TOWN OF VINALHAVEN

LAND USE ORDINANCE

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Land Use Ordinance for the Municipality of Vinalhaven, Maine

Section 1. PURPOSES

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to protect the quantity and quality of the limited supply of fresh groundwater available on Vinalhaven for drinking and other domestic uses; to avoid its depletion with consequent saltwater intrusion into private wells; to protect aquifer recharge areas; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures, and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; to anticipate and respond to the impacts of development; and to provide the means for assessing development proposals for their fiscal impacts on the municipality's ability to provide and improve necessary public facilities and services.

Section 2. AUTHORITY

This Ordinance has been prepared in accordance with the provisions of Title 38 Sections 435-449 and Title 30A, Sections 3001 and Chapter 187, of the Maine Revised Statutes Annotated (M.R.S.A.). Any reference to the Maine Revised Statutes Annotated in this Ordinance shall refer to the Title and Section in effect as of the date of the adoption of this Ordinance, and any amendment or replacement thereto.

Section 3. APPLICABILITY

This Ordinance applies to all land, offshore islands, and all structures under the jurisdiction of the Town of Vinalhaven. This Ordinance also applies to any structure built on, over, or abutting a dock, wharf, or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

Section 4. EFFECTIVE DATE AND REPEAL OF FORMERLY ADOPTED ORDINANCES

A. This Ordinance shall be effective as of the date of adoption by the municipal legislative body. All provisions regarding the Shoreland Zone shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on

this Ordinance or Ordinance Amendment within forty-five (45) days of their receipt of the Ordinance or Ordinance Amendment, it shall be automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance or Ordinance Amendment if the Ordinance or Ordinance Amendment is approved by the Commissioner.

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

- Section 14. Table of Land Uses, Column A.3 (Forest management activities except for timber harvesting) and Column B.4 (Timber harvesting);
- Section 16(FF) in its entirety; and
- Section 17. Definitions, the definitions of "Bureau", "Cross-sectional area", "Disruption of Shoreline Integrity", "Forest Management Activities", "Forest Stand", "Harvest Area", "Land Management Road", "Residual Basal Area", "Skid Road or Skid Trail", "Slash", and "Windfirm".

NOTE: The statutory date established under 38 M.R.S.A. § 438-B (5) is the effective date of state-wide timber harvesting standards. That date is "the first day of January of the 2nd year following the year in which the Commissioner of Conservation determines that at least 252 of the 336 municipalities identified by the Commissioner of Conservation as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1992-2003 have either accepted the state-wide standards or have adopted an ordinance identical to the state-wide standards." 38 M.R.S.A. § 438-B (5) further provides that "the Commissioner of Conservation shall notify the Secretary of State in writing and advise the Secretary of the effective date of the state-wide standards."

C. Upon approval of this Ordinance, the Shoreland Zoning and Land Use Ordinances (Zoning and Subdivision) previously adopted on July 1, 1974, and subsequent revisions are hereby repealed.

Section 5. AVAILABILITY

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

Section 6. SEVERABILITY

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

Section 7. CONFLICTS WITH OTHER ORDINANCES

Whenever the requirements of this Ordinance differ from the requirements of any other lawfully adopted rules, regulations, ordinances, or deed restrictions and covenants required by the municipality in the public interest, the most restrictive or that imposing the higher standard shall govern.

Section 8. AMENDMENTS

A. **Initiation**

The proposal for an amendment to this Ordinance may be initiated by:

1. The Planning Commission, by majority vote of the Commission.
2. The Selectmen.
3. The Planning Board, through a request to the Planning Commission.
4. A written petition of a number of voters equal to at least 10% of the voters in the last gubernatorial election.
5. For provisions regarding the Shoreland Zone, copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of their receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment if such amendment is approved by the Commissioner.

B. **Adoption**

Any amendment to this ordinance shall be effective upon adoption by the municipal legislative body.

Section 9. DISTRICTS AND ZONING MAP

A. The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Zoning Map which are made a part of this Ordinance:

1. Stream Protection
2. Water District
3. Resource Protection
4. Residential Marine 1
5. Residential Marine 2
6. Residential Marine 3
7. Residential Commercial

8. Commercial Fisheries/Maritime Activities

B. Lots specifically zoned after March 1988 shall revert to their previous classification automatically after two years if the approved use is not implemented within that time. If a use is implemented and then discontinued for a period of five years, the specific zoning of that lot is terminated.

C. The Official Zoning Map shall be drawn at a scale of not less than 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

D. The Official Zoning Map shall be certified by the attested signature of the Town Clerk and shall be located at the Town Office.

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

F. References in this Ordinance to map and lot numbers are to the Vinalhaven Assessor's maps on file in the office of the Town Assessor (Maps 1-30, Sewell and Co. 1992). The official Zoning Map and all future amendments thereto are hereby incorporated in and made a part of this Ordinance.

Section 10. LAND USE REQUIREMENTS

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

Section 11. NON-CONFORMANCE

A. **Purpose**
It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that lawfully existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth in this section.

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

2. **Repair and Maintenance**: This Ordinance allows, without a permit, 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. Nothing in this Ordinance shall prevent the strengthening or restoring to safe condition any part of any building or structure declared unsafe by the Code Enforcement Officer.

C. **Non-conforming Structures**

1. **Expansions:** All new structures must meet the shoreline setback requirements contained in Section 15. A nonconforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the nonconformity of the structure and is in accordance with the subsections of Section 11(C)(1).

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

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

   c. Notwithstanding Section 11(C)(1)(b), if a nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable standards of this Ordinance are met and the expansion is not prohibited by Section 11(C)(1) above:

      (1) The maximum total footprint of the principal structure may not be expanded to an area greater than 30% larger than the footprint that existed on January 1, 1989.

      (2) 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.

   d. All other nonconforming principal and accessory structures that do not meet the water body, tributary stream or wetland setback requirements may be expanded or altered as follows, as long as other applicable standards of this Ordinance are met and the expansion is not prohibited by Section 11(C)(1) and subsections (a), (b), or (c) above:

      (1) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint of all structures may not be expanded to an area greater than 30% larger than the footprint that existed on January 1, 1989.

      (2) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.

(3) For structures located less than 100 feet from the normal high-water line of a great pond or a river flowing to a great pond, the maximum combined total footprint of all structures may not be expanded to an area greater than 30% larger than the footprint that existed on January 1, 1989.

