimum lot width requirements can be met.

B. **Contiguous Built Lots**.

1. If two or more contiguous lots are in a single or joint ownership of record on the date of applicability of this Ordinance (or on June 12, 1996 if the lots are in the shoreland zone), if all or part of the lots do not comply with the dimensional standards of this Ordinance, and if a principal use or structure exists on each lot, the nonconforming lots may be conveyed separately or together, as long as the lots comply with the state minimum lot size law and the state wastewater disposal rules.

2. If two or more principal uses or structures exist on a single lot of record on the date of applicability of this Ordinance (or on June 12, 1996 if the lots are in the shoreland zone), each may be sold on a separate lot as long as each lot complies with the state minimum lot size law and the state wastewater disposal rules. When such lots are divided, each lot thus created must conform to the dimensional standards of this Ordinance to the greatest extent possible.

C. **Contiguous Lots, Vacant or Partially Built.** If two or more contiguous lots or parcels are in single or joint ownership of record on the date of applicability of this Ordinance (or on June 12, 1996 if the lots are in the shoreland zone), if any of these lots do not

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individually comply with the dimensional standards of this Ordinance, and if one or more of the lots are vacant or contain no principal structure, the lots must be combined to the extent necessary to comply with the dimensional standards.

D. **Construction of Accessory Structures—Within Shoreland Zone**. On a nonconforming lot on which only a residential structure exists, where an accessory structure cannot be located to comply with the minimum shoreland setbacks, the Planning Board may issue a permit to place a single accessory structure, containing no utilities, for the storage of yard tools and similar equipment. Such accessory structure must (i) not exceed 80 square feet in floor area or eight feet in height, (ii) comply with the minimum shoreland setbacks to the greatest extent possible, and (iii) comply with all other applicable standards, including maximum lot coverage and vegetation clearing limitations. In no case may the accessory structure be located closer to the water body than the principal structure.

Section II-6. Lots in Two Municipalities

A. When a lot is transected by a municipal boundary, this Ordinance applies only to that portion of the lot located in the Town.

CHAPTER III. LAND USE DISTRICTS

Section III-1. Land Use Districts

A. **Land Use Districts Established.** To implement the provisions of this Chapter III (Land Use Districts), the Town is divided into the following land use districts:

Symbol	Land Use District	Characteristics
HV	Historic Village	High-density residential and compatible non-residential uses; small commercial and community-oriented uses; pedestrian-oriented village center.
MU	Mixed Use	Growth area for low-density residential and multi-family residential development, small commercial, and compatible non-residential development along rural highways.
R	Rural	Low-density, predominantly forestry, agriculture, resource extraction, and non-commercial outdoor recreation and resource-based uses; with some residential use.
I	Industrial	Growth area for low-density mixed use development and compatible industrial activities.

B. **Purpose.** The purpose of these district requirements is to:
1. Insure the orderly and beneficial growth and development of the town by designating general areas of appropriate location and size to accommodate anticipated growth and future development, and to encourage growth in the identified growth areas of the Town by:
   a. Identifying appropriate areas for commercial and industrial development.

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b. Identifying appropriate areas for protection of natural resources.
c. Encouraging growth in the areas of the Town that can best support additional needs for municipal services.
d. Developing performance standards to ensure compatibility of uses, especially within rural, residential, and historic areas.

C. **Official Land Use District Map.** The location and boundaries of the land use districts are established as depicted on the Official Land Use District Map for the Town, which are made part of this Ordinance and attached as Appendix A. The Official Land Use District Map is certified by the attested signature of the Town Clerk and is on file with the Town Clerk.

D. **Interpretation of Land Use District Boundaries.** Unless otherwise set forth on the Official Land Use District Map:

1. Boundaries indicated as approximately following the center lines of roads, highways, public utilities, or rights-of-way follow such center lines.

2. Boundaries indicated as approximately following established lot lines or Town boundaries follow such lines.

3. Boundaries indicated as approximately following the shoreland zone follow the shoreland zone, as defined. Boundaries indicated as approximately following the shoreline of any water body or wetland follow the shoreline of the water body or wetland.

4. Boundaries indicated as being parallel to or extensions of any of the features listed in subsections D.1, D.2, or D.3, above, are so construed.

5. Distances not specifically indicated on the Official Land Use District Map are determined by the scale of the map.

6. The Planning Board has the initial authority to interpret the Official Land Use District Map and the location of land use district boundaries. Any minimum setback must be determined by actual site measurement. Where physical or natural features existing on the ground are at variance with those shown on the Official Land Use District Map or in other circumstances where the Planning Board cannot definitely determine the location of a district boundary by the rules in this subsection D, the Planning Board may refer the matter to the Board of Appeals. Referrals of the Planning Board and appeals from boundary interpretation decisions of the Planning Board are *de novo*. The Select Board is the final administrative authority as to the location of district boundaries.

E. Description and Purpose of Land Use Districts

1. Historic Village District (HV).

a) *Description*. The center of the Town of Cherryfield, known as the Historic Village, is characterized by medium-density residential uses predominantly composed of buildings constructed before 1930, complemented by a variety of low-intensity commercial activity. The HV district includes many buildings representing a variety of historic and contemporary architectural styles, as well as other buildings which contribute to the historic village setting.

b) *Purpose*. The purpose of the Historic Village District is to maintain the historic mixed use residential and compatible non-residential land use pattern while promoting the

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architectural design that embodies the present character of this area. Rehabilitation of existing buildings is encouraged, and new construction should respect the existing scale, location, and massing of adjacent buildings.

c) The location and boundaries of the HV district are established as shown on the "Official Town of Cherryfield Land Use Map," which is incorporated herein by reference and made a part of this Ordinance.

2. Mixed Use District (MU).

a) *Description*. The lands adjoining US Route 1 and Routes 182 and 193, outside of the Historic Village district, are characterized by predominantly medium-density to low-density residential uses, complemented by home occupations and a variety of low-intensity commercial activity.

b) *Purpose*. The Mixed Use District provides for growth and development by allowing a range of residential and compatible commercial, institutional, and public uses within a concentrated area consistent with the concept of a downtown, thereby discouraging sprawl, preserving open spaces and facilitating the delivery of town services.

c) The location and boundaries of the MU district are established as shown on the "Official Town of Cherryfield Land Use Map," and are part of this Ordinance.

3. Rural District (R).

a) *Description.* The northeast and northwest sections of the Town are characterized by low-density residential development, open-space, low-intensity commercial and institutional, and low-impact resource extraction uses

b) *Purpose.* The purpose of the R district is to maintain the rural character of the Town's northern section and to protect rural resources from incompatible development by limiting the nature and extent of development in the Rural District to residential, agricultural, resource based, and small commercial or institutional uses.

c) The location and boundaries of the Rural District are established as shown on the "Official Town of Cherryfield Land Use Map," and are part of this Ordinance.

4. Industrial (I)

a) *Description.* A strip of land on the east side of Route 193, north of the MU District, characterized by undeveloped lands interspersed with residential and light commercial uses, and existing industrial uses including the Cherryfield Transfer Station and adjacent industrial solar facilities on Town owned land.

Purpose. The Industrial District provides one area in which it would be considered appropriate to site industrial, manufacturing and higher-intensity commercial activity not compatible with a residential, rural, historic, or mixed use area.

b) The location and boundaries of the I District are established on the "Official Town of Cherryfield Land Use Map" and are part of this Ordinance.

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Section III-2. Table of Uses

A. **Symbols Used in the Schedule of Uses.** The symbols contained in the table of uses in subsection B, below, have the following meanings:

1. Land Use District Symbols

H	Historic Village District	R	Rural District
M	Mixed-Use District	I	Industrial District

2. Permit Symbols

Y	The use, and any structures associated with or devoted to such use, is allowed without a permit
BP	The use, and any structures associated with or devoted to such use, is allowed with a Building Permit from the Planning Board.
SPR	The use, and any structures associated with or devoted to such use, is allowed with Site Plan Approval from the Planning Board.
N	The use, and any structures associated with or devoted to such use, is not allowed.

B. **Schedule of Uses.**

PERMITS NOT REQUIRED

The following structures and uses are allowed in all Land Use Districts without a Permit:

1. Non-residential structures or additions to existing structures that are less than 100 square feet in impervious area. (Not more than 3 (three) unpermitted structures are allowed within any one year).
2. Residential rooftop or wall mounted Solar Installations.
3. Home Occupations (see the definition of a Home Occupation).
4. Agriculture.
5. Keeping livestock for personal use.
6. Parks and trails.

PERMITS REQUIRED

The following structures and uses require a Permit in all Land Use Districts:

1. Any residential structure.
2. Structures with a footprint greater than 100 square feet in size.
3. Any Change of Use.
4. Subdivisions.

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Table of Uses - Residential				
Y = yes, allowed without a permit. N = no, not allowed.	BP = allowed with an approved Building Permit. SPR = allowed with an approved Site Plan Review.			
Type of Use/Structure	**Historic Village**	**Mixed Use**	**Industrial**	**Rural**
Accessory Structure, more than 100 square feet	BP	BP	BP	BP
Campsite	N	BP	BP	BP
Group Home	SPR	SPR	N	N
Duplex	BP	BP	BP	BP
Mobile Home	N	BP	BP	BP
Mobile Home Park	N	SPR	SPR	N
Multi-Family Dwelling	SPR	SPR	SPR	N
Single-Family Dwelling	BP	BP	BP	BP
Solar Energy System, Accessory - Residential Free-standing (1,000 sf in size or less)	SPR	BP	BP	BP

Table of Uses - Commercial				
Y = yes, allowed without a permit. N = no, not allowed.	BP = allowed with an approved Building Permit. SPR = allowed with an approved Site Plan Review.			
Type of Use/Structure	**Historic Village**	**Mixed Use**	**Industrial**	**Rural**
Accessory Structure, more than 100 square feet	SPR	BP	BP	BP
Amusement Facility/Recreation, Indoor	SPR	SPR	N	N
Animal Shelter	N	SPR	SPR	SPR
Automobile Graveyard, Automobile Recycling, or Junkyard	N	SPR	SPR	SPR
Automobile and Small Engine Repair and/or Sales	N	SPR	SPR	SPR
Automobile Washing Facility	N	SPR	N	N
Bank/Financial Institution	SPR	SPR	N	N
Bar/Tavern/Cocktail Lounge	SPR	SPR	N	SPR
Bed & Breakfast (owner on premises)	SPR	SPR	N	SPR
Boarding/Lodging (owner on premises)	SPR	SPR	N	SPR
Boat Building/Repair	N	SPR	SPR	SPR
Building Materials/Retail Sales	N	SPR	SPR	N

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Table of Uses - Commercial				
Y = yes, allowed without a permit. N = no, not allowed.	BP = allowed with an approved Building Permit. SPR = allowed with an approved Site Plan Review.			
Type of Use/Structure	**Historic Village**	**Mixed Use**	**Industrial**	**Rural**
Commercial School	SPR	SPR	N	SPR
Convenience Store	N	SPR	N	N
Equipment Rental Service	N	SPR	SPR	N
Fisheries, Processing/Storage	N	SPR	SPR	SPR
Fuel Retail Sales/Gas Station	N	SPR	SPR	N
Funeral Home	N	SPR	N	N
General Contractor Yard	N	SPR	SPR	N
Grocery Store	SPR	SPR	N	N
Home Occupation	BP	BP	BP	BP
Hotel/Motel	N	SPR	N	N
Indoor Theatre/Music/Entertainment	SPR	SPR	N	N
Inn (owner not on premises)	SPR	SPR	N	SPR
Kennel/Stable	N	SPR	SPR	SPR
Laundromat	N	SPR	N	N
Liquor Store	SPR	SPR	N	N
Live Theater/Music/Entertainment (outdoor)	SPR	SPR	N	SPR
Off-street Parking/Loading Facilities	N	SPR	SPR	N
Offices, Business/Professional/Medical/Veterinary	SPR	SPR	SPR	N
Publishing/Printing	N	SPR	SPR	N
Tele-Communication Towers	N	SPR	SPR	SPR
Restaurant	SPR	SPR	N	SPR
Restaurant, Drive-Through	N	SPR	N	N
Retail Business	SPR	SPR	SPR	SPR
Self-Storage Facility	N	SPR	SPR	N
Service Business	SPR	SPR	SPR	SPR
Shopping Center	N	SPR	SPR	N
Solar Energy System, Accessory - Non-residential free-standing (2000sf in size or less)	N	SPR	SPR	SPR

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Table of Uses - Commercial				
Y = yes, allowed without a permit. N = no, not allowed.	BP = allowed with an approved Building Permit. SPR = allowed with an approved Site Plan Review.			
Type of Use/Structure	**Historic Village**	**Mixed Use**	**Industrial**	**Rural**
Well Drilling	N	SPR	SPR	SPR
Wholesale Business	N	SPR	SPR	SPR
Wind Turbines, Accessory	N	SPR	BP	BP

Table of Uses - Education, Institutional, Public				
Y = yes, allowed without a permit. N = no, not allowed.	BP = allowed with an approved Building Permit. SPR = allowed with an approved Site Plan Review.			
Type of Use/Structure	**Historic Village**	**Mixed Use**	**Industrial**	**Rural**
Accessory Structure, more than 100 square feet	SPR	BP	BP	BP
Assisted Living Facility	SPR	SPR	N	SPR
Community Center/Club	SPR	SPR	N	SPR
Day Care	SPR	SPR	SPR	SPR
Education Facility or School	SPR	SPR	N	SPR
Essential Services	SPR	SPR	BP	SPR
Fire/Police/Ambulance Stations	N	SPR	SPR	SPR
Group Home/Hospice/Nursing Home	SPR	SPR	N	SPR
Health Institution (Hospital/Medical Treatment Facilities)	N	SPR	SPR	SPR
House of Worship	SPR	SPR	N	SPR
Museum/Library	SPR	SPR	N	SPR
Pharmacy	SPR	SPR	N	SPR
Public Utility Facility (excludes wind or solar facilities)	N	SPR	SPR	SPR
Solar Energy System, Accessory - Non-residential free-standing (2000sf in size or less)	N	SPR	SPR	SPR
Research Facility	N	SPR	SPR	SPR