(4) For structures located less than 100 feet from the normal high-water line of a great pond or a river flowing to a great pond, the maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater.

(5) For structures located less than 100 feet from the normal high-water line of a great pond or a river flowing to a great pond, any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream or upland edge of a wetland must meet the footprint and height requirements of Sections 11(C)(1)(d)(i) and (ii).

e. In addition to the limitations in Section 11(C)(1) and subsections (a), (b) and (c) above, structures that are nonconforming due to their location within the Resource Protection District and are located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland may be expanded or altered as follows, as long as other applicable standards of this Ordinance are met:

(1) The maximum combined total footprint of all structures may not be expanded to an area greater than 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot.

(2) The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater.

(3) Any portion of the structures located less than 100 feet from the normal high-water line of a great pond or a river flowing to a great pond must meet the footprint and height requirements of Sections 11(C)(1)(d)(iii) and (iv).

(4) Any portion of the structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height requirements of Sections 11(C)(1)(d)(i) and (ii).

f. Notwithstanding the limitations on height imposed under paragraphs 11(C)(1)(c), 11(C)(1)(d) and 11(C)(1)(e), the height of a structure that is a legally existing nonconforming principal or accessory structure may be raised to, but not above, the minimum elevation necessary to be consistent with the local floodplain management elevation requirement or to 3 feet above base flood elevation, whichever is greater, as long as the structure is relocated, reconstructed, replaced or elevated within the boundaries of the parcel so that the water body or wetland setback requirement is met to the greatest practical extent. This paragraph applies to structures that:

(1) Have been or are proposed to be relocated, reconstructed, replaced, or elevated to be consistent with the local floodplain management elevation requirement; and,

(2) Are located in an area of special flood hazard.

g. Any approved plan for expansion of a nonconforming structure under Section 11(C)(1) must be recorded by the applicant in the registry of deeds of the county in which the property is located within 90 days of approval. The recorded plan must include the existing and proposed footprint of structures on the property, the existing and proposed height of structures on the property, the shoreland zone boundary, and evidence of approval by the municipal permitting authority.

2. **Foundations.** Whenever a new, expanded, or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the shoreline setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 11(C)(3) below.

3. **Relocation**: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface wastewater disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming. In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system/subsurface wastewater disposal system, and alternative on-site location(s) of soils suitable for such systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be as follows:

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

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

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

trees, or a combination thereof.

4. **Reconstruction or Replacement**: Any non-conforming structure that is located less than the required setback from a water body, tributary stream, or wetland and which is removed, damaged or destroyed, regardless of the cause, by more than fifty percent (50%) of the market value of the structure before such damage, destruction, or removal may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream, or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback, it shall not be any larger than the original structure, except as allowed pursuant to Section 11(C)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 11(C)(2) above.

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

   In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent, the Planning Board or its designee shall consider in addition to the criteria in Section 11(C)(2) above, the physical condition and type of foundation present, if any.

5. **Change of Use of a Non-conforming Structure**: The use of a non-conforming structure may be changed to another use permitted in the district if the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on a water body, tributary stream, or wetland, on the subject or adjacent properties, on resources, or on the community than the existing use. A non-conforming structure cannot be converted to residential use if it is located within a required setback from normal high water. In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

D. **Non-conforming Uses**

1. **Expansions**: In the Shoreland Zone, expansions of non-conforming uses are prohibited,

except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as permitted in Section 11(C) above. In all other zones, expansions of non-conforming uses require a permit from the Planning Board.

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

3. **Change of Use**: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water-dependent uses in the Commercial Fisheries/Maritime Activities (CF/MA) district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to, but not limited to, the criteria listed in Section 11(C) above.

E. **Non-conforming Lots**

1. **Non-conforming Lots**: A non-conforming lot of record which, as of the effective date of the adoption or amendment of this Ordinance, does not meet the area or dimensional requirements, or both, of this Ordinance, may be built upon provided that such lot is not contiguous with any other lot in the same ownership and that all provisions of this Ordinance except lot area, lot width, and shore frontage can be met. Variances relating to setbacks or other requirements not involving lot area, lot width, or shore frontage shall be obtained by action of the Board of Appeals.

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

   This provision shall not apply to two or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on October 25, 1993 and so recorded in the Knox County Registry of Deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

   a. Each lot contains at least one hundred (100) feet of shore frontage and at least twenty thousand (20,000) square feet of lot area; OR

   b. Any lots that do not meet the frontage and lot size requirements of Section 11(E) are reconfigured or combined so that each new lot contains at least one hundred (100)

feet of shore frontage and twenty thousand (20,000) square feet of lot area.

3. **Lot Division**: On or after the effective date of the adoption or amendment of this Ordinance, no division of a lot shall be made which reduces any dimension or area below the requirements of the Ordinance; and no lot shall be created which does not meet or exceed the area and dimensional requirements of the Ordinance, except for conveyance to an abutting owner, in which case the provisions of Section 11(E)(1) shall apply. Abutters owning undersized lots or parcels of record may change the location of common boundary lines and retain their status as undersized lots of record if, and only if, the square footage of each undersized lot or parcel does not decrease. Variance of yard or other requirements involving area or dimensions shall be obtained only by action of the Board of Appeals.

4. **Built Contiguous Lots**: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of the adoption of this Ordinance, and if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. § 4809-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

5. **Lots for Commercial Fishing Activities**: In order to promote commercial fishing, and notwithstanding the provisions in Section 11(E) above, an undersized lot of no less than ten thousand (10,000) square feet of lot area and at least fifty (50) feet of tidal shore frontage may be created in the Residential Marine, Residential Commercial and CF/MA Districts if the use of this lot and structures thereon is limited solely to commercial fishing activities. Any other use is prohibited on such an undersized lot. Such lots may be improved by a Planning Board permit with piers, docks, wharves, ramps and floats, and one building per lot. This building shall not be over twenty (20) feet in height, nor shall its footprint contain more than seven hundred fifty (750) square feet. In no case shall a lot or structure permitted under this subsection be used for residential purposes or include plumbing or kitchen facilities, nor shall any such lot or structure conflict with other provisions or intentions of this or any other duly adopted ordinance or the Comprehensive Plan, except provisions regarding lot size, shore frontage, and setbacks from the water.

Section 12. INTERPRETATION OF DISTRICT BOUNDARIES

Unless otherwise set forth on the Official Zoning Map, district boundary lines are property lines, the centerlines of streets, roads, and rights of way, and the boundaries of the Shoreland Zone, Resource Protection District, and the Airport Overlay District as defined herein. The depiction of the Shoreland Overlay Zone and the Water District boundaries on the Official Zoning Map is merely illustrative of their general location, as are areas designated Resource Protection because of wetlands and floodplains, hydric soils, or steep slopes. The boundaries of the Shoreland Overlay District shall be determined by measurement of the distance indicated on the maps from the normal high-water line of the waterbody or the upland edge of wetland vegetation, regardless of the location of the boundary shown on the map. The boundaries of the Water District shall be

determined by an on-site inspection of the direction of water flow. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

Section 13. ESTABLISHMENT OF DISTRICTS

I. Underlying Districts

A. **Stream Protection District**

The purpose of this district is to protect from pollution and degradation fresh water brooks and streams, the areas through which they run, and into which they empty.

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

B. **Water District**

The purpose of this district is to safeguard the quality and quantity of fresh water in the municipal water supply reservoirs (Round Pond and Folly Pond) and their watersheds.

The Water District includes the Water District reservoirs and their watersheds including all land and watersheds around Round Pond and Folly Pond, as designated on the Official Zoning Map.

C. **Resource Protection District**

The purpose of this district is to protect fragile shorelines and other lands of unique geologic and natural features, especially those that include steep slopes, unstable soils, wetlands, and flood plains, on which development would degrade water quality, disrupt productive habitats and biological ecosystems or destroy natural and scenic value.

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas:

1. Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
2. All town and state park areas.
3. Areas of two or more contiguous acres supporting wetland vegetation and hydric soils,

which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water. These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.

4. Areas within two hundred fifty (250) feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph, "wetlands associated with great ponds and rivers" shall mean an area characterized by non-forested wetland vegetation and hydric soils that is contiguous with a great pond or river and has a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.
5. In the Shoreland Zone, areas of two or more contiguous acres with sustained slopes of twenty percent (20%) or greater. (See #9 below.)
6. Land areas adjacent to tidal waters that are subject to severe erosion or mass movement, such as, but not limited to, steep coastal bluffs.
7. One hundred (100) year flood plains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
8. Islands of less than three acres and Carver's Island, Crane Island, Saddleback Ledge, Smith Island, Little Garden Island, Big Garden Island, Ohio Island, Broom Island, Brown's Island, Stoddard Island, Halls Island, Sheep Island, Green Island (Eastside), Lane's Nubble, Brimstone Island, Little Brimstone Island, Otter Island, Roberts' Island, Big White Island, Little White Island, Seal Island, Burnt Island, Spectacle Island, Hay Island, Bald Island, Little Hurricane Island, and shorebird nesting, feeding and staging areas, and seabird nesting islands.
9. In areas zoned Resource Protection because of steep slopes, building permits may be issued if and only if the property owner can demonstrate that sufficient land area containing less than a twenty percent (20%) slope exists within the lot. This land area must contain at least ten thousand (10,000) square feet and the coverage of this area by structures including septic systems may not exceed fifty percent (50%).
10. Under certain conditions, variances may be granted to allow construction of a structure in the Resource Protection District, if and only if, there is no location on the property other than a location within the Resource Protection District where the structure can be built, and the lot on which the structure is proposed is undeveloped and was established and recorded in the Knox County Registry of Deeds before the adoption of the Resource Protection District. Permits granted with such variances must contain the following conditions, and the dimensional requirements of the Residential Marine 3 District shall be observed except as described below:
    a. There shall be no more than one structure per lot, which shall not be located on ground slopes of more than twenty percent (20%).
    b. Structures are limited to one story of no more than 14 feet in height and may contain no more than six hundred (600) square feet including decks and cantilevered or

similar overhanging extensions. This limitation cannot be altered by variance.

c. The installation of internal plumbing and septic systems is prohibited.

d. Access to the permitted structure shall be provided by a footpath no greater than ten (10) feet wide.

e. There shall be no below-grade excavation allowed except for structure footings, and no clearing of vegetation except for allowed structures and uses.

f. In order to protect the habitat for seasonal wildlife, on seabird nesting islands and areas designated Class A in the Penobscot Bay Conservation Plan (Maine Inland Fisheries and Wildlife, 1987 and Revisions) the construction and/or use of any such permitted structure shall be prohibited during specific times of the year, typically but not exclusively during nesting and/or breeding seasons of birds and mammals and shall be posted to this effect. Further, structures shall be constructed so as to create the least disturbance to wildlife as is practical, which shall include limiting the size and altering the angles of reflective surfaces such as windows and requiring that natural colors be used on all exterior surfaces of such structures.

D. **Residential Marine 1 District**

The purpose of this district is to provide acreage for residential use, uses similar to home occupations, structures accessory to allowed uses, small non-residential facilities for educational, scientific, or nature interpretation purposes, private and public recreation areas with limited structural development, boat houses, and marine storage.

The Residential Marine 1 District includes all land on Vinalhaven excluding those areas in the Stream Protection, Resource Protection, and Water Districts, and areas which are in the Residential Marine 2, Residential Marine 3, Residential Commercial or the Commercial Fisheries/Maritime Activities Districts. This District also includes the area around Carver's Pond bound on the northeast by the property identified as Map 4 Lot 26, and on the northwest by the property identified as Map 22 Lot 18.

E. **Residential Marine 2 District**

The purpose of this district is to provide for residential use, structures accessory to allowed uses, small non-residential facilities for educational, scientific, or nature interpretation purposes, private and public recreation areas with limited structural development, boat houses, and marine storage. The two-acre minimum lot size is required to protect tidal areas from pollution, soil erosion and sedimentation, and to decrease the density of development on the shore.

The Residential Marine 2 District includes Dyer's Island and all land areas within two hundred fifty (250) feet horizontal distance of a pond or saltwater body excluding areas in the Stream Protection, Resource Protection, and Water Districts, and Residential Marine 1, Residential Marine 3, Residential Commercial, and Commercial Fisheries/Maritime Activities Districts.

F. **Residential Marine 3 District**

The purpose of this district is as stated in E. above. The three-acre minimum lot size is required to protect areas of regional wildlife significance as designated by the State of Maine's Inland Fisheries and Wildlife Department in its Penobscot Bay Conservation Plan of

March 1987, and areas of scenic and recreational value as indicated in Vinalhaven's Public Access and Scenic Inventory of 1990.