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Table of Uses - Outdoor/Resource-based				
Y = yes, allowed without a permit. N = no, not allowed.	BP = allowed with an approved Building Permit. SPR = allowed with an approved Site Plan Review.			
Type of Use/Structure	**Historic Village**	**Mixed-Use**	**Industrial**	**Rural**
Accessory Structure, more than 100 square feet	SPR	BP	BP	BP
Animal Breeding or Care	N	SPR	BP	BP
Campground (4 sites or less)	N	SPR	BP	BP
Campground (more than 4 sites)	N	SPR	SPR	SPR
Camping Resort	N	SPR	N	SPR
Cemetery	SPR	SPR	N	SPR
Children's Summer Camp	N	SPR	N	SPR
Equestrian Facilities	N	SPR	N	SPR
Farm Stand larger than 100 sq ft	SPR	BP	BP	BP
Farmer's Market	SPR	SPR	N	SPR
Firewood or Lumber Processing/Storage/Sales for Commercial or Industrial Use	N	SPR	SPR	SPR
Forestry for Commercial or Industrial Use	N	SPR	Y	Y
Garden Materials Yard	N	SPR	SPR	SPR
Golf Course (excluding miniature golf)	N	SPR	SPR	SPR
Livestock, Commercial Use	N	Y	Y	Y
Midway/Fairground	N	SPR	SPR	SPR
Mineral Exploration/Extraction	N	SPR	SPR	SPR
Sawmill (excludes temporary portable)	N	SPR	SPR	SPR
Solar Installation, Accessory - Non-residential free-standing (2000sf in size or less)	N	SPR	SPR	SPR
Water Extraction for Commercial or Industrial Use	N	SPR	SPR	SPR

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Table of Uses - Industrial				
Y = yes, allowed without a permit. N = no, not allowed.	BP = allowed with an approved Building Permit. SPR = allowed with an approved Site Plan Review.			
Type of Use/Structure	**Historic Village**	**Mixed-Use**	**Industrial**	**Rural**
Accessory Structure, more than 100 square feet	SPR	BP	BP	BP
Airport/ Air Transportation Dependent Use (excludes Life-Flight)	N	N	SPR	N
Bulk Oil/Gas Terminal/Fuel Storage	N	N	N	N
Change of Use	SPR	SPR	SPR	SPR
Communication Tower (excludes private use, such as short wave radio)	N	SPR	SPR	SPR
Demolition/Waste Disposal	N	N	SPR	N
Manufacturing, Heavy	N	N	SPR	N
Manufacturing, Light	N	SPR	SPR	N
Recycling/Redemption/Transfer Facility	N	N	SPR	N
Solar Energy System, Industrial	N	N	N	N
Transportation Facility (excludes bus stops)	N	SPR	SPR	N
Trucking/Distribution Terminal	N	N	SPR	N
Warehousing/Storage Buildings	N	SPR	SPR	N
Wind Turbines, Industrial	N	N	N	N

Section III-3. Dimensional Standards

A. **Table of Dimensional Standards.** Except as provided in subsection C, below, all uses, structures, and lots must comply with the following dimensional standards.

Table of Land Dimensions				
Dimensions	**Historic Village**	**Mixed Use**	**Industrial**	**Rural**
Minimum land area per dwelling unit structure in square feet	20,000sf	21,780sf (1/2 acre)	43,560sf (1 acre)	43,560sf (1 acre)
Minimum Road Frontage (feet)	50	75	200	200
Minimum Setbacks				
Front setback (feet)	25	25	100	25

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Side setback (feet)	15	15	50	15
Rear setback (feet)	10	15	50	50
Height Limits (feet)	50	50	50	50
Maximum Lot Coverage (percent total of impervious surfaces)	50%	50%	50%	25%

B. **Rules for Determining Conformance with Dimensional Standards**.

1. For uses, structures, and lots in the shoreland zone:

   (a) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two lots are not included in calculating minimum lot size.

   (b) Lots located on opposite sides of a public or private road are each a separate lot.

   (c) The minimum width of any portion of any lot within 100 feet of the normal high-water line of a water body or upland edge of a wetland must be equal to or greater than the minimum shore frontage for a lot with the proposed use.

2. Except as provided below, if more than one dwelling unit or non-residential principal structure or use is constructed or established on a single parcel, all dimensional standards apply to each dwelling unit, principal structure, or use. For structures or uses located outside of the shoreland zone:

   (a) For multi-family dwellings and affordable housing developments, the minimum lot frontage requirement applies to each building rather than each dwelling unit.

   (b) If more than one principal building is constructed on a single parcel of land, the "minimum land area per dwelling" requirement shall apply, and all structures shall meet the front, side, and rear setback requirements. If more than one non-residential structure is constructed on a lot, the minimum land area per dwelling requirement shall be met for each additional structure, even if such structures are connected.

C. **Dimensional Standards for Parking Areas.** Parking areas must comply with the dimensional standards applicable to structures within the land use district in which they are located.

D. **Lot Size Determination.** All lots created for sale to the Public, or for residential or commercial development, after the effective date of this Ordinance, shall comply with the minimum lot size requirements for each of the districts specified herein (refer to table above, and to Future Land Use Map following this ordinance).

E. Land below the maximum high water line of a water body, tributary stream, or upland edge of a wetland shall not be included when calculating minimum lot size.

F. **Multiple Structures.** If more than one principal building is constructed on a single parcel of land, the "minimum land area per dwelling" requirement shall apply, and all

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structures shall meet the front, side, and rear setback requirements. If more than one non-residential structure is constructed on a lot, the minimum land area per dwelling requirement shall be met for each additional structure, even if such structures are connected.

G. **Setback Measurements.** The front setback along a public road shall be measured from the edge of the right-of- way line to the nearest part of the building. All side and rear setbacks shall be measured from the property line to the nearest part of the building.

H. **Side Setbacks.** The minimum side setback may be reduced by two-thirds for nonconforming lots of record which were created and built upon prior to the effective date of this Ordinance.

I. **Driveways, Parking Areas.** Driveways and parking areas may be located within any required setback area provided that they shall not be located within fifteen (15) feet of the side or rear lot lines, unless a written agreement is signed by the abutters. Off street parking will be provided in accordance with Section V-5.F

1. Buildings not listed - spaces shall be provided as for the most similar building which is listed.

J. **Accessory Structures.** When located beyond the rear of the principal building, accessory buildings no larger than 150 square feet in floor area may be located within the required side or rear setbacks provided that no structure shall be located within six (6) feet from a side or rear lot line.

K. **Height of Structures.** All principal and accessory structures shall not exceed fifty (50) feet in height. All expansions that increase the footprint of an existing structure shall not exceed fifty feet in height. The height of a structure shall be determined by using the vertical distance, as measured from halfway between the mean original grade at the downhill side of the structure and the mean original grade at the uphill side of the structure to the highest point of the structure, excluding chimneys, steeples, antennas, and cupolas.

L. **Corner Lots.** The front setback requirement shall be observed along all roads abutting the lot.

M. **Corner Lot Obstructions.** All comer lots shall be kept free from visual obstruction for a distance of twenty-five (25) feet measured along the street lines.

CHAPTER IV. SITE PLAN REVIEW

Section IV-1. Applicability

Site plan and approval under this Chapter IV (Site Plan Review) is required for the following activities:

A. Any use, or any structures associated with or devoted to such use, identified in the schedules of uses in Section III-2 as allowed with site plan approval, including: (i) the construction, alteration, or enlargement of any existing structure associated with or devoted to a use requiring site plan approval; and (ii) co-location on an existing communication tower.

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B. Expansion of a use conducted in one or more existing structures or on land when such expanded use would (i) employ new materials or processes or (ii) involve the sale of goods or services not normally or historically associated with the original use.

Section IV-2. Review Procedures

A. **Pre-Application review (Optional but Encouraged).**

1. Before submitting a site plan application, the applicant may (but is not required to) appear at a regular or special meeting of the Planning Board to informally discuss the proposal. The pre-application meeting is informal and informational in nature, and the purposes of the pre-application meeting are to
   a) allow the Planning Board to understand the nature of the proposal, (ii) allow the applicant to understand the review process and required submissions, and
   b) identify issues that need to be addressed in future submissions.

2. The applicant must give notice of the pre-application meeting in accordance with Section I-9.

3. The applicant may present to the Planning Board at the pre-application meeting, for informal review and comment, a sketch plan of the proposed development. The sketch plan consists of a rough description of the proposed development, and may be a free-hand, penciled sketch of the subject property showing the proposed exterior and layout of structures, roads, and other existing and proposed features relevant to site plan or conditional use review. The applicant may identify and discuss any requests for waivers pursuant to Section I-14.

4. The Planning Board may request that the applicant arrange for a site visit with the Planning Board and the public. The applicant must give notice of the site visit in accordance with Section I-9.

5. No binding commitments may be made between the applicant and the Planning Board at this stage. No vested interests will attach or accrue as a result of any pre-application meeting, and such meeting will not cause an application to be deemed complete for review pursuant to Section I-8.B.

B. **Application Submission; Completeness Review.** The applicant must submit a site plan or conditional use application in accordance with Section IV-5. The applicant must give notice of the application submission in accordance with Section I-9. The Planning Board must determine whether the application is complete for review pursuant to Section I-8.B.

C. **Impact Statements.** At any time after receiving an application, the Planning Board may solicit impact statements from the Select Board or any municipal officials. The officers or officials must submit their impact statements to the Planning Board within five days of the solicitation.

D. **Meeting or Hearing**. After finding an application complete for review, the Planning Board may decide, in its discretion, to schedule a public hearing on any site plan application in accordance with subsection D.2, below. In deciding whether to hold a public hearing on a site plan application, the Planning Board may consider, among other factors, whether the application presents matters or issues of substantial controversy or public importance, or whether a public hearing would likely unearth new information relevant to the Planning Board's review.

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1. If no public hearing is held, the site plan application will be placed on the agenda of the Planning Board's next regularly scheduled meeting for review. ~~If the~~ Planning Board finds, during its review, that the application presents matters or issues of substantial controversy or public importance or a public hearing would likely unearth new relevant information, the Planning Board may, in its discretion, schedule a public hearing in accordance with subsection D.2, below.

2. If the Planning Board decides to hold a public hearing on a site plan application, the Town must publish the time, date, and place of the hearing at least 12 days prior to the hearing in a newspaper of area- wide circulation, and the applicant must give notice of the hearing in accordance with Section I-9.

E. **Site Visits**. At any time during its review of a site plan, the Planning Board may request that the applicant arrange for a site visit with the Planning Board and the public. The applicant must give notice of the site visit in accordance with Section I-9.

F. **Supplemental Information; Proposed Modifications by Applicant**. At any time during its review of a site plan, the Planning Board may accept, in its discretion, supplemental information or proposed modifications to the application which the applicant requests to submit. Any such supplemental information or proposed modifications must be submitted to the Planning Board at least 12 days prior to the meeting or public hearing scheduled pursuant to subsection D, above.

G. **Additional Information**. At any time during its review of a site plan or conditional use application, the Planning Board may request additional information from the applicant and establish the due date for submittal of such information. If the information is not submitted by the applicant by the due date, the application may be returned as incomplete.

H. **Written Decision.** The Planning Board must issue a written decision in accordance with Section I-8.C.

Section IV-3. Application Submission Requirements

A. **Copies**. The applicant must submit five paper copies and one electronic PDF of the application and any supporting documents or evidence.

B. **Application Submission Requirements**. In addition to the application submission requirements in Section I-7, the applicant must submit the following materials:

1. A site plan or plans prepared at a scale of not less than one inch to 100 feet on paper size ***no smaller than 8.5 x 11 inches*** containing:

   (a) The name and address of the applicant, the name of proposed development, and the name and address of the property owner, if different.

   (b) Municipal tax map and lot numbers and names of property owners within 100 feet of the property lines of the proposed development area.

   (c) The location and dimensions of any on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of entrances and exits of vehicles to and from the site onto public roads, and curb and sidewalk lines.

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2. Drawings and descriptions showing:

   (a) Exterior elevations of proposed structures, including additions and expansions.

   (b) A floor plan of existing and proposed structures showing location, footprint, floor area, ground coverage, and placement on site.

   (c) A landscaping plan showing approximate placement and types of existing and proposed vegetation, berms, hedges, tree lines, fencing, and screening.

   (d) The location, description, and placement of signs.

   (e) The location, description (including intensity, type, size, and direction), and placement of exterior lighting.

3. A written statement consisting of:

   (a) A description of the existing and proposed uses of the site, and any existing or proposed structures, including quantity and type of dwelling units, if any.

   (b) The floor area and footprint of each existing and proposed structure, and the lot coverage by each structure, each non-vegetated surface, and all structures and non-vegetated surfaces in the aggregate.

4. A written statement consisting of:

   (a) A description of the existing and proposed uses of the site, and any existing or proposed structures, including quantity and type of dwelling units, if any.

   (b) The floor area and footprint of each existing and proposed structure, and the lot coverage by each structure, each non-vegetated surface, and all structures and non-vegetated surfaces in the aggregate.

5. **As applicable:**

   (a) Existing and proposed locations and dimensions of any essential services, utility lines, sewer lines, water lines, easements, drainage ways (including all existing and proposed storm drainage facilities and dimensions of culverts and pipes), roads, and public or private rights-of-way.

   (b) The location of floodplains and floodplain elevations.