The Residential Marine 3 District includes:

1. Green's, Leadbetter, Hurricane and Penobscot Islands.
2. Outlying islands of more than three acres not in the Resource Protection District.
3. All land areas within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of the following: the Basin, Carver's Pond (except as described in 13(I)(D) and (G)(2)), Old Harbor Pond, Vinal Pond (the Meadow), Seal Bay, Winter Harbor, Long Cove, the Privilege, Perry's Creek, and Crockett's River as designated on the Official Zoning Map, except those areas described in the Resource Protection District, Section 13(I)(C).

G. **Residential Commercial District**

The purpose of this district is to provide for areas of non-polluting, light industrial commercial and residential uses.

The Residential Commercial District includes:

1. The area around Carver's Harbor, from Lane's Island Bridge, the harbor side of Atlantic Avenue and Main Street, to and including Map 18 Lot 62A (the Mill Stream); and Sand's Cove, from and including Map 17 Lot 5 (the Ferry Wharf); the cove side of Sand's Road, to the intersection of Sand's Road with the Granite Island Road; and all area within two hundred fifty (250) feet of normal high water of Sands Cove from Map 17 Lot 28 (now or formerly Lettie Nelson's), to the tip of Norton's Point, including Sheep Pasture Point.
2. Also the area bound on the south by Main Street, on the east by Net Factory Quarry Cliff, on the north by the cliff and Map 23 Lot 2 and Carver's Pond, and on the west by the Mill Stream; and also the area two hundred fifty (250) feet north of the center line of pavement of West Main Street from the Mill Stream to Sand's Road and the area two hundred fifty (250) feet east of the center line of the pavement of Sand's Road from West Main Street to the Granite Island (Dogtown) Road, excepting those areas designated Residential Marine 3.
3. Also Map 6A, Lots 10A through L, 14, and 22; Map 7, Lots 24, 27A through C, and 28 as subdivided; and Map 22, Lot 22.
4. Also the following properties specifically zoned for commercial use: Map 9 Lot 75 on Calderwood's Neck and Map 7 Lot 35B at the Poor Farm Road and Pequot Road for automobile graveyards; Map 29 Lot 3 on Pequot Road and Map 24 Lot 6A also on Pequot Road and Map 20 Lots 20 and 20A on Granite Island Road and Map 15 Lot 2A also on Granite Island Road for repair garages; Map 22 Lot 72 on East Mountain Street for processing shellfish; Map 3 Lot 17 on Robert's Cemetery Road for a restaurant; Map 23 Lot 90 on East Main Street for a motel, and Map 18 Lot 61 for a motel.
5. The front thirty (30) feet of the ground floor of structures facing the south side of Main Street from Water Street to the Mill Stream and facing the north side of Main Street from Water Street to High Street is restricted to commercial use except to provide adequate access to second floors.

H. **Commercial Fisheries/Maritime Activities District**

The purpose of this district is to provide marine-related facilities and services in support of commercial fishing and other maritime activities.

The Commercial Fisheries/Maritime Activities District includes:

1. The area along Carver's Harbor from Map 18 Lot 62 A (the Mill Stream), the harbor side of West Main Street, to and including Map 17 Lot 4 (now or formerly the Bickford Lobster Company).
2. The primary purpose of this district is to provide marine-related facilities and services, together with the protection of the waterfront in support of commercial fishing and other commercial marine activities. To promote the year-round economic viability of the district in the face of the fluctuating and seasonal needs of marine customers, a secondary purpose of the district is to provide commercial activities that serve the general public.
3. Permitted uses are:
   a. Marine-related facilities, activities, and services.
   b. Other commercial activities.
   c. Governmental and institutional uses.
4. Lodging and other residential uses are prohibited in the district.
5. The use of piers, docks wharves, floats, and similar marine structures in the district is limited to commercial fishing and other commercial vessels, except that their use by recreational (non-commercial) boats other than rowboats, punts, and dinghies is permitted only while obtaining service, supplies, or repairs.

II. Overlay Districts

A. **The Airport Overlay District (AOD)**

The purpose of the AOD is to promote the compatibility of land uses in the vicinity of the airfield, to prevent interference with the safe and efficient operation of the airfield and to protect the public at large.

The AOD includes areas surrounding the airfield located on Round the Island Road. The boundaries of the AOD are as shown on the Official Zoning Map. The AOD is located within the Residential Marine 1 District.

Permitted Uses: All uses allowed in the Residential Marine District pursuant to this ordinance, as amended from time to time, are allowed in the AOD except as hereinafter limited.

Limitations: No building, pole, antenna, tower, wall, fence, vehicle, or other object, including the alteration of or addition to an existing object, shall be constructed, erected, or placed within Zone A (as per Airport Overlay District Map) of the AOD unless such thing or object is designed and intended to be used to support air service to the airfield and is constructed, erected or placed pursuant to a permit issued by the Planning Board. This limitation shall not preclude construction, repair, or replacement of a road or driveway, or the use of same for ingress and egress. The Planning Board shall consider the applicable criteria in the Residential Marine 1 District as well as the criteria set forth below in deciding whether

or not to grant a permit.

In Zone B (as per the Airport Overlay District Map), no structure, pole, antenna, tower or object exceeding forty-five (45) feet in height shall be constructed, erected or placed.

Criteria: No use shall be permitted within the AOD which results in glare, smoke, steam, dust or other similar substance or phenomena that may impede a pilot's ability to land or take off from the airfield.

B. **The Shoreland Zone**

The purpose of this district is to control activities near bodies of water.

The Shoreland Overlay District, which encompasses all land within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of any saltwater body, pond, or quarry; within two hundred fifty (250) feet, horizontal distance, of the upland edge of a non-forested coastal or freshwater wetland; and within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream. This Ordinance also applies to any dock, wharf, or pier, and any structure built on, over, or abutting a dock, wharf, or pier, or other structure extending beyond the normal high-water line of a water body or within a wetland.

C. **The Village Overlay District**

The purpose of the Village Overlay District (VOD) is to promote consistency in the parameters of development in the area surrounding Carver's Harbor.

The VOD is defined as all lots contained in Tax Maps 17, 18, 22, and 23; Map 24 Lots 1, 2, 2A, 3, 4, 5, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 23A, 23B, and 24.

Also: Map 21 Lots 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31; Map 19 Lots 5, 6, 7, 8, 9, 10, 11, 12, 12A, 13, 14, 15, 16, 18, 19, 20, and 21.