C. **Additional Application Submission Requirements**. In addition to the application submission requirements in Section I-7 and IV-3B. in this Section, the Planning Board may request the following materials*:*

1. A site plan or plans prepared at a scale of not less than one inch to 100 feet on paper size no smaller than 24 x 36 inches containing:

   (a) A perimeter survey of the parcels encompassing the proposed development area and interior lot layout, giving complete descriptive data by bearings and distance, made and certified by a land surveyor relating to reference points, showing true north point, graphic scale, corners of parcels, date of survey, lot size, road frontage, lot coverage, any contiguous private open

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space, minimum setback lines, and total acreage.

(b) A soil survey (including a soils map, location of soil test pits, soil narrative report, and soil profile log description) of existing soil conditions, conducted by a professional consultant according to the *Guidelines for Maine Certified Soil Scientists for Soil Identification and Mapping* (Maine Association of Professional Soil Scientists, Mar. 2009). The intensity level of the soil survey within the buildable area must be:

i. Class A (high intensity) for proposed structures and uses on a lot less than two acres with on-site subsurface wastewater disposal.

ii. Class C (medium-high intensity) for structures and uses on a lot two acres or greater with on-site subsurface wastewater disposal.

iii. Class D (medium intensity) for all other proposals and for all areas outside of the buildable area.

(c) Topographic contours at elevation intervals of two, five, 10, or 20 feet, as specified by the Planning Board.

(d) An on-site soils investigation report by a licensed site evaluator or engineer. The report must contain the types of soil, location of test pits, and proposed location and design of the subsurface wastewater disposal system for the proposed development. If an engineered system is proposed to serve the development, the system must be designed by an engineer and approvals of such system design from the DHHS must be submitted.

(e) The location of mapped aquifers and aquifer recharge areas.

2. A written statement consisting of:

(a) Information relating to projected numbers and types of clients, staff, and duties in sufficient detail to allow the Planning Board to evaluate the availability of municipal services.

(b) A summary of existing and proposed easements, restrictions, and covenants placed or to be placed on the development area.

(c) A description of the proposed method of solid waste disposal.

(d) A soil erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sediment Control Best Management Practices (BMPs): Manual for Designers and Engineers* (DEP, Oct. 2016).

(e) An evaluation of the availability and suitability of off-site public facilities that will serve the proposed development.

(f) A proposed plan for fire protection services, including an evaluation of the availability and suitability of fire hydrants, fire ponds, and other fire protection services, consistent with the applicable provisions of NFPA.

(g) A statement that any proposed road construction will comply with all applicable ordinances, rules, and regulations of the Town.

(h) A construction schedule identifying all major stages of construction and including an estimate of the date when construction will start and be

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substantially completed.

(i) A plan for protecting existing vegetation during construction and replacing vegetation that may become damaged by construction.

(j) A long-term operations and maintenance plan providing for ongoing monitoring and inspections of all site infrastructure. The plan must provide a method for maintaining sufficient financial and technical resources for performing ongoing maintenance and repair of all proposed structures and uses.

(k) A decommissioning plan prepared by an engineer containing, at minimum, a proposed decommissioning schedule and statements and plans addressing physical removal of all facilities and structures; disposal of all solid and hazardous waste in accordance with applicable laws and rules; stabilization or revegetation of the site to minimize erosion and return the site to substantially its pre-development state; and an estimate of costs for decommissioning (including methodology and data supporting the estimate).

3. Proof of adequate technical and financial capacity to develop, operate, and (as applicable) decommission the project in compliance with all applicable review standards, including the general review criteria in this Section IV-4. Evidence of adequate technical capacity may include a written statement identifying the consultants and contractors involved in designing and constructing the project, as well as the long-term operators or managers of the project, and their respective expertise and experience with comparable projects. Evidence of adequate capacity may include a written statement from the lender or financing partner identifying the estimated project cost and confirming that the developer has funds to cover the cost.

Section IV-4. General Review Criteria

For structures and uses that are allowed with Site Plan approval in the schedule of uses in Section III-2.B, the proposal must comply with the following review criteria:

A. **Allowed Use**.

1. The proposed uses, and any structures associated with or devoted to such uses, are allowed within the land use districts and shoreland zoning subdistrict in which they are proposed to be located.

2. The proposal complies with all applicable requirements of this Ordinance and the Town's ordinances, rules, and regulations.

3. The proposal is consistent with the Comprehensive Plan.

B. **Access to Property** - Public or Private Road Access

1. Each property shall be provided with a right-of -way provided by a permanent, recorded easement.

C. **Water Supply**. Sufficient water must be available for the reasonably foreseeable needs of the proposed development, and the proposal must not cause an unreasonable burden on any existing water supplies.

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D. **Sewage Disposal**. The proposal must provide for adequate sewage disposal by demonstrating compliance with all applicable provisions of the state wastewater disposal rules. If an engineered subsurface wastewater disposal system is proposed to serve the development, or if individual subsurface wastewater disposal systems are proposed to be installed, approvals of such system designs must be secured from the Licensed Plumbing Inspector and, as applicable, the DHHS.

E. **Exterior Lighting**. All exterior lighting, including lighted signs and other lighted advertising structures or features, must be shielded and non-flashing, and must be located and designed to (i) ensure safe movement of people and vehicles; (ii) avoid glare and reflection on adjacent properties and roads; and (iii) not impair the vision of the driver of any vehicle upon any road.

F. **Emergency Vehicle Access**. Provision must be made for convenient and safe emergency vehicle access to the proposed development site, including to all existing and proposed structures.

G. **Municipal and Public Services**. The proposal must not have an unreasonable adverse impact on municipal and other public services and facilities, including municipal road systems (including road maintenance and snow removal), public utilities, fire protection, police services, emergency medical unit services, solid waste disposal services, schools, public open spaces, recreational programs and facilities, on-site and off-site drainage facilities, and other municipal and public services and facilities.

H. **Surface Water Drainage**. Adequate provision must be made for surface water drainage so that removal of surface waters will not adversely affect neighboring properties, downstream water quality, soil erosion, or any public or private storm drainage systems. Whenever practicable or necessary, on-site absorption must be utilized to minimize off-site discharge.

I. **Erosion and Sedimentation Control**. The proposal must not, alone or in conjunction with existing activities, cause unreasonable soil erosion or a dangerous or unhealthy reduction in the capacity of the land to hold water. Any filling, grading, dredging, lagooning, earthmoving, or other land disturbance activities must be conducted in such a manner to prevent soil erosion and sedimentation into surface waters.

J. **Water Quality and Quantity**. The proposal must not, alone or in conjunction with existing structures and uses, have an unreasonable adverse impact on surface water or groundwater quality or quantity. In making this determination, the Planning Board must consider:

    1. The nature of soils and subsoils, including their ability to adequately support subsurface wastewater disposal systems or any other approved or licensed discharge.

    2. The slope of the land and its effect on effluents.

    3. The impact of the proposed development on aquifers and aquifer recharge areas.

    4. The existence of streams and surface runoff characteristics.

    5. The cumulative impact of increased phosphorus export to water bodies.

    6. Any applicable federal, state, and local laws and rules, and approvals granted, pertaining to water quality and quantity.

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K. **Air Pollution**. The proposal must not, alone or in conjunction with existing activities, have an unreasonable adverse impact on air quality. The applicant must consult federal and state authorities, including DEP, to determine applicable air quality laws and regulations and must furnish evidence to the Planning Board of compliance with such laws and regulations.

L. **Preservation and Enhancement of the Landscape**. During construction, the landscape must be preserved in its natural state to the greatest extent possible by minimizing tree removal, minimizing disturbance of soil, and retaining natural vegetation to minimize the impacts of the proposal on neighboring land uses. Environmentally sensitive areas such as wetlands, steep slopes, floodplains and unique natural features shall be maintained and preserved to the maximum extent. Natural drainage areas shall be preserved to the maximum extent. A landscaping plan must be incorporated into the final site plan, and vegetation must be retained or landscaping must be designed and planted to (i) substantially screen from view activities and structures (including off- street parking areas) from public roads and abutting properties, and (ii) minimize adverse visual and noise impacts on neighboring land uses. Invasive plants may not be used in any landscaping plan.

M. **Visual Impact**. The proposal must not, alone or in conjunction with existing structures and uses, have an unreasonable adverse effect on the scenic or natural beauty of the Town, including its aesthetics, historic sites, and rare and irreplaceable natural areas.

N. **Vegetated Buffer Strips.** The purpose of buffer strips is to separate and partially obstruct the view, artificial light, and noise of one land use or property from another. In addition, buffer strips can be used to minimize the noise of different land uses. No non-residential use may be erected or any use permitted unless a buffer strip is provided and maintained between any adjoining residential district or use and the non-residential structure or use.

1. A vegetated buffer area must be provided to provide screening to soften and naturalize the visual impact of the use or structure. This vegetated buffer may consist of undisturbed woods and shrubby vegetation. In areas where existing vegetation is not adequate for screening purposes, the Planning Board may require plantings of native trees or shrubs. Fencing may be approved as an alternative screening method either in place of or in combination with vegetated screening.

2. Natural Features. The side and rear yards of non-residential facilities abutting residential districts or uses shall maintain a natural buffer of at least the setback distance.

3. Landscaping. When natural features such as slope, gullies, stands of trees, shrubbery or rock outcrops do not exist or are insufficient to provide a buffer, the developer shall provide a landscaped area at least thirty (30) feet wide. Where such landscaping is not feasible, as determined by the Planning Board the developer shall provide a fence at least six (6) feet high between the adjoining residential district and the non-residential use.

4. Effect of Buffering. Natural features, landscaping, or, if necessary, fencing or screening, should be expected to obstruct the view of the proposed development from abutting properties.

5. Fencing and Screening. Fencing and screening, when necessary, shall be properly

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maintained and located or constructed in such a manner that it can be maintained from the developer's property.

O. **Relation of Proposed Buildings to Environment.** Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed structures, so as to have a minimal adverse effect on the environmental and aesthetic qualities of the developed and neighboring areas.

P. **Historic and Archaeological Resources.** The proposed development must have no unreasonable adverse impact on historic and archaeological resources, including any historic district, site, or structure that is currently listed on or eligible for listing on the National Register of Historic Places.

Q. **Protected Natural Resources.** The proposed development must have no unreasonable adverse impact on protected natural resources. If required by the Planning Board, the applicant must consult with MDIFW to determine the existence of and impacts to any protected natural resources by the proposed development. Comments submitted by MDIFW must be provided to the Planning Board. The Planning Board may, in its discretion, rely on approvals of the proposed development by state and federal governmental entities, including the DEP and U.S. Army Corps of Engineers, as *prima facie* evidence that the proposed development will have no unreasonable impact on protected natural resources.

R. **No Nuisance**. Any non-residential use which is found by the Planning Board to constitute a public nuisance by reason of the emission of dust, fumes, gas, smoke, odor, noise, vibration, or other disturbance is prohibited.

S. **Performance Guarantee**. If required by the Planning Board, in its discretion, the applicant must provide for a performance guarantee to the Town in accordance with any decommissioning plan and Section VII-10.

Section IV.5 Specific Standards

A. Home Occupations

1. Permitted home occupations shall be carried out without altering the residential character of the structure or neighborhood or changing the character of the lot from its principal use as a residence. A home occupation shall be permitted if it complies with all of the requirements of this Section.

2. A home occupation shall be carried on by permanent residents of the dwelling unit, with no more than two employees who are not residents of the dwelling unit.

3. The home occupation shall be carried on wholly within the principal or accessory structures. There shall be no outside storage or display of materials or products or equipment or vehicles.

4. The Performance Standards of this ordinance shall apply (see Section 5.0).

5. One non-illuminated sign, no larger than six (6) square feet may be erected on the premises.

6. The sale of products shall be limited to those which are crafted, assembled, or

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substantially altered on the premises; to catalog items ordered off the premises by customers; and to items which are accessory and incidental to a service which is provided on the premises.

B. **Noise**.

1. The proposal must not, alone or in conjunction with existing activities, raise noise levels to the extent that abutting or nearby residents or properties are adversely affected. If it is likely that the proposal will result in noise in excess of that which is normal for the surrounding area, the proposal must be designed and landscaped to minimize noise interference to neighboring uses.

2. Excessive noise due to intermittence, beat frequency, or shrillness must be muffled so as not to be objectionable beyond any property lines.

3. Except as provided in subsection E.4, below, the maximum permissible sound pressure level of any continuous, regular, or frequent source of sound produced by any activity must not exceed the following sound pressure level limits:

7:00 a.m. – 8:00 p.m.	**8:00 p.m. – 7:00 a.m.**
70 dB(A)	55 dB(A)

Sound pressure levels must be measured on a sound level meter at all lot lines of the proposed development area, at a height of approximately four feet above the ground surface.

4. The following activities are exempt from the sound pressure level limits of subsection E.3, above:

a) Noises created by construction and temporary maintenance activities between 5:30 a.m. and 8:00 p.m.

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

c) Traffic noise on public roads.

C. **Campsites.** Individual, private campsites not associated with a campground are allowed if the following standards are met:

1. Only one recreational vehicle is allowed on a campsite. The recreational vehicle must not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy may be attached to the recreational vehicle.

2. A written wastewater disposal plan describing the proposed method and location of sewage disposal is required for each campsite and must be approved by the LPI. If disposal is proposed to be off-site, written authorization from the receiving facility or property owner is required.

3. When a recreational vehicle, tent, or similar temporary shelter is placed on-site for more than 120 days per year, all dimensional standards and other requirements for a single-family dwelling must be met, including the installation of a subsurface wastewater disposal system in compliance with the state wastewater disposal rules.

a) Campsites may not be located closer to the front property line than any principal structure

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unless they are screened from view of any public road. (see section IV.4, Vegetated Buffer Strips)

b) Campsites are not allowed in the Historic Village District.

D. **Signs**. Signs must comply with the following standards:

1. Off-Premises Signs Prohibited. Signs relating to goods or services not sold or rendered on the premises are prohibited.
2. Size Limitations. Signs relating to goods and services sold or rendered on the premises must not exceed 32 square feet.
3. Number of Signs. On-premises signs on any one property may not exceed 2 in number, except in the case of more than one business, facility or point of interest being conducted on one property, signs for each business, facility or point of interest may not exceed 1 in number.
4. Sign Height. The maximum height of on-premises signs is 10 feet above the ground level of land upon which it is located or, if the sign is affixed to or is part of a building, the maximum is 3 feet above the roof of the building.
5. Lighting. Signs may be illuminated only by shielded, downward directed, non-flashing lights. Internal illumination is not allowed.
6. Animation. Signs must not flash, move, have any animated or moving parts, or have the appearance of movement.
7. **Location; relation to public way.** On-premises signs are prohibited:
   a) Within 33 feet of the center line of any public way;
   b) Within 20 feet from the outside edge of the paved portion of any public way with more than 2 travel lanes and a total paved portion in excess of 24 feet in width;
   c) Within the full width of the right-of-way of any public way.
   d) If it prevents the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

E. Solar. All Solar Energy Systems must comply with the following standards:

1. Applicability
   a. Industrial Solar Energy Systems are not allowed in any Land Use District.
   b. Rooftop or wall mounted accessory Solar Energy Systems are allowed in all districts without a permit.
   c. Residential-use ground mounted accessory Solar Energy Systems shall have an array area (including panel area and inter-panel space) not greater than 1,000 square feet.
   d. Non-residential commercial- or institutional-use ground mounted accessory Solar Energy Systems shall have an array area (including panel area and inter-panel space) not greater than 2,000 square feet.
   e. All accessory Solar Energy Systems shall conform to the standards for structures of the applicable district.

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2. Definitions

   a. Accessory Solar Energy System: Solar Energy System that may be roof or ground-mounted, generating power for on-site consumption or to offset electrical use for on-site accounts for a principal use or structure.

   i. A solar energy system shall be considered accessory to the principal use only when it is incidental and subordinate to the principal use or structure and located on the same lot.

   b. Industrial Solar Energy System: Solar Energy System, roof or ground-mounted Photovoltaic Array, which generates electricity for off-site accounts.

3. Performance Standards: All Free-Standing Accessory Solar Energy Systems (SES) shall be subject to the following performance standards.
   a. Siting. All free-standing SES should be sited to minimize or negate any solar glare onto nearby properties or roadways.
   b. Setbacks. Free-standing SES shall be located a minimum of 50 feet from all front, side, and rear property lines. Minimum setbacks shall not be applicable to internal property lot lines on contiguous lots under the common ownership.
   c. Height. The maximum height of a free-standing SES is 14 feet. Height shall be measured at maximum tilt of the solar panels.
   d. Visibility. All free-standing SES shall be sited to minimize visibility from adjacent properties and public or private roadways.
   e. Buffer Area. A vegetated buffer area must be provided around the SES to provide screening to soften and naturalize the visual impact of all free-standing SES. This vegetated buffer may consist of undisturbed woods and shrubby vegetation. In areas where existing vegetation is not adequate for screening purposes, the Planning Board may require plantings of native trees or shrubs. Fencing may be approved as an alternative screening method either in place of or in combination with vegetated screening.

Section IV-6. Roads, Traffic, and Parking Review Criteria

A. Road Access. The proposed development must adjoin a public or private road or have deeded access to a public or private road, which has adequate capacity to accommodate the additional traffic generated by the development.

Intersections on major access routes to the site which are functioning at a Level of Service of C or better prior to the development shall function at a minimum at Level of Service C after development. The determination of level of service shall be based on data available from the Maine Department of Transportation Bureau of Planning, Transportation Analysis Section. (Peak-hour Level of Service in MEDOT roads GIS data reflects the estimated peak hour level of service (A-F), based on speed limit, annual average daily traffic (AADT), capacity, access control and urban/rural status.) If any intersection is functioning at a Level of Service D or lower prior to the development, the project shall not reduce the current level of service. The Planning Board may approve a development not meeting this requirement if the applicant demonstrates that:

1. A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or

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

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B. Access into the Site. Roads/driveways into the development shall provide for safe and convenient access and the following standards shall apply:

1. Any exit driveway or proposed street shall be so designed as to provide a minimum
2. sight distance of ten times the posted speed limit in each direction, as measured from the point at which the driveway or street meets the public or private right-of-way.
3. Points of access shall be located to avoid hazardous conditions or conflicts with existing turning movements and traffic flows.
4. The grade of any exit driveway or proposed street for a distance of one hundred feet from its intersection with any existing street shall be a maximum of three (3) percent.
5. The throat length of any entrance shall be of sufficient length to prevent incoming

a. vehicles from queuing back onto the highway.

6. Driveways and entranceways shall be designed so that all maneuvering and parking of any vehicles shall take place outside the right of way of the highway and such that vehicles may exit the premises without backing onto the shoulder or traveled portion of the highway.
7. Except for forestry management and farming activities, lots on major collector roads shall be limited to one two-way or two one-way entrances or exits.
8. The intersection of any access drive or proposed street shall function at a Level of Service of C following development if the project will generate four hundred (400) or more vehicle trips per twenty-four hour period or at a level which will allow safe access into and out of the project if less than four hundred (400) trips are generated.
9. Projects generating four hundred (400) or more vehicle trips per twenty-four (24) hour period shall provide two (2) or more separate points of vehicular access into and out of the site.

C. Vehicular and Pedestrian Traffic. The proposal must not cause vehicular and pedestrian traffic conditions to become unsafe or to exceed reasonable traffic limits of any affected roadways. In evaluating this standard, the Planning Board may consider the location, number and control of access points, adequacy of adjacent roads, traffic flow, traffic volume, sight distances, turning lanes, existing or proposed traffic signalization, and pedestrian-vehicular contacts. When practicable, applicants must incorporate shared driveways to provide common access to adjacent properties and reduce curb cuts on the main road.

D. Internal Vehicular Circulation. The layout of the site shall provide for the safe movement of passenger, service and emergency vehicles through the site and the following standards shall apply:

1. Nonresidential projects shall provide a clear route for delivery vehicles with appropriate geometric design to allow turning and backing for vehicles expected to

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use the facility.

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

3. The layout and design of parking areas shall provide for safe and convenient circulation of vehicles throughout the lot and shall prohibit vehicles from backing out onto a street.

4. No parking shall be directly accessible from any public way. Parking spaces shall be provided as detailed in Section III.3 and V.5.

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

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

F. Parking. The proposal must provide adequate off-street parking to accommodate the projected needs of the proposal, including projected numbers of employees and customers. Unless the Planning Board finds that fewer parking spaces may adequately accommodate the projected needs of the proposal, the following minimum parking spaces are required:

Proposed Use	**Minimum Number of Parking Spaces**
Residential structures and uses (including affordable housing development, assisted living facility, multi-family dwelling, group home, mobile home park)	2 spaces per 3 units in an affordable housing development; otherwise, 2 spaces per dwelling unit
Transient accommodations (including bed and breakfast / small inn, boarding house, hospice facility, hotel / motel / large inn, resort / glamp-ground)	1 space per guest room or accommodation
Gathering spaces (including auction / auction house, bar / tavern / cocktail lounge, brewery / distillery / winery, community center, farmers market, food truck park, function hall / lodge / clubhouse, funeral home, live theater / music / entertainment, midway / fairground, movie theater, outdoor flea market / open-air market, indoor recreation, outdoor recreation, religious assembly, restaurant)	1 space per 4 seats or per 4 projected daily patrons and staff

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Proposed Use	Minimum Number of Parking Spaces
Retail sales and services (including animal shelter, auto / boat sales, service, and storage, auto washing facility, bank, boarding kennel, building materials yard, equipment rental service, fuel retail sales, garden materials yard, gas station, general contractor yard, health institution, hospice facility, laundromat, liquor store, minimart, neighborhood convenience store, office building, pawn shop, retail business, self-storage facility, vehicle and small engine repair shop, veterinary service)	1 space per 300 sq. ft. floor area
Industrial, utility, or resource extractive uses (industrial-scale agriculture and agricultural product processing, aquaculture, communication tower, essential service, firewood processing and sales, manufacturing, mineral extraction, sawmill, warehousing and distribution, water extraction)	As determined by the Planning Board
Other (including ambulance / fire station, boat launching facility, campground, children's summer camp, day care facility, education facility, equestrian facility, governmental use, redemption / recycling / transfer facility, research facility)	As determined by the Planning Board
Buildings not listed – spaces shall be provided as for the most similar building which is listed.	As determined by the Planning Board

1. Applicants may satisfy the parking requirements in this subsection by demonstrating that existing public or private parking areas accommodate projected needs of the proposed development; (ii) entering into a written lease or other legally binding agreement, having a minimum duration of 10 years, with another property owner or with the Town to use, exclusively or on a shared basis, public or private parking lots that are proximate to the development site and allow overnight and winter parking; or (iii) proposing an alternative agreement or arrangement sufficient to address the parking needs of the proposed development.
2. Parking lots serving multiple establishments or providing general off-street parking are encouraged.
3. Landscaping shall be designed and installed to define, soften, or screen the appearance of off-street parking areas from the public right-of-way and abutting properties, to enhance the physical design of the building (s) and site, and to minimize the encroachment of the proposed use on neighboring land uses. Particular attention shall be paid to the use of planting to break up parking areas.

Section IV-7. Post-Approval Requirements

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A. **Incorporation of Approved Plan.** All construction activities must comply with the approved site plan or conditional use approval and any conditions of approval and incidental changes made pursuant to Section IV-8.B.

B. **Performance Guarantee.** The Planning Board may require the filing of a performance guarantee for any approved site plan or conditional use approval in accordance with Section VII-10.

C. **As-Built Drawings.** Any project involving the construction of more than 20,000 square feet of total floor area or 50,000 square feet of non-vegetated surface must submit to the Planning Board, within 30 days after occupancy or commercial operation, a set of construction plans showing the structures, facilities, and site infrastructure as actually constructed on the site.

D. **Communication Tower and Solar Energy System Decommissioning**. Within six months of (i) the end of the manufacturer-identified useful life of a communication tower or solar energy system (SES) ; (ii) the failure of the owner or operator of a communication tower or SES to substantially start repair on the tower after a casualty loss or other significant damage within 12 months of the loss or damage, or (iii) a determination by the Select Board that the tower or SES has been abandoned by virtue of its failure to have operated for a continuous period of at least 12 months, the owner or operator must, at its own expense, complete the decommissioning of the tower or SES, in compliance with a decommissioning plan approved by the Planning Board. The owner or operator must notify the Planning Board of the date decommissioning is initiated and the date decommissioning is completed.

Section IV-8. Amendments to Approved Site Plans

A. Prior to making any change or revision to a site plan approval that has been approved by the Planning Board, the applicant must submit a site plan amendment application to the Planning Board. Except as provided in subsection B, below, the amendment application is subject to the same review procedures, application submission requirements, review standards, and other provisions of this Ordinance as apply to a site plan application.

B. The following incidental changes or revisions to approved site plans may be approved by the Planning Board without conducting a public hearing pursuant to Section IV-2.D, if in the judgment of the Planning Board such changes or revisions will not alter any of the Planning Board's prior determinations with respect to any applicable review criteria or alter the essential nature of the approved site plan:

1. Stripping, grading, grubbing, filling, or excavation of less than 1,000 square feet of land.
2. Paving existing or approved parking areas.
3. Immaterial corrections to locations of property boundary lines, setback lines, rights-of-way, easements, existing natural features, and existing or proposed structures.
4. Typographical, clerical, or scrivener's errors.

Any such changes or revisions must be endorsed in writing on the approved plan by a majority of the Planning Board.

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V. BUILDING PERMIT REGULATIONS

Section V-1. Applicability: Building Permit Required

A. **Building Permit Required.** Except as provided in subsection B, below, prior to starting any construction, replacement, remodeling, relocating, expansion, or plumbing (such as internal, external, or subsurface wastewater disposal) of any building, structure, or parts of a building or structure, the property owner must obtain a building permit from the Planning Board.

B. **Exception.** No building permit is required for the construction or placement of any new structure for which site plan approval has been granted pursuant to Chapter IV (Site Plan Review). The replacement, relocation, or expansion of any such previously approved structure requires site plan amendment approval.

Section V-2. Review Standards

Before issuing a building permit, the Planning Board must find that:

A. **Allowed; Legally Existing Use, Structure, and Lot.**

1. The proposal is an allowed use, or is a structure associated with an allowed use, in the applicable land use district.

2. The proposal, if located in the shoreland zone, is an allowed use, or is a structure associated with an allowed use, in the applicable shoreland zoning district, and complies with all applicable requirements of the Cherryfield Shoreland Zoning Ordinance.

3. The proposal, if it concerns a nonconforming use, structure, or lot, complies with all applicable requirements of Chapter II (Nonconforming Uses, Structures, and Lots).

4. The lot on which the proposed structure or use is to be located is a legally existing lot.

B. **Dimensional Standards; Minimum Lot Size.**

1. The proposal complies with all applicable dimensional standards, including those set forth in Section III-3.B.

2. The proposal complies with the state minimum lot size law.

C. **Wastewater Disposal; Potable Water.**

1. The proposal complies with the state wastewater disposal rules, as applicable.

2. For any dwelling unit, unit within an affordable housing development, or accessory dwelling unit, the owner of such unit must provide written verification to the Planning Board that the unit is connected to adequate water and wastewater services, as follows:

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

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connection to the sewer system.

(b) If the unit is connected to a subsurface wastewater disposal system, proof of adequate sewage disposal for subsurface wastewater. The system must be verified as adequate by the LPI pursuant to 30-A M.R.S.A. § 4221. Plans for subsurface wastewater disposal must be prepared by a site evaluator in accordance with 22 M.R.S.A. § 42.