In this district, minimum front, side, and back yard setbacks will be the same as those in the Residential Commercial District, except that the minimum lot size for the conversion of existing buildings into multi-family dwellings shall be four thousand (4,000) square feet. The maximum lot coverage shall be fifty percent (50%).

The minimum lot size shall be twenty thousand (20,000) square feet if served by town water and sewer.

Car wash facilities are prohibited in this district

All land use activities, as indicated in Section 14: Table of Lane Uses and Land Uses in the Shoreland Zone, shall conform to all the appliciable land use standards in Section 15. The district designation for a particular site shall be stermined from the Official Shoreland Zoning Map together with actual measurements in accordance with Section 12: Interpretations of District Boundaries

Key	Y	No permit required but the use must comply with all appliciable land use standards
	N	Prohibited
	PB	Requires premit issued by the Planning Board
	CEO	Requires permit issued by the Code Enforcement Officer
	LPI	Requires permit issued by the Local Plumbing Inspector
	N/A	Not applicable

Section 14. Table of Land Uses	**DISTRICTS**							
	SP	**RP**	**WD**	**RM1**	**RM2**	**RM3**	**RC**	**CF/MA**
A. LAND MANAGEMENT PRACTICES								
1. Non-intensive recreational uses not requiring a structure, such as hunting, fishing, and hiking	Y	Y	Y[(10)]	Y	Y	Y	Y	Y
2. Motorized vehicular traffic on existing roads and trails, snowmobiling	Y	Y	Y	Y	Y	Y	Y	Y
3. Fire prevention activities	Y	Y	Y	Y	Y	Y	Y	Y
4. Wildlife management practices	Y	Y	Y	Y	Y	Y	Y	Y
5. Soil and water conservation practices	Y	Y	Y	Y	Y	Y	Y	Y
6. Mineral Exploration*	N	N	N	Y[(1)]	PB	PB	Y[(1)]	Y[(1)]
7. Surveying and resource analysis	Y	Y	Y	Y	Y	Y	Y	Y
8. Emergency Operations	Y	Y	Y	Y	Y	Y	Y	Y
9. Agriculture*	Y	PB	N	Y	Y	Y	Y	Y
10. Aquaculture*	PB	PB	N	PB	PB	PB	PB	PB
B. ACTIVITIES DISTURBING LAND								
1. Filling and earthmoving of <30 cubic yards	CEO	CEO	CEO	Y	Y	Y	Y	Y
2. Filling and earthmoving of >30 cubic yards	N	N	N	CEO	CEO	CEO	CEO	CEO
3. Clearing of vegetation for approved construction and other allowed uses	CEO	CEO	PB	Y	Y	Y	Y	Y
4. Mineral extraction and processing, incl. sand and gravel extraction	N	N	N	PB	PB	PB	PB	PB

Table of Land Uses, Continued	DISTRICTS							
	SP	RP	WD	RM1	RM2	RM3	RC	CF/MA
5. Road and Driveway Construction								
a. Driveways	CEO	N[4]	N[4]	CEO	CEO	CEO	CEO	CEO[2]
b. Roads	PB	N[4]	N[4]	PB	PB	PB	PB	PB[2]
C. MARINE USES								
1. Marinas	N/A	N	N	N	N	N	PB	PB
2. Boat houses and marine storage	N	N	N	PB	PB	PB	PB	PB
3. New piers, docks, wharves, bridges, and other structures and uses extending over or below the normal high water line or within a wetland								
a. Seasonal	CEO	CEO	N	CEO	CEO	CEO	CEO	CEO
b. Permanent	PB	N*	N	PB	PB	PB	PB	PB[2]
c. Damaged Piers	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
4. Marine Use 1	N	N	N	PB	PB	PB	PB	PB
5. Marine Use 2	N	N	N	PB	PB	PB	PB	PB
D. STRUCTURES								
1. Principal structures								
a. One Unit Residential	N	N	N	PB	PB	PB	PB	N
b. Two Unit Residential	N	N	N	PB	PB	PB	PB	N
c. Multi-Unit Residential	N	N	N	PB	PB	N	PB	N
d. Commercial [13]	N	N	N	PB	N	N	PB	PB[2]
e. Industrial	N	N	N	N	N	N	PB	PB[2]
f. Governmental and Institutional	N	N	N	PB	PB	PB	PB	PB
g. Small non-residential facilities for educational, scientific, or nature interpretation purposes	N	N	N	PB	PB	PB	PB	PB[2]
h. Place mobile homes	N	N	N	PB	PB	PB	PB	N
i. Decks and porches	N	N	PB	CEO	CEO	CEO	CEO	CEO
j. Demolition of structures	PB	PB	PB	PB	PB	PB	PB	PB

Table of Land Uses, Continued	DISTRICTS							
	SP	RP	WD	RM1	RM2	RM3	RC	CF/MA
1. Non-residential, Non-commercial Structures								
a. Less than 700 square feet in footprint	N	N	N	CEO	CEO	CEO	CEO	N
b. Greater than 700 square feet in footprint	N	N	N	PB	PB	PB	PB	N
2. Structures accessory to allowed uses								
a. Guest House	N	N	N	PB	PB	PB	PB	N
b. Non-Residential Structures:								
i. Within Shoreland Zone	N	N	PB	PB	PB	PB	PB	PB
ii. Outside Shoreland Zone	N	N	PB	CEO	CEO	CEO	CEO	CEO
3. Non-habitable structures under 160 square feet [9]	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
4. Relocation of structures								
a. Structures of a kind permittable by CEO	N	N	N	CEO	CEO	CEO	CEO	N
b. Structures of a kind permittable by PB	N	N	N	PB	PB	PB	PB	N
5. Conversions of seasonal residence to year-round residence	LPI	N	N/A	LPI	LPI	LPI	LPI	N/A
6. Ramp/access for handicapped [8]	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
E. ACTIVITIES								
1. Home Occupations	PB[6]	N	N	PB	PB	PB	PB	PB
2. Uses similar to home occupations*	N	N	N	PB	N	N	N/A	N/A
3. Campgrounds	N	N	N	N	N	N	PB	N
4. Public & private recreational areas involving minimal structural development	PB	PB	N	PB	PB	PB	PB	PB
5. Lodging Facilities								
a. Lodging Facilities 1	N	N	N	PB	PB	PB	PB	N
b. Lodging Facilities 2	N	N	N	PB	PB	PB	PB	N
c. Lodging Facilities 3	N	N	N	PB	PB	PB	PB	N
d. Lodging Facilities 4	N	N	N	PB	N	N	PB	N
6. Swimming/water activities involving body contact with water	Y	Y	N	Y	Y	Y	Y	Y
7. Individual private campsites	CEO	CEO	N	CEO	CEO	CEO	CEO	CEO
8. Parking facilities for commercial use	N	N	N[4]	CEO	N	N	CEO	CEO