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

(d) If the structure is connected to a well, proof of access to potable water, including proof of compliance with the following standards:

i. The well must be sited and constructed to prevent infiltration of surface water and contamination from subsurface wastewater disposal systems and other known sources of potential contamination.

ii. Site design must allow for placement of wells, subsurface wastewater disposal areas, and reserve sites for subsurface wastewater disposal in compliance with the state wastewater disposal rules.

iii. Proposed activities involving sources of potential contamination, including junkyards, automobile graveyards, gas stations, and bulk storage of petroleum products, must be located at least 300 feet from existing private and public water supplies.

iv. For subdivisions and commercial, industrial and other non-residential development, the applicant must demonstrate that there is sufficient healthful water supply to serve the needs of the project.

v. When a project is to be served by a public water system, the location and protection of the source, the design, construction, and operation of the system must conform to the state drinking water rules.

vi. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

The written verification required by this subsection C.2 shall apply only to the extent such written verification is required by 30-A M.R.S.A. §§ 4364(5), 4364-A(4), or 4364-B(7). The Planning Board may condition approval of a building permit on such written verification.

D. **Design Guidelines for Structures in the Historic Village (H) District.** In the H district, newly constructed or reconstructed buildings, as well as existing buildings and appurtenant structures, which have been altered, repaired, or moved should be visually compatible with the buildings squares, and places to which they are visually related and

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specifically with nearby and/or adjacent buildings. All buildings in the H district are encouraged to be in keeping with the traditional surrounding architecture in order to help preserve and protect the character of this district. The scale of a building should be visually compatible with its site and with its neighborhood.

CHAPTER VI. RULES OF CONSTRUCTION, ACRONYMS, AND DEFINITIONS

Section VI-1. Rules of Construction

In the construction of this Ordinance, the following rules apply, unless such construction is inconsistent with the plain meaning of the affected provision of the Ordinance and the context clearly otherwise requires:

A. **Delegation of Authority.** Whenever a provision of this Ordinance requires an officer of the Town to do some act or perform some duty, reference to such officer authorizes the officer to designate, delegate, and authorize subordinates to perform the required act or duty, unless the provision specifies otherwise.

B. **Including.** The word "including" means "including but not limited to."

C. **Measuring Distances.** All widths and distances, including minimum lot width, minimum road frontage, minimum setback, minimum setback area, minimum setback from any common lot line, minimum setback line, minimum shore frontage, minimum shoreland setback, or the like, must be measured as horizontal distances.

D. **Person.** The word "person" means any individual, firm, partnership, corporation, company, association, club, joint venture, estate, trust, governmental agency, municipality, other legal entity, or any group or combination acting as a unit and the individuals constituting such group or unit.

E. **References to State Statutes and Rules.** References to Maine statutes and Maine state department or agency rules include any amendments and successor provisions thereto.

F. **Shall, Must, Will, May Not, May, Should.** The words "shall," "must," "will," and "may not" are mandatory and not discretionary. The words "may" and "should" are permissive.

G. **Technical Words.** Unless specifically defined in this Ordinance, words and phrases must be construed according to their customary dictionary meanings, except that technical words and phrases that have acquired a peculiar meaning in law must be construed according to such meaning.

Section VI-2. Acronyms

CEO Code Enforcement Officer

DACF Maine Department of Agriculture, Conservation and Forestry, and any successor state department or agency

DECD Maine Department of Economic and Community Development, and any successor state department or agency

DEP Maine Department of Environmental Protection, and any successor state department or agency

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DHHS	Maine Department of Health and Human Services, and any successor state department or agency
DOT	Maine Department of Transportation, and any successor state department or agency
FAA	Federal Aviation Administration, and any successor federal department or agency
FCC	Federal Communications Commission, and any successor federal department or agency
FEMA	Federal Emergency Management Agency, and any successor federal department or agency
LPI	Local Plumbing Inspector
MDIFW	Maine Department of Inland Fisheries and Wildlife, and any successor state department or agency
MHPC	Maine Historic Preservation Commission, and any successor state department or agency
M.R.S.A.	The latest edition of the Maine Revised Statutes Annotated
NFPA	National Fire Protection Association
NRPA	The Natural Resources Protection Act, codified at 38 M.R.S.A. § 480-A *et seq.*

Section VI-3. Definitions

Accessory Structure or **Accessory Use** — A structure or use that is incidental and subordinate to the principal structure or principal use on the same lot. Accessory uses, when aggregated, must not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or common wall is considered part of the principal structure.

Addition — An extension or increase in floor area or height of a building or structure.

Affordable Housing Development — A development composed of single-family dwellings, two-family dwellings, or multi-family dwellings and, (1) for rental housing, in which a household whose income does not exceed 80% of the area median income can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs; and, (2) for owned housing, in which a household whose income does not exceed 120% of the area median income can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs. For purposes of this definition, "housing costs" means: (a) for a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and (b) for an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner's insurance, condominium fees, and homeowners' association fees.

Aggrieved Party or **Aggrieved Person** — A person who participated in a public hearing, if one is held under this Ordinance, and (i) whose property is directly or indirectly affected by the grant or denial of a permit, approval, or variance under this Ordinance; (ii) whose land abuts land for which a permit, approval, or variance has been granted under this Ordinance; or (iii) who suffers

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a particularized injury as a result of the grant or denial of a permit, approval, or variance under this Ordinance.

Agriculture — The commercial production of plants and animals and their products to supply humans with food, feed, fiber, or fur, including forages and sod crops; grains and feed crops; dairy and dairy products; bees and bees' products; poultry and poultry products; livestock and livestock products; manure and compost; and fruits, berries, vegetables, flowers seeds, grasses and other similar products. This definition includes agricultural composting operations, agricultural support services, and farm operations, as those terms are defined in 7 M.R.S.A. § 152; the construction, alteration, or maintenance of farm or livestock ponds which are not fed or drained by a flowing water; the operation of machinery and the construction of buildings to store equipment, products, and materials for maintaining roads; other structures used primarily for agricultural purposes; and agritourism. This definition does not include agriculture primarily for household or personal use, sawmills, piggery agriculture, poultry agriculture, or product processing agriculture.

Agriculture, Product Processing — The processing of agricultural products or making of food for human consumption and sale from one or more ingredients by synthesizing, preparing, treating, modifying, or manipulating food or food products. Examples of product processing activities include baking, boiling, bottling, canning, cooking, cutting, distilling, evaporating, extracting, freezing, grinding, mixing, pasteurizing, rendering, packaging, trimming, washing, or waxing. This definition includes slaughterhouses, butcheries, commercial kitchen operations, catering establishments, home kitchens, roadside stands, farmers' markets, and community social events, but does not include piggery agriculture or poultry agriculture.

Agritourism — Activities incidental and subordinate to agriculture or the operation of a farm that brings members of the public to the farm for educational or recreational purposes to view or enjoy agricultural activities, including farming, educational workshops, harvest-your-own activities, or nature viewing.

Alteration — A change or modification requiring movement in the location of major structural members of a building, including bearing walls, columns, beams, girders, or substantial remodeling, but not including cosmetic, decorative, or appliance/fixture upgrades or routine maintenance or repair of a building.

Animal Shelter — A facility used to house or contain stray, homeless, abandoned, or unwanted animals that is owned, operated, or maintained by a public body, a humane society, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

Antenna — Any system of poles, panels, rods, reflecting discs, or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

Applicant — A person with sufficient right, title, or interest to submit an application for a permit or approval or a variance request to a reviewing authority pursuant to this Ordinance. This definition may include any duly authorized designee or agent of the applicant if the context so dictates.

Aquifer — A saturated permeable geologic unit consisting of unconsolidated sediment or bedrock that can yield economically valuable quantities of water. This definition includes all areas specifically mapped as aquifers by the Maine Geological Survey or a geologist.

Area Median Income — The midpoint of a region's income distribution calculated on an annual basis by the U.S. Department of Housing and Urban Development ("HUD"). For purposes of this definition, "region" is the HUD-designated metropolitan area that includes the Town.

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Assisted Living Facility — A residence for the elderly that provides housing, limited care, meals, personal care, and supervision, and which may provide other services such as recreational activities, financial services, and transportation.

Auction / Auction House — A facility or place used for a public sale in which goods or property are sold to the highest bidder.

Automobile Graveyard — An "automobile graveyard" as that term is defined in 30-A M.R.S.A.
§ 3752(1).

Automobile Recycling Business — An "automobile recycling business" as that term is defined in 30- A M.R.S.A. § 3752(1-A).

Auto / Boat Sales, Service, and Storage — The commercial use of any building, land, or other premises principally for the display, sale, rental, or lease of new or used watercraft, automobiles, light trucks, vans, trailers, or recreational vehicles, and the incidental and subordinate repair or storage of such watercraft or vehicles. This definition includes any vehicle preparation, warranty, or repair work conducted as an accessory use.

Auto Washing Facility — A facility used to clean the exterior and, in some cases, the interior of motor vehicles.

Bar / Tavern / Cocktail Lounge — A facility or structure primarily devoted to the serving of alcoholic beverages, with the service of food incidental to the consumption of such beverages. This definition includes meeting places or other facilities of nonprofit organizations that are licensed to serve alcoholic beverages.

Bed and Breakfast / Small Inn — A facility that offers sleeping accommodations to lodgers in eight or fewer rooms for rent with no provision for cooking in any individual guest room, which may, but is not required to, include a private residence that is the innkeeper's principal residence. A lodger is a person who rents a room in a bed and breakfast / small inn for less than 30 days.

Boarding House — A residential structure in which six or fewer rooms, or rooms and meals, are provided to occupants for at least one week, with meals available only to the occupants. The structure must be occupied by a resident owner or manager. There may be no provision for cooking in any individual guest room. Housekeeping services may be included.

Boarding Kennel — A place where domestic pets are housed temporarily for a fee.

Brewery / Distillery / Winery — An establishment or place where beer, liquor, or wine is made commercially, which may also be licensed to sell on the premises as a bar / tavern / cocktail lounge.

Buffer or **Buffer Strip** — A defined and described lot, or portion of a lot, that (i) must remain unaltered, vegetated, revegetated, unscarified, undisturbed, and/or in its natural state, or (ii) serves to minimize environmental impacts to natural resources or audiovisual impacts to surrounding properties, as the context may dictate.

Buildable Area — The surface area of a lot, minus the area of all required minimum setback areas and open space requirements.

Building — Any structure arranged, designed, intended, or used for the shelter, housing, or enclosure of persons, animals, processes, equipment, or property.

Building Materials Yard — An outside storage area for materials used in building and

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construction, such as roofing, fill material, wood, equipment, vehicles, machinery, paints, pipes, or electrical components.

Campground — An area of land devoted to overnight recreational or educational use on a short-term basis, where the area is divided into more than four but fewer than 100 campsites. This definition does not include camping resorts/glamp-grounds.

Camping Resort/Glamp-ground – A facility, building, or group of attached or detached buildings that provides or is designed to provide transient lodging accommodations to the general public, typically for a fee, and extensive amenities including food, drink, recreation, and entertainment on the premises to guests and invitees. This definition includes a facility or area that provides or is designed to provide outdoor camping with amenities and resort-style services not commonly associated with campgrounds, such as yurts, cabins, beds, electricity, and access to indoor plumbing. A "small camping resort/glamp-ground" occupies a land area of five acres or less and may contain no more than 75 guest rooms or 50 campsites. A "large glamping resort/glamp-ground" occupies a land area of more than five acres and may contain no more than 150 guest rooms or 100 campsites. For purposes of this definition "land area" means the footprint of all non-vegetated surfaces.

Campsite — An area of land that is devoted to overnight recreational or educational use on a short-term basis (not more than 120 days) by up to 10 individuals, and which contains primitive site improvements such as a gravel pad, parking area, fire pit, and tent platform. A campsite not associated with a campground is limited to one such site within the shoreland zone and four or fewer such sites outside the shoreland zone. This definition does not include campgrounds or camping resorts/glamp-grounds.

Centrally Managed Water System — A "centrally managed water system" as that term is defined the DECD Municipal Land Use and Zoning Ordinance Rule, codified at 19-100 C.M.R. ch. 5, § 1(B).

Children's Summer Camp — A seasonal camp that may include seasonal buildings providing room, board, and recreation for children during all or part of a vacation period, normally the summer, for a fee.

Co-Location — The use of a wireless telecommunications facility, including a communication tower, by more than one wireless telecommunications provider.

Commercial Use — The use of land, buildings, or structures to buy and sell goods or services, which use is intended for and results in the production of income. This definition does not include a home occupation or the rental of residential buildings or dwelling units.

Common Lot Line — Refer to "minimum setback from any common lot line."

Communication Tower — Any structure, whether free-standing or in association with a permanent building or permanent structure, that is designed and constructed primarily for the purposes of supporting one or more antennas or other devices to provide radio or television transmission, mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange pone services, personal communications services (PCS), pager services, internet services, or the like, including any self-supporting lattice tower, guy tower, or monopole tower. This definition includes radio and television transmission towers, microwave towers, common carrier towers, cellular phone towers, wireless telecommunications facilities, and similar tower structures.

Community Center — A place or building used by the public for meetings for social,

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educational, or recreational activities, or similar uses, none of which are operated for profit.

Comparable/Engineered Sewer System — A "comparable sewer system" as that term is defined the DECD Municipal Land Use and Zoning Ordinance Rule, codified at 19-100 C.M.R. ch. 5, § 1(B).

Corner Lot — A lot abutting and at the intersection of two or more roads.

Curb Cut — The connection to a road, or opening along the curb line, at which point vehicles may enter or leave the road.

Day Care Facility — A Maine-licensed facility operated for the purpose of providing care and protection during part of a 24-hour day to children or adults. This definition does not include the provision of day care services in a dwelling unit where the property owner is the proprietor of the business and the use otherwise satisfies the requirements of a home occupation.

Development — A change in land use involving alteration of the land, water, or vegetation; or the addition or alteration of structure; or other construction not naturally occurring.

Dimensional Standards — The minimum lot size, minimum road frontage, minimum shore frontage, maximum lot coverage, minimum public road setback, minimum setback from any common lot line including from private roads, minimum shoreland setback, minimum lot width, and maximum height.

Driveway — A vehicular access route or right-of-way less than 500 feet in length serving or intended to serve any structure, use, or vacant lot, except if such a driveway is proposed as part of a subdivision, site plan review, or conditional use application in which case it is a road.

Dwelling, Multi-Family — A building consisting of three or more attached dwelling units.

Dwelling, Single-Family — A building designed or intended to be used exclusively for residential occupancy by one family and containing one dwelling unit.

Dwelling, Two-Family — A building consisting of two attached dwelling units.

Dwelling Unit — A structure or portion of a structure containing one or more rooms or group of rooms designed, built, and used for permanent or seasonal human habitation, with each such unit containing cooking, sleeping, and toilet facilities. "Dwelling unit" includes manufactured homes (including mobile homes and modular homes), as defined in 30-A M.R.S.A. § 4358, but does not include motel units, hotel units, boarding houses, agricultural labor housing facilities as defined in 26 M.R.S.A. § 585, recreational vehicles, or other residential units intended primarily for transient occupancy. The long-term rental of a dwelling unit is considered a usual and normal use associated with a dwelling unit.

Education Facility — A building or facility used for academic instruction of enrolled students, including a nursery school, public or private school, college, university, medical school, law school, or career and technical education school.

Emergency Operations — Operations conducted for the public health, safety, or general welfare, including protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property, and livestock from the threat of destruction or injury.

Equestrian Facility — A facility for the purpose of accommodating, breeding, training, or competing equids, especially horses. An equestrian facility may be known as a barn, stables, or riding hall and may include commercial operations described by terms such as a boarding stable,

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livery yard, or livery stable. An "equestrian facility" occupies a land area of three acres or less and may accommodate seating for no more than 75 spectators. For purposes of this definition, "land area" means the footprint of all non-vegetated surfaces, including indoor and outdoor arenas and stables but not grazing fields.

Equipment Rental Service — A retail service providing machinery, equipment, and tools of various kinds and sizes (for a limited period of time to customers, which are stored in an enclosed indoor or outdoor space. An equipment rental service may be part of a larger retail building or facility such as a hardware store.

Essential Services — Gas, electrical, or communication facilities; electric power or water transmission or distribution lines; towers and related equipment; telephone cables or lines, poles, and related equipment; municipal water pipelines; municipal sewage lines; collection or supply towers, poles, wires, mains, drains, pipes, conduits, cables, hydrants, and similar accessories. This definition does not include service drops or buildings that are necessary for the furnishing of essential services, solar energy systems, or communication towers.

Expansion of a Structure — An increase in the footprint, floor area, or height of a structure, including all extensions such as decks, garages, porches, and greenhouses.

Expansion of a Use — An enlargement of the footprint, floor area, or ground area devoted to a use; a change in the location of a use; the addition of one or more months to a use's operating season; or a change in character, amount, or intensity of a use. A change in use from one land use category to another land use category in the schedules of uses in Chapter III (Land Use Districts) or Chapter IV (Shoreland Zoning) is *prima facie* evidence of a change in character of a use.

Family — One or more persons occupying a dwelling unit, whether or not related to each other by birth, adoption, or marriage.

Farm Stand — A structure such as a table, stall, or tent whose footprint is 100 square feet or less, which is operated by a sole vendor for the sale of agricultural products on or near the premises of the agricultural operation.

Farmers Market — The seasonal selling or offering for sale at retail of home-grown vegetables or produce, food products, or value-added products from such vegetables or produce, occurring in pre-designated areas where the vendors are generally individuals or registered farms who have raised the vegetables or produce or have taken the same on consignment for retail sale.

Firewood Processing and Sales — Cutting and splitting logs to produce firewood with machinery or manual handling for commercial sale to retail customers. This definition does not include timber harvesting.

Floor Area — The sum of the horizontal areas of the floors of a building (excluding basement and attics), measured from the exterior faces of exterior walls or, in the case of a common wall separating two buildings, from the center line of the common wall.

Footprint — The entire area of ground covered by a building or structure on a lot, including cantilevered or similar overhanging extensions, as well as unenclosed structures such as patios and decks.

Foundation — The supporting substructure of a building or structure, including basements, slabs, frost walls, or other base consisting of concrete, block, brick or similar material, but excluding wooden sills and post supports.

Fuel Retail Sales – A commercial facility used to store propane, heating oil, and other energy

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fuels for the purpose of delivering such fuels to residences and businesses. The quantity of fuel stored at a fuel retail sales facility must not exceed the lesser of (i) 75,000 gasoline gallon equivalents of fossil fuels or (ii) the NFPA maximum allowable quantity standards, as determined by the State Fire Marshal. The facility must not exceed a land area of three acres. For purposes of this definition, "land area" means the footprint of all structures and non-vegetated surfaces.

Fuel Storage Depot, Bulk — A stand-alone facility for the bulk storage of more than 75,000 gasoline gallon equivalents of fossil fuels, including gasoline, diesel, kerosene, propane, or natural gas, primarily for distribution by motor vehicle, rail, or marine vessel to other locations. This definition does not include underground storage tanks at gas stations or fuel retail sales.

Function Hall / Lodge / Clubhouse — A building or portion of a building for the purpose of hosting a party, banquet, wedding or other reception, or other social event, such as functions halls, lodges, or club houses, or a wilderness lodge or sporting camp.

Garden Materials Yard — An open space for the storage of plants, trees, and shrubs, and associated materials and tools used for their cultivation for sale to a retail user.

Gas Station — A facility, building, land area, or other premises used for the retail dispensing or sales of vehicular fuels, including electric vehicle (EV) charging stations, or as an accessory use to the sale of lubricants, tires, batteries, and similar vehicle accessories. This definition does not include fuel retail sales or bulk fuel storage depots.

General Contractor Yard — An open area that a construction contractor uses for the storage of materials and equipment used for construction projects, which may include the contractor's office.

Governmental Use — A use, and any structures associated with such use, exclusively for public purposes by any department or branch of government, such as post office, public safety, public works, town hall, and public utilities and services.

Gravel Pit — An excavation for removal, processing, or storage of borrow, topsoil, loam, gravel, rock, sand, clay, silt, or other similar non-metallic earth materials, whether alone or in combination, and which does not involve rock crushing or require the use of blasting or explosives.

Greatest Extent Possible — Feasible or capable of being done or carried out considering the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of subsurface wastewater disposal systems and on-site soils suitable for such systems, and the type and amount of vegetation to be removed to accomplish the intended activity.

Group Home, Large — A home where more than six unrelated people in need of care, support, or supervision can live together, such as elderly persons or persons with a disability.

Group Home, Small — A home where six or fewer unrelated people in need of care, support, or supervision can live together, such as elderly persons or persons with a disability.

Health Institution — A hospital, clinic, nursing or rehabilitation facility, or any other place for the care, treatment, or diagnosis of human ailments. This definition does not include office buildings or hospice facilities.

Height — The vertical distance of a structure, as measured from the mean original grade (prior to construction) of the ground at the downhill side of the structure to the highest point of the

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structure , but excluding the vertical distance of any chimney, steeple, heating or cooling appurtenance, ventilator, antenna, transmission tower, communication tower, wind turbine, skylight, tank, bulkhead, roof-mounted solar panel, or similar structure having no floor area. For ground-mounted solar energy facilities and accessory solar energy systems, the vertical distance between the mean original grade (prior to construction) at the point where a solar panel is fixed to the ground and the highest point of the solar panel when oriented at maximum tilt.

Home Occupation — An occupation or profession that is conducted on residential property or in a dwelling unit, and (i) is clearly incidental to, subordinate to, and compatible with the residential use of the property and any surrounding residential uses; (ii) employs no more than two persons other than residents of the dwelling unit; (iii) uses no more than 10,000 square feet of outdoor area of the residential property; and (iv) uses no more than 30% of the floor area of the dwelling unit in which the occupation is carried out.

Hospice Facility — A facility that provides support and care for persons in the last stages of an incurable disease or condition, and which may include related in-patient and out-patient services and associated offices, pharmacy services, and storage.

Hotel / Motel / Large Inn — A facility, building, or group of attached or detached buildings that provides or is designed to provide more than eight but no more than 150 guest rooms offering transient lodging accommodations to the general public, typically for a fee, which may provide incidental and subordinate amenities such as meals, a pool, or a gym on site to guests and invitees, but which does not include extensive amenities, facilities, and services associated with a resort. This definition includes agricultural labor housing facilities as defined in 26 M.R.S.A. § 585. This definition does not include a glamping resort/glamp-ground.

Industrial Use — The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Infrastructure — All public and private roads; drainage structures; ditches; erosion, sedimentation and stormwater control measures; utilities; landscaping; fire protection systems; recreation structures; centrally managed water systems; comparable/engineered sewer systems; and any additional common property or basic facilities associated with a development or subdivision.

Institutional Use — A use serving a public or charitable need by a governmental, nonprofit, or quasi-public institution, such as a municipality, church, library, museum, or hospital.

Junkyard — A "junkyard" as that term is defined in 30-A M.R.S.A. § 3752(4).

Laundromat — A facility that provides services that wash, dry, dry clean, iron, and press customers' clothes for a fee, or provides customers with a self-service option for washing and drying clothes.

Liquor Store — A retail shop that predominantly sells pre-packaged alcoholic beverages, typically in bottles intended to be consumed off-premises, and which may be a part of a larger retail store.

Live Theater / Music / Entertainment — A facility or venue which provides a form of entertainment that uses live performers before a live audience in a specific place, whether indoors or outdoors. A "small-scale" facility occupies a land area of three acres or less and may accommodate seating for no more than 75 spectators; a "large-scale" facility occupies a land area greater than three acres and may accommodate seating for no more than 500 spectators. For purposes of this definition, "land area" means the footprint of all non-vegetated surfaces.

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Livestock, Personal Use — Animals kept for personal enjoyment or for the production of animal products for personal use.

Manufacturing Use — A use involving the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as oils, plastics, resins, or liquors, except those associated with metallic mineral mining.

Market Value — The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Maximum Lot Coverage — The maximum percentage of area covered by non-vegetated surfaces on a lot.

Midway / Fairground — A permanent, year-round or seasonal event where there are displays of goods, animals, amusements, games of chance or skill, and competitions.

Mineral Exploration — Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources, other than methods associated with metallic mineral mining, which create minimal disturbance to the land and include reasonable measures to restore the land to its original condition.

Mineral Extraction — Any operation, other than metallic mineral mining, that removes within any 12-month period more than 100 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and transports the product removed away from the extraction site. A "small mineral extraction" has a total mineral extraction area of five acres or less; a "medium mineral extraction" operation has a total mineral extraction area of more than five acres but less than 30 acres; and a "large mineral extraction" operation has a total mineral extraction area of more than 30 acres. This definition does not include mineral extraction handling or processing. "Mineral extraction" does not include the mixing of concrete products on the site of a bona fide construction project, or the mixing, washing, and screening of soil, gravel, or crushed rock by a landscaper on a customer's property.

Mineral Extraction Area — All of the land area used, disturbed, reclaimed, or developed as part of mineral extraction operation, including any access roads and cleared areas adjacent to a pit or excavation area.

Mineral Extraction Handling or Processing — Any commercial or industrial washing, screening, crushing, mixing, or storage of sand, gravel, aggregates, borrow, stone, rock, clay, or topsoil, including washing or screening operations; concrete mix or asphalt batching plants; or the storage of material; disposal, placing, or storing of any material that will not be used in conjunction with the mineral extraction, but excluding (i) the mixing of concrete products on the site of a bona fide residential or commercial construction project; and (ii) the mixing, washing, screening of soil, gravel, or rock by a landscaper on a customer's property. This definition does not include blasting, or any handling or processing associated with metallic mineral mining.

Mineral Mining, Metallic — The exploration for or extraction of metallic minerals, by a person or persons acting in concert, which occupies or disturbs a mineral extraction area of one acre or more, regardless of the number of exploration or extraction sources or sites used. Metallic mineral mining includes any structures, facilities, or processes associated with the exploration for or extraction of metallic minerals, including bulk sampling; preparation, washing, cleaning, processing, beneficiation, or other treatment of metallic minerals; the storage or stockpiling of bulk sampling materials or mine waste, whether or not the exploration or extraction occurs

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within the geographic boundaries of the Town; and reclamation activities.

Metallic mineral mining does not include (i) non-commercial mineral exploration by means of test boring, test drilling, hand sampling, or digging of test pits which disturbs a mineral extraction area of less than one acre; or (ii) the excavation, processing, or quarrying of sand, fill, gravel, clay, topsoil, peat, silt, or rock not associated with metallic mineral mining. For purposes of this definition, "bulk sampling" means the removal of samples of earth materials to test the feasibility, method, or manner of extraction or processing of metallic minerals by drilling and boring, digging of shafts and tunnels, or digging of pits and trenches; and "mine waste" means all overburden, rock, ore, tailings, and other mining-related materials that are exposed or removed from the earth as part of any metallic mineral mining exploration or extraction operation.

Minimum Lot Size — The minimum acreage of a lot for each principal building located on the lot.

Minimum Lot Width — In the shoreland zone, the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines are considered to be side lot lines.

Minimum Public Road Setback — The minimum setback from a public road along the full length of the road right-of-way.

Minimum Road Frontage — The minimum length of the lot line bordering on a road (or, in the case of a corner lot, the longer lot line bordering a road), measured in a straight line between the intersections of the lot lines with the road.