Table of Land Uses, Continued	DISTRICTS							
	SP	**RP**	**WD**	**RM1**	**RM2**	**RM3**	**RC**	**CF/MA**
9. Junkyards & Auto graveyards	N	N	N	N	N	N	PB	N
10. Laundromats	N	N	N	PB	N	N	PB	N
11. Car Wash	N	N	N	N	N	N	PB	N
F. OTHER USES								
1. Private sewage disposal systems for allowed uses	LPI	LPI[5]	LPI[5]	LPI	LPI	LPI	LPI	LPI
2. Essential services	CEO[3]	CEO[3]	CEO	CEO	CEO	CEO	CEO	CEO
3. Service drops as defined to allowed uses	Y	Y	Y	Y	Y	Y	Y	Y
4. Wells	CEO	CEO[7]	CEO	CEO	CEO	CEO	CEO	CEO
5. Signs - Commercial*	CEO	N	CEO	CEO	CEO	CEO	CEO	CEO
6. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
7. Uses similar to uses requiring CEO permit	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
8. Uses similar to uses requiring PB permit	PB	PB	PB	PB	PB	PB	PB	PB
9. Change of use	PB	PB	PB	PB	PB	PB	PB	PB

DISTRICT ABBREVIATIONS

SP	Stream Protection	RM2	Residential Marine 2
RP	Resource Protection	RM3	Residential Marine 3
WD	Water District	RC	Residential Commercial
RM1	Residential Marine 1	CF/MA	Commercial Fisheries/Marine Activities

NOTES

1. Requires CEO permit if more than 100 sq. ft. of surface, in total, will be disturbed
2. See Section 13.I.H
3. See further restrictions in Section (16)L, Land Use Standards - Essential Services
4. Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the Resource Protection or Water District areas, in which case a Planning Board permit is required
5. Replacement private sewage systems only in Resource Protection and Water District areas
6. Existing structures only
7. Dug wells only
8. Must meet setback requirements
9. CEO may at their discretion refer any permit application to the PB for review and action.
10. Round Pond is closed to fishing and hunting
11. Except for Water District structures
12. Car Wash activities are not permitted in the Village Overlay District
13. Commercial Structures on Main Street must restrict the front 30 feet of the first floor to commercial use only.

* See specific land use standards

Section 15. DIMENSIONAL REQUIREMENTS*	DISTRICTS							
	SP	WD	RP[7]	RM1	RM2	RM3	RC	CF/MA
Minimum lot size [11]	120,000	120,000	120,000	40,000	80,000	120,000	30,000	30,000
Minimum lot area per use								
Single & 2-unit dwellings	N/A	N/A	120,000	40,000[1]	80,000[1]	120,000[1]	30,000[1]	N/A
Multi-unit dwellings per unit								
Conversion of existing building [12]	N/A	N/A	120,000	10,000[1]	20,000[1]	N/A	10,000[1]	N/A
New building	N/A	N/A	120,000	20,000[1]	40,000[1]	N/A	20,000[1]	N/A
Lots on Carver's Harbor and Sand's Cove	N/A	N/A	N/A	40,000[1]	N/A	N/A	30,000[1]	N/A
Lodging facilities per unit								
Conversion of existing building	N/A	N/A	N/A	3,000	3,000	N/A	2,000[10]	N/A
New building	N/A	N/A	N/A	N/A	N/A	N/A	2,000[10]	N/A
Commercial and industrial	N/A	N/A	N/A	N/A	N/A	N/A	4,000	4,000
Public and private recreational facilities	N/A	N/A	120,000	40,000	80,000	120,000	30,000	3,000
Minimum shore frontage	N/A	N/A	200	150 Tidal 200 Non-tidal	200	200	100[3] 50[4]	30
Minimum setback from NHW & coastal wetlands:								
Residences	N/A	N/A	250	100	100	125	75	N/A
Non-residential/assessory	N/A	N/A	250	100	100	125	75	NONE
Recreational facility	N/A	N/A	250	100	100	125	75	NONE
Sewage drainage field	N/A	N/A	100	100	100	100	100	N/A
Minimum setback from freshwater wetlands, non-tidal:								
Residences	N/A	N/A	250	75	75	75	75	N/A
Non-residential/assessory	N/A	N/A	250	75	75	75	75	N/A
Recreational facility	N/A	N/A	250	75	75	75	75	N/A
Sewage drainage field	N/A	N/A	100	100	100	100	100	N/A
Minimum distance from edge of structure to road [6][8][9]	N/A	N/A	35	35	35	35	25	25

Table of Dimensional Requirements, Continued	DISTRICTS							
	SP	WD	RP[7]	RM1	RM2	RM3	RC	CF/MA
Minimum distance from lot line:								
Residences	N/A	N/A	35	25	25	35	10	N/A
Non-residential/assessory[2]	N/A	N/A	35	10	25	35	10	10
Recreational facility	N/A	N/A	35	35	20	35	10	10
Decks	N/A	N/A	35	15	15	15	10	10
Maximum structure height[5]	N/A	N/A	35	35	35	35	35	35
Maximum lot coverage by structures [13]	N/A	N/A	5%	20%	10%	5%	25%	70%

NOTES

* In all cases, a 25' setback shall be maintained from an existing cemetery.

(1) May be reduced by density bonus (see Land Use Standards: Section 16. S. Multi-Unit Dwellings 6. Bonus Density). Lots over 40,000 sq. ft. may have lot size minimum reduced to 20,000 sq. ft. in the Village District if served by Town water and septic.

(2) See Section 16 Land Use Standards, B. Accessory Structures and Uses

(3) For lots with on-site sewerage disposal

(4) For dwellings with public or private discharge systems

(5) Features of new structures not intended for human habitation, such as chimneys, ventilators, towers, and spires may exceed these heights but shall be set back from all lot lines a distance not less than the height of such feature.

(6) Where a proposal involves a structure which is abutted on the same street by another structure, or structures, whose setback is less than the required setback, the permitting authority may reduce the setback requirement for the proposed sturcture to the lesser setback of the abutting structures(s) but in no case shall the required setback be reduced to less than 10 feet.

(7) In areas zoned RP because of steep slopes, structures may be allowed (See Section 13. Establishment of Districts, C. Resource Protection Dist.)

(8) Construction within an established right-of-way is prohibited

(9) New roads must meet this setback from structures to the greatest extent practicle.

(10) Excepting Map 18/Lot 61.

(11) Municipal and quasi-municipal facilities are exempt from the lot size, setback, and lot coverage requirements of the WD, RM1, RM2, RM3, RC, and CF/MA districts provided they meet the requirements of Section 16. Land Use Standards, A. Minimum Lot Standards, 2.

(12) In the Village Overlay District, the minimum lot size for multi-family dwellings (conversion of existing buildings) is 4,000 square feet per unit.

(13) Maximum lot coverage by structures: Village Overlay District: 50%

Section 16. LAND USE STANDARDS

All land use activities shall conform to the following provisions, if applicable:

A. Minimum Lot Standards

1. Land below the normal high-water line of a body of water or upland edge of a wetland and land beneath roads serving more than two lots shall not be included in calculating the minimum lot area.
2. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
3. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a body of water or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
4. No structure shall be erected upon a parcel of land that does not constitute a lot as defined in this Ordinance.
5. If more than one residential dwelling unit or more than one principal commercial or industrial structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure, or use.
6. The water body or wetland setback provision shall neither apply to structures that require direct access to the water as an operational necessity, such as piers, docks, and retaining walls, nor to other functionally water-dependent uses.
7. The Planning Board may increase the setback required of a proposed structure, as a condition to permit approval, if necessary to accomplish the purposes of this ordinance. Instances where a greater setback may be appropriate include, but are not limited to, areas of steep slope, shallow or erodible soils, or where an adequate vegetative buffer does not exist.
8. Principal or accessory structures and expansions of existing structures that are permitted in the Residential Marine, Residential Commercial, and Commercial Fisheries/Maritime Activities Districts shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
9. The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the one hundred (100) year flood, the flood of record, or, in the absence of these, the flood as defined by soil types identified as recent flood plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
10. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided that the structure is limited to a maximum of four feet in width, that the structure does not extend below or over the normal high-

water line of a body of water or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C), and that the applicant demonstrates that no reasonable access alternative exists on the property.

11. If all or any part of a principal or accessory structure, or all or any part of principal or accessory use is located within two hundred fifty (250) feet, horizontal distance, of a body of water those structures or uses must comply with all provisions contained in Section 13(I)(E) and (F), (establishment of the Residential Marine 2 and 3 Districts), Section 13(II)(B) (Establishment of the Shoreland Zone), and Section 15 (Dimensional Requirements).
12. Municipal and quasi-municipal facilities may create lots which do not meet the requirements of Section 15, provided that:
    a. the maximum height of any structure built on such lots is less than ten (10) feet.
    b. any such structure will not be used for any type of human occupancy.
    c. the facility cannot otherwise comply with the requirements of the ordinance because of its unique operating requirements.
    d. the facility complies with all Maine state requirements regarding setbacks from highways.
    e. the lot must be used for an essential service as defined, and such use must be recorded in the deed of transfer.
13. Legal lots of record conveyed for municipal and quasi-municipal facilities will remain legal lots of record, even if their lots become non-conforming or become more non-conforming.

B. **Accessory Structures and Uses**

1. No garage or other accessory structure shall be located in a required setback from a right-of-way. Accessory structures not exceeding eight feet in height may be located not less than eight feet from side or rear lot lines. Accessory structures exceeding eight feet in height shall be located not less than one foot from the side or rear lot lines for each foot of height. Existing nonconforming accessory structures under eight feet in height may be expanded by fifty percent (50%) as long as the footprint of the structure does not exceed sixty (60) square feet and as long as the structure extends no closer to any lot line.
2. Accessory Dwelling Unit: at least one accessory dwelling unit (ADU) must be allowed on any lot where a single-family dwelling unit is the principal structure. An accessory dwelling unit may be created within an existing dwelling unit on a single lot, attached to the dwelling unit, or as a new structure on the lot for the primary purpose of creating the accessory dwelling unit. The Planning Board shall determine whether an accessory dwelling unit existed prior to the establishment of this section; once permitted, no additional accessory dwelling units are allowed unless they are in conformance with the dimensional requirements of this ordinance. ADUs are not permitted to be used as short-term rentals but may be used as seasonal dwellings, as defined herein.

C. **Agriculture**

1. All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. § 4201-4209).
2. Manure shall not be stored or stockpiled within seventy-five (75) feet, horizontal distance, of a body of water, tributary stream, or wetland. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge, effluent, or contaminated stormwater.
3. Where soil is tilled in the Resource Protection District, or where soil in excess of twenty thousand (20,000) square feet lying wholly or partially within the Shoreland, Residential Marine, or Residential Commercial Zones is tilled, such tillage shall be carried out in conformance with the provisions of a Conservation Plan which meets the standards of the State Soil and Water Conservation Commission and is approved by the appropriate Soil and Water Conservation District. The plan shall be filed with the Planning Board. Nonconformance with the provisions of said plan shall be considered a violation of this Ordinance.
4. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the Shoreland Zone shall require a Conservation Plan to be filed with the Planning Board. Nonconformance with the provisions of said plan shall be considered a violation of this Ordinance.
5. There shall be no new tilling of soil within seventy-five (75) feet, horizontal distance, from a body of water or coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
6. Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance, of bodies of water and coastal wetlands, tributary streams, and freshwater wetlands. Livestock grazing areas should be fenced at least at the seventy-five (75) foot setback from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions, may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

D. **Archaeological, Historic, Cemetery, and Burial Sites**

1. Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, or adjacent to a cemetery and burial ground, or having historical importance as determined by the Planning Board, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the Planning Board. The Planning Board shall consider comments received from the Commission prior to rendering a decision on the application.
2. Any proposed land use activity that may disturb or otherwise impact adversely an archeological site shall be submitted to the state archeologist for comment.

3. Any proposed land use activity shall maintain a twenty-five (25) foot setback from any cemetery or burial site; no disturbance shall occur within the setback area.

E. **Beach Construction**
Beach construction on any coastal wetland shall require a permit from the Department of Environmental Protection.