Minimum Setback — The horizontal distance from the nearest part of a structure, parking area, or other regulated object or area to a lot line, road, the normal high-water line of a water body, or the upland edge of a wetland, as the context may dictate.

Minimum Setback Area — The portion of a lot that is located between the minimum setback line and the lot line which it parallels.

Minimum Setback From Any Common Lot Line — The minimum setback from a lot line shared between properties other than a property line that abuts a public road.

Minimum Setback Line — A line paralleling a lot line which indicates the closest horizontal distance a structure or parking area can be from any given lot line.

Minimum Shore Frontage — The minimum length of the lot line bordering on a water body or wetland, measured in a straight line between the intersections of the lot lines with the shoreline.

Minimum Shoreland Setback — The horizontal distance from the nearest part of a structure, road, parking area, or other regulated object or area to the normal high-water line of a water body or the upland edge of a wetland, as the context may dictate. As applicable, within the shoreland zone, the minimum shoreland setback is measured from the top of a coastal bluff that has been identified as "highly unstable" or "unstable" pursuant to the MGS "Classification of Coastal Bluffs" and published on the most recent MGS Coastal Bluff Map.

Mobile Home or **Modular Home** — Refer to "dwelling unit."

Mobile Home Park — A lot under unified ownership used or intended to be used for the placement of three or more manufactured homes (including mobile homes and modular homes), as that term is defined in 30-A M.R.S.A. § 4358.

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Convenience Store — A retail establishment of up to 1,500 square feet in aggregate floor area with extended operating hours and located in a convenient location within a district, which sells primarily food products, household items, newspapers and magazines, candy, and beverages, and a limited amount of freshly prepared foods such as sandwiches, pizzas, and salads.

Nonconforming Lot, Structure, or Use or **Nonconforming Condition** — A lot, structure, or use that lawfully existed immediately prior to the enactment of this Ordinance, or an amendment to this Ordinance, and which, as a result of the enactment or amendment of this Ordinance, presently fails to comply with any one or more of the requirements of this Ordinance, including the dimensional standards or other standards applicable in the land use district or shoreland zoning subdistrict in which the lot, structure, or use is located.

Non-Vegetated Surface — Any low-permeability material that is highly resistant to infiltration by water (such as asphalt, concrete, or rooftop) and any area that will be compacted through design or use to reduce its permeability (such as a gravel road or unpaved parking area). Common non-vegetated surfaces include structures, rooftops, walkways, patios, driveways, parking lots, storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, macadam or other surfaces that impede the natural infiltration of stormwater, and other areas from which vegetation has been removed. Pervious pavement, pervious pavers, pervious concrete, and under-drained artificial turf fields are all considered non-vegetated surfaces. Naturally occurring ledge and rock outcroppings are not non-vegetated surfaces.

Office Building — A building, or portion of a building, within and from which a person conducts a business providing a trade or professional service to clients or customers or conducts bureaucratic work, including offices for plumbing, electrical, and other construction trades; offices for architectural firms or construction contractors (including headquarters); offices for lawn care services and building cleaning companies; and offices for lawyers, doctors, accountants, engineers, and other professional consultants.

Office Building, Large — An office building having a floor area of more than 2,500 square feet.

Office Building, Small — An office building having a floor area of 2,500 square feet or less.

Outdoor Flea Market / Open-Air Market — The outdoor display, sale, exchange or barter of merchandise for profit, which may include accessory structures such as restrooms or buildings for storage of goods when not in business. This definition does not include garage sales or yard sales on the premises of a residential property. This definition does not include occasional sales and promotional activities at retail buildings that place merchandise outside of their building or farmers markets.

Parking Garage — A structure used for the limited term parking of vehicles but excluding automotive services or commercial storage of vehicles.

Pawn Shop — A business or facility designed to loan out money for items, with the intention that the customer comes back and repays the loan for the items pawned.

Potable — "Potable" as that term is defined the DECD Municipal Land Use and Zoning Ordinance Rule, codified at 19-100 C.M.R. ch. 5, § 1(B).

Principal Building or **Principal Structure** — A building or structure where the principal use of the lot is conducted.

Principal Use — A use other than one that is wholly incidental or accessory to another use on the same lot.

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Public Facility — Any facility, including buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated or funded by a governmental body or public entity.

Public Road — An area or strip of land designated and held by a governmental entity for the passage and use of the general public by motor vehicle or foot.

Public Road Lot Line — Any property line that directly abuts a public road.

Recreation, Indoor — A nonresidential use conducted totally within a structure designed and equipped for play, amusement, relaxation, sports or other similar diversions, such as a bowling alley, skating rink, fitness center, gymnasium, squash or tennis facility, or indoor swimming pool.

Recreation, Low-intensity — A use conducted outdoors in a public or private place designed and equipped for low-intensity recreational activities that involve minimal structural development (such as benches, picnic tables, trail kiosks, and boardwalks), including a park, nature preserve, open space area, greenway, and hiking trail system. This definition does not include boat launching facilities, indoor recreation, or outdoor recreation.

Recreation, Outdoor — A nonresidential use conducted primarily outdoors but involving structural development designed and equipped for play, amusement, relaxation, sports or other similar diversions, such as a playground, sports field, golf driving range, miniature golf course, water slide, outdoor swimming pool, and outdoor tennis court. This definition does not include glamping resorts/glamp-grounds.

Recreational Vehicle — A vehicle or an attachment to a vehicle designed to be towed and designed for temporary sleeping or living quarters for one or more persons, including a pick-up camper, travel trailer, tent trailer, camp trailer, or motor home. To be considered as a vehicle and not as a structure, the recreational vehicle must remain with its tires on the ground and must be registered with a state division of motor vehicles.

Redemption / Recycling / Transfer Facility — A facility where a redeemer can deposit empty beverage containers in exchange for their refund value, or any facility that contracts with one or more dealers or distributors to collect, sort, and obtain the refund value and handling fee of empty beverage containers for, or on behalf of them; or a specialized plant that receives, separates, and prepares recyclable materials for transfer or marketing to end-user manufacturers.

Religious Assembly — A church, synagogue, temple, mosque, or other facility that is used for worship or prayer by persons of similar beliefs; or a special purpose building that is architecturally designed and particularly adapted for the primary use of conducting formal religious services on a regular basis.

Relocate — To move a building to another position or location on the same or a different lot.

Repair — To restore a building to sound condition.

Replace — To put back in place, or to substitute something which is not structurally sound for something which is structurally sound.

Replacement System — A subsurface wastewater disposal system intended to replace (i) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of a structure, or (ii) any existing overboard wastewater discharge.

Research Facility — An institution involved in the intellectual or physical study and analysis of materials, plants or organisms.

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Restaurant — An establishment where food is sold for consumption on or off the premises, which may serve alcoholic beverages with food and may contain event or function space. This definition does not include drive-through restaurants or snack bars / refreshment stands at a public or private indoor or outdoor recreation establishment.

Restaurant, Drive-Through — A restaurant that includes a facility to order and pick up food from an automobile.

Retail — Connected with the sale of goods for direct use by the consumer, and not for trade or resale.

Retail Business, Large — A structure containing more than 1,500 square feet of floor area that is designed and used for the provision of goods or services for a fee directly to the consumer for primarily personal or household use, and not for trade or resale.

Retail Business, Small — A structure containing less than 1,500 square feet of floor area that is designed and used for the provision of goods or services for a fee directly to the consumer for primarily personal or household use, and not for trade or resale.

Reviewing Authority — The Town's Select Board, Planning Board, or Planning Board, as the context may dictate.

Sawmill — A permanent facility in which logs are cut into boards or timber by a mill or machine.

Self-Storage Facility — A building or group of buildings consisting of individual, self-continued units that are leased for self-service storage of personal property, with no commercial transactions permitted other than the rental of storage units.

Service Drop — A utility line extension that does not cross or run beneath any portion of a water body.

1. In the case of electric service: (i) the placement of wires or the installation of utility poles must be located entirely upon the premises of the customer requesting service or upon a road right-of-way, and (ii) the total length of the extension must be less than 1,000 feet.
2. In the case of telephone service: (i) the extension, regardless of length, must be made by the installation of telephone wires to existing utility poles; or (ii) if the extension requires installation of new utility poles or placement underground, the total length of the extension must be less than 1,000 feet.

Shoreland Zone — The shoreland zone is composed of:

1. All land areas within 250 feet of (i) the normal high-water line of any river, (ii) the upland edge of a coastal wetland, including all areas affected by tidal action, and (iii) the upland edge of a freshwater wetland;
2. All land areas within 75 feet of the normal high-water line of a stream; and
3. Any structures built on, over, or abutting a dock, wharf, or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

Shoreline — The normal high-water line of a water body or the upland edge of a freshwater or coastal wetland.

Sign — Any structure, display, logo, device, or representation that is designed or used to advertise or call attention to any activity, business, event, person, place, or thing. This definition

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does not include (i) the flag, pennant, or insignia of any nation, state or town, or (ii) any temporary sign posted for 6 weeks or less from January 1 to June 30 or for 6 weeks or less from July 1 to December 31. Whenever dimensions of a sign are specified, they include frames.

Solar Energy System, Accessory — Solar Energy System that may be roof or ground-mounted, generating power for on-site consumption or to offset electrical use for on-site accounts for a principal use or structure. A solar energy system shall be considered accessory to the principal use only when it is incidental and subordinate to the principal use or structure and located on the same lot. A residential SES is not more than 1,000 square feet in total array area; a non-residential SES is not more than 2,000 Square feet in total array area.

Solar Energy System, Industrial — Solar Energy System, roof or ground-mounted Photovoltaic Array, which generates electricity for off-site accounts. Any SES greater than 2,000 square feet in total array area.

Street Wall — A fence, wall, or strip of vegetation that maintains a continuous visual definition along a lot line.

Structure —

1. Outside of the shoreland zone: Anything constructed, erected, or placed on the ground that is permanent, temporary or mobile, including buildings, mobile homes, recreational vehicles, piers and pads, parking lots, and storage and processing facilities. This definition does not include boundary walls, fences, walkways, patios, flagpoles, and light poles.
2. Within the shoreland zone: Anything temporarily or permanently located, built, constructed, or erected for the support, shelter, or enclosure of persons, animals, goods, or property of any kind or anything constructed or erected on or in the ground. "Structure" includes structures temporarily or permanently located, such as parking lots, decks, patios, and satellite dishes. This definition does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface wastewater disposal systems as defined in 30-A M.R.S.A. § 4201(5); geothermal heat exchange wells as defined in 32 M.R.S.A. § 4700-E(3-C); or wells or water wells as defined in 32 M.R.S.A. § 4700-E(8).

Subdivision — "subdivision" as that term is defined in 30-A M.R.S.A. § 4401(4).

Substantial Completion — Completion of 70% of a project, measured as a percentage of the total project amount.

Substantial Start — Completion of 30% of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface Wastewater Disposal System — Any system designed to dispose of waste or wastewater on or beneath the surface of the earth, including septic tanks, disposal fields, grandfathered cesspools, holding tanks, pretreatment filters, piping, or any other fixture, mechanism, or apparatus used for those purposes. This definition does not include any discharge system licensed under 38 M.R.S.A. § 414, any surface wastewater disposal system, or any municipal or quasi-municipal sewer or wastewater treatment system.

Sustained Slope — A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

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Tidal Waters — All waters affected by tidal action during the highest annual tide.

Use — The purpose or activity for which land or structures are designed, arranged, or intended or for which land or structures are occupied or maintained.

Variance — A relaxation of the provisions of this Ordinance as permitted by state law and Section I-13.

Vehicle and Small Engine Repair Shop — An indoor facility where automobile and low-power internal combustion engines or electric motors are repaired and maintained by mechanics and technicians, including auto body shops. This definition does not include the sale of gasoline.

Veterinary Service — An establishment where animals and pets are given medical or surgical treatment and are cared for during the time of such treatment, including the incidental, short-term use of such an establishment as a kennel.

Warehousing and Distribution — A facility for storage and distribution of manufactured products, supplies, and equipment, including the wholesaling of goods not manufactured on the premises.

Water Extraction, Large-Scale — The commercial extraction of water from groundwater sources, aquifers, springs or wells of more than 50,000 gallons on any given day or more than 1,000,000 gallons annually, as extracted by a person or a consortium or association of persons, regardless of the number of extraction facilities utilized.

Water Extraction, Small-Scale — The commercial extraction of water from groundwater sources, aquifers, springs or wells of 50,000 gallons or less on any given day or 1,000,000 gallons or less annually, as extracted by a person or consortium or association of persons, regardless of the number of extraction facilities utilized. This definition does not include extraction of water which is accessory to agricultural or residential uses or dwelling units.

Wetland — A freshwater wetland or coastal wetland.

Wind Farm, Industrial-Scale — A commercial facility that uses equipment that converts, stores, and transfers energy from wind into usable forms of energy including any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, and other component of the system. This definition does not include accessory wind turbines.

Wind Turbine, Accessory — A single wind turbine, no more than 100 feet in height, that is installed on a lot to support the electricity needs of the principal use on that lot.

CHAPTER VII. LEGAL

Section VII-1. Authority; Availability of Ordinance

This Ordinance is adopted pursuant to Article VIII, Part Second, of the Maine Constitution; 30-A M.R.S.A. §§ 2101-2109, 2691, 3001-3014, 4311-4331, 4351-4362, and 4401-4408; 38 M.R.S.A. §§ 435-449; 22 M.R.S.A. § 2429-D; 28-B M.R.S.A. § 401; and any other enabling statutes.

A certified copy of this Ordinance must be on file with the Town Clerk and be accessible to the public. Copies must be made available to the public, at reasonable cost, at the expense of the person making the request. Notice that this Ordinance is available must be posted.

Section VII-2. Contents; Certain Ordinances Not Affected by Ordinance

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This Ordinance codifies, reorganizes, and repeals and replaces the following previously separate Town ordinances in order to simplify and clarify their provisions, and to reduce or eliminate conflicting, inconsistent, or redundant provisions among them. The ordinances that are repealed and replaced by this Ordinance are:

A. *Town of Cherryfield Land Use Ordinance* enacted March 12, 2007, and last updated March 12, 2012.

B. *Ordinance Establishing a Moratorium on Large-Scale Solar Facilities*, adopted March 12, 2025.

Nothing in this Ordinance affects any other ordinances, regulations, or rules of the Town that are not inconsistent with this Ordinance and all such other ordinances, regulations, and rules are recognized as continuing in full force and effect. Such other ordinances, regulations, and rules are on file in the Town Clerk's office.

Section VII-4. Effective Date

A. **General.** The effective date of this Ordinance is immediately upon its adoption by a majority vote of the legislative body of the Town.

Section VII-5. Date of Applicability

Notwithstanding 1 M.R.S.A. § 302 or any other law or provision to the contrary:

A. This Ordinance, as enacted at a Town Meeting held on November 19, 2025, shall apply to all proceedings and applications that were or are pending before any reviewing authority on or any time after November 20, 2025 (the "Date of Applicability").

B. This Ordinance applies to an action or proceeding, including a petition or application for permits or licenses required by law at the time of their filing, when the reviewing authority has deemed the petition or application complete for review.

Section VII-6. Conflicts with Other Ordinances or Ordinance Provisions

Whenever a section, paragraph, sentence, clause, or phrase of this Ordinance conflicts with or is inconsistent with another section, paragraph, sentence, clause, or phrase of this Ordinance or another ordinance, regulation, or rule administered by the Town, the more restrictive section, paragraph, sentence, clause, or phrase controls.

Section VII-7. Amendments

This Ordinance and the Official Land Use District Map may be amended as follows.

A. This Ordinance and the Official Land Use District Map may be amended by the legislative body of the Town in accordance with applicable state law.

B. Amendments to the text of this Ordinance or the Official Land Use District Map may be proposed by the Select Board, by the Planning Board, or upon the written petition of registered voters of the Town pursuant to 30-A M.R.S.A. §§ 2522 or 2528 (as applicable). In addition, amendments to the Official Land Use District Map may be proposed by any property owner within the Town by making a written petition to the Planning Board, which must contain, at minimum:

i. A map showing the properties to be affected by the proposed amendment and

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properties located within 500 feet of such properties;

ii. A map showing the existing land uses at the time of application of the above-identified properties;

iii. A narrative and other evidence demonstrating that the proposed amendments are consistent with the Comprehensive Plan; and

iv. A narrative and other evidence demonstrating the need for the proposed amendments.

C. A public hearing on any proposed amendments to the Ordinance or the Official Land Use District Map must be conducted by the Planning Board, serving as the municipal reviewing authority, pursuant to 30-A M.R.S.A.

D. Following the public hearing, the Planning Board may recommend to the Select Board whether or not an article to amend the Ordinance or the Official Land Use District Map should be included in the warrant for a regular or special Town meeting. In making its recommendation, the Planning Board may recommend amendments to the text of the Ordinance or the Official Land Use District Map that deviate from the original proposed amendments. The Planning Board will endeavor to submit its recommendation to the Select Board within 30 days of the conclusion of the public hearing. Planning Board action under this Section VII-7 is not a decision subject to any rights of appeal.

E. The Select Board, by a majority vote, must determine whether to place an article to amend the Ordinance or the Official Land Use District Map in the warrant for a regular or special Town meeting.

F. Any public hearings required to be held by the Planning Board and the Select Board under this Section VII-7 or applicable law may be combined into a single consolidated hearing attended by both boards as long as the notice requirements applicable to both the Planning Board and Select Board hearings are satisfied.

G. Any amendments made to the district or subdistrict boundaries or any other feature portrayed on the Official Land Use District Map must be (a) immediately shown on the Official Land Use District Map or (b) shown within 30 days after an amendment to the shoreland zoning district boundaries or other shoreland zoning features of the Official Land Use District Map has been approved by the DEP Commissioner in accordance with Section VII-4.A (Effective Date). The amended Official Land Use District Map must be certified by the attested signature of the Town Clerk and filed with the Town Clerk.

Section VII-8. Effect of Repeal or Amendment

Whenever a provision of this Ordinance or the Official Land Use District Map is repealed or amended, such repeal or amendment must not be construed to revive such former provision unless it is so expressly provided therein.

The repeal or amendment of a provision of this Ordinance or the Official Land Use District Map does not affect any enforcement action taken or penalty incurred before the repeal or amendment took effect, nor any suit, prosecution, or proceeding to which this Ordinance or the Official Land Use District Map applied at the time of the repeal or amendment, for an offense committed or cause of action arising under the repealed or amended provision.

Section VII-9. Compliance and Enforcement; Penalties

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A. Nuisance. Any violation of this Ordinance is deemed to be a nuisance.

B. Enforcement Authority. The CEO is responsible for enforcing the provisions of this Ordinance and the terms and conditions of any permit or approval issued under this Ordinance. The CEO is appointed or reappointed annually and, if certified in accordance with 30-A M.R.S.A.§ 4451, has all of the powers and authorities described in 30-A M.R.S.A. § 4452.

C. Inspections; Investigation of Complaints. The CEO may conduct site inspections to ensure compliance with all applicable laws and all terms and conditions attached to permits and approvals under this Ordinance. The CEO may also investigate all complaints of alleged violations of this Ordinance.

D. Right of Entry. The CEO has a right to enter any property or enter any building pursuant to 30-A M.R.S.A. § 4452(1).

E. Notice of Violation. If, after investigation, the CEO finds that any provision of this Ordinance or any terms or condition of a permit or approval issued under this Ordinance has been violated, the CEO must give written notice of the violation, in person or by certified mail return receipt requested, to the owner or occupant of the premises and to any other person responsible for the violation, indicating the nature of the violation and ordering any action necessary to correct it (including discontinuance of illegal use of structures or lots; discontinuance of work being done; removal or relocation of illegal structures; and abatement of nuisance conditions) within some designated reasonable time. A copy of each such notice of violation must be submitted to the Select Board.

F. Suspension and Revocation of Permits and Approvals. A permit or approval may be suspended or revoked by the CEO if the CEO determines that:

1. The permit or approval was issued on materially incomplete or false information;
2. Continuation of the work authorized under the permit or approval would result in a violation of federal or state law, this Ordinance, or any other Town ordinances, regulations, or rules;
3. Continuation of the work authorized under the permit or approval is endangering or may endanger the public health, safety, or welfare;
4. The permit holder exceeded the scope of the work authorized under the permit or approval;
5. A term or condition of the permit or approval issued under this Ordinance has been violated; or
6. The CEO is unable to determine the continued validity of a permit or approval.
7. The CEO must give written notice of suspension or revocation to the permit holder stating the reason for the suspension or revocation and, in the case of suspension, the measures that must be taken by a date certain to correct the violation. A suspension remains in force until the CEO determines that (i) the permit holder can and will pursue the work authorized under the permit or approval without continuing, extending, or creating a violation; (ii) the violation has been abated or otherwise discontinued; or (iii) a new permit or approval has been issued. When cause for a suspension has been removed or corrected, the CEO must so certify in writing. If, within the time specified for correction, cause for the suspension has not been removed or suspended, the CEO may

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continue the suspension or revoke the permit or approval. No work authorized under a suspended or revoked permit or approval may continue except work that is necessary to protect the public health, safety, and welfare, as authorized in writing by the CEO.

G. Legal Prosecution of Violations. If, after notice and demand, a violation has not been abated within the time specified in the notice of violation, the CEO must refer the matter to the Select Board, who may institute in the name of the Town any and all actions and proceedings, in law or in equity, including seeking injunctions of violations and the imposition of fines, that the Select Board determines are appropriate or necessary to prevent, correct, restrain, or abate any violation of this Ordinance.

H. Consent Agreements. The Select Board is authorized to enter into administrative consent agreements for the purpose of resolving violations of this Ordinance and recovering fines without legal prosecution.

1. With regard to violations of the provisions of the Cherryfield Shoreland Zoning Ordinance, an administrative consent agreement must not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized Town official and there is no evidence that the owner or occupant acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health, safety, and welfare or will result in substantial environmental damage.

2. In determining what, if any, monetary penalty to impose as part of an administrative consent agreement, the Select Board may consider (i) how long the violation has existed; (ii) the nature and circumstances of the violation and the violator; (iii) whether a permit or approval was issued for the work; (iv) whether the violation was the result of survey work that caused a shift of boundary lines;

3. (v) the statutory minimum and maximum penalties for land use violations set forth in 30-A M.R.S.A. § 4452; and (vi) such other facts and considerations as the Select Board deems relevant.

I. Fines and Penalties. Any person who violates any term or condition of a permit or approval or who violates or continues to violate any provision of this Ordinance after receiving notice of such violation is subject to such fines, penalties, actions and orders as are authorized by 30-A M.R.S.A. § 4452. A fine or penalty may be imposed for each violation. Each day that a violation continues constitutes a separate offense.

A. Violations of this Ordinance may be penalized as follows: A fine of not less than $100.00 per month, nor more than $2500.00 in total, except if the stated violation is corrected within 90 days of receipt of Notice of Violation from the Code Enforcement Officer, at which time the appropriate Building Application fee must be paid and all paperwork completed in full.

B. Any appeal to the assessment of a fine must be brought to the Select Board within 30 days after notification.

Section VII-10. Performance Guarantee

Whenever one or more performance guarantees are required by this Ordinance or as a condition of approval of a permit or approval issued by the Planning Board pursuant to this Ordinance, the following requirements apply:

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A. **Review; Delegation.** The performance guarantee must be satisfactory to the Planning Board as to scope, amount, form, sufficiency, manner of execution and surety. The Planning Board may delegate to the Town Manager the review and acceptance of a performance guarantee in accordance with this Section VII-10.

B. **Form.** The performance guarantee must be in the form of a performance bond, a certified check payable to the Town, an escrow account, an irrevocable letter of credit, or some other form of guarantee that is acceptable to the Planning Board.

C. **Scope; Amount.** The performance guarantee must be of an amount sufficient to cover the full cost of all required infrastructure, reclamation of disturbed land, and/or decommissioning of any facilities or infrastructure associated with the proposal, as determined by the Planning Board. Separate performance guarantees may be required by the Planning Board for any required site infrastructure, reclamation work, and decommissioning work.

1. For reclamation and decommissioning work, the permit holder must arrange for the costs to be recalculated by an engineer every five years, and the amount of the performance guarantee may be adjusted by the Planning Board if the calculated cost of reclamation or decommissioning materially changes.

D. **Schedule.** The performance guarantee must contain (i) a schedule and cost estimates for each major phase of required site infrastructure, reclamation work, or decommissioning work, taking into account inflation; (ii) a basis for estimating costs; (iii) provision for the release of part or all of the performance guarantee to the permit holder; and (iv) a date after which the permit holder will be in default and the Town must have access to the guaranteed funds to complete required site infrastructure, reclamation work, or decommissioning work. The Planning Board may approve phased performance guarantees when activity is approved in separate and distinct phases.

1. Time for Completing Required Site Infrastructure. A period of one year, or such a period as the Planning Board may determine appropriate and necessary, not to exceed three years, must be set forth in the performance guarantee as the time within which any required site infrastructure must be completed. The Planning Board may extend this deadline by 12 months upon a showing of good cause.

E. **Inspections.**

1. Escrow; Selection of Inspector. At least seven days prior to commencing construction of any required site infrastructure, and at least 30 days prior to commencing any reclamation work or decommissioning work, the permit holder must deposit in escrow with the Town funds to cover the costs of site inspections to be conducted by an engineer mutually acceptable to the permit holder and the Planning Board. The contractual rate and all indirect charges constitute the expenses for which the permit holder's escrow account will be charged. The Planning Board must determine the type and frequency of inspections reasonably necessary to protect the environmental quality or general welfare of the Town and the amount required to be placed in escrow. Any part of this escrow payment in excess of the final costs for inspections must be returned to the permit holder.

2. Building Permits. No building permits will be issued for any project and no work will begin until an escrow payment has been made for the site inspections related

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to any required site infrastructure.

3. Inspections; Addressing Deficiencies. If the inspector finds, upon inspection of the required site infrastructure, reclamation work, or decommissioning work, that any of the site infrastructure or work has not been done in accordance with the plans and specifications filed by the applicant, the reclamation plan, the decommissioning plan, or any applicable conditions of approval, the inspector must so report to the Town Manager. The Town Manager must then notify the permit holder. The Town Manager may take any necessary steps to preserve the Town's rights under the performance guarantee and to remedy any insufficiencies identified by the inspector. The Town Manager may, in the Town Manager's discretion, allow the permit holder a period of time not to exceed 90 days, to remedy any insufficiencies identified by the inspector.

4. Certification. Before a permit holder may be released from any performance guarantee obligation, the inspector must certify to the Town that all required site infrastructure, reclamation work, and decommissioning work has been satisfactorily completed in accordance with conditions of approval, reclamation plans, decommissioning plans, long-term maintenance plan, and applicable state, federal, and local laws, rules, and regulations.

F. **Release.** Upon certification in accordance with subsection E.1, above, the permit holder may apply to the Select Board for the release of all or part of the performance guarantee. Prior to the release of any part of a performance guarantee, the Select Board must determine that the required site infrastructure, reclamation work, and decommissioning work comply with the requirements for that portion of the work for which a release is requested.

Section VII-11. Validity and Severability

The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any section, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such unconstitutionality, invalidity, or unenforceability does not affect the validity of any remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance.

APPENDICES

Appendix A. Official Land Use District Map

The Official Land Use District Map is attached hereto.

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Cherryfield Land Use Map