F. **Campground Facilities**
Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

1. The minimum area for a campground facility shall be four hundred thousand (400,000) square feet.
2. The minimum area for each campsite shall be twenty thousand (20,000) square feet. Land supporting wetland vegetation, and land below the normal high-water line of a body of water, shall not be included in calculating land area per site.
3. All structures in campgrounds shall comply with setback requirements. The areas intended for placement of a recreational vehicle, tent, or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet from the normal high-water line of a body of water and seventy-five (75) feet from the upland edge of a wetland or tributary stream.
4. Each campsite shall not exceed ten (10) persons.
5. For each three campsites, there shall be one facility consisting of two sinks, two toilets, two urinals, and two showers.
6. Toilet facilities shall not be a part of a campsite and must have a minimum area of twenty thousand (20,000) square feet.
7. No campsite border shall be closer than two hundred (200) feet from the center of any drainage field.
8. Drinking water shall be available and maintained in a sufficient quantity.

G. **Campsites, Individual Private**
Individual, private campsites not associated with campgrounds are permitted, provided the following conditions are met:

1. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area, whichever is less, may be permitted.
2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet from the normal high-water line of a body of water, or seventy-five (75) feet from the upland edge of a wetland or tributary stream.
3. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.

4. The clearing of vegetation for the siting of a recreational vehicle, tent, or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or landowner is required.
6. When a recreational vehicle, registered or otherwise, tent or similar shelter is located on a parcel of land for more than one hundred twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities. This provision does not apply to the storage of unoccupied vehicles.

H. **Clearing of Vegetation for Development**

1. In a Resource Protection District, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.
2. Except in areas as described in Section 16(H)(1), above, and except to allow for the development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, from the normal high-water line of a body of water, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
   a. There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six feet in width as measured between tree trunks and/or shrub stems is allowed, provided that a cleared line of sight to the water through the buffer strip is not created.
   b. Selective cutting of trees within the buffer strip is allowed, provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 16(H)(2)(b), a "well-distributed stand of trees" adjacent to a body of water shall be defined as maintaining a rating score of sixteen (16) or more in any twenty-five (25) foot by fifty (50) foot rectangular area as determined by the following rating system.

Diameter of tree at 4½ feet Above ground level (inches)	Points
2 – <4 in.	1
4 – <8 in.	2
8 - <12 in.	4
12 in. or greater	8

For the purposes of Section 16(H)(2)(b) "other natural vegetation" is defined as

retaining existing vegetation under three feet in height and other ground cover and retaining at least five saplings less than two inches in diameter at four and one half (4½) feet above ground level for each fifty (50)foot by twenty-five (25) foot rectangular area. If five saplings do not exist, no woody stems less than two inches in diameter can be removed until five saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than forty percent (40%) of the total volume of trees four inches or more in diameter, measured at four and one half (4½) feet above ground level may be removed in any ten (10) year period.

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

d. Pruning of tree branches, on the bottom third (⅓) of the tree, is allowed.

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

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

3. In the Shoreland Zone, at distances greater than one hundred (100) feet, horizontal distance, from the normal high-water line of a body of water, and/or seventy-five (75) feet from the upland edge of a wetland or tributary stream, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty percent (40%) of the volume of trees four inches or more in diameter, measured four and one half (4½) feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty percent (40%) calculation. For the purposes of these standards, volume may be considered equivalent to basal area.

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

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

5. Fields and other cleared openings in the Shoreland Zone that have reverted primarily to shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

I. **Commercial and Industrial Uses – Harmful or Hazardous Materials**
New commercial and industrial uses that employ or generate harmful or hazardous materials shall require a written plan for storage and disposal. Applicable State and Federal approvals

and permits shall be submitted as part of the permit application to the Planning Board. The written plan shall become a condition of the permit.

J. **Decks**

A deck, or structures such as stairs or ramps used for access, may be located within a required side or back yard setback if and only if it extends no closer to a lot line than the principal or accessory structure to which it is attached.

K. **Erosion and Sedimentation Control**

1. In the Shoreland Zone, all activities that involve filling, grading, excavation, or other similar activities that result in de-stabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
   a. Mulching and revegetation of disturbed soil.
   b. Temporary runoff control features such as hay bales, silt fencing, or diversion ditches.
   c. Permanent stabilization structures such as retaining walls or riprap.
2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
4. In the Shoreland Zone, any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked, by use of riprap, sod, seed, mulch, or other effective measures. In all cases, permanent stabilization shall occur within nine months of the initial date of exposure. In addition:
   a. Where mulch is used, it shall be applied at a rate of at least one bale per 500 square feet and shall be maintained until a catch of vegetation is established.
   b. Anchoring the mulch with netting, pegs, and twine or other suitable method may be required to maintain the mulch cover.

   Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
5. On slopes greater than twenty-five percent (25%), there shall be no construction, grading, or filling within two hundred fifty (250) feet of the normal high-water mark except to protect the shoreline and prevent erosion.
6. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from the water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater and shall

be stabilized with vegetation or lined with riprap.

7. On slopes greater than twenty percent (20%), development proposals are required to have both a detailed erosion and sedimentation control plan and a surface water runoff management plan before a permit can be granted.

L. **Essential Services**

1. In the Shoreland Zone, where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
2. The installation of essential services other than roadside distribution lines is not allowed in or through a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
3. Damaged or destroyed public utility transmission and distribution lines, towers, and related equipment may be replaced or reconstructed without a permit

M. **Exploration, Excavation, Extraction, Processing, and Storage of Soil, Loam, Sand, Rocks, Gravel, and Other Mineral Deposits**

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods that create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration that exceeds the above limitation, and which occurs in the Residential Marine 2 and Residential Marine 3 Districts. All excavations, including test pits and holes, shall be immediately capped, filled, or secured by other equally effective measures, so as to restore disturbed areas and to protect public health and safety.

In the Shoreland Zone, mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with and approved by the Planning Board before a permit is granted. Such a plan shall describe in detail the procedures to be undertaken to fulfill the requirements of paragraph 3 below.
2. No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body, and within seventy-five (75) feet of the upland edge of a wetland or tributary stream. Extraction operations shall not be permitted within seventy-five (75) feet of any property line, without written permission of the owner of such adjacent property.
3. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

   a. All debris, stumps, and similar material shall be removed for disposal in an approved

location or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

b. The final graded slope shall be two and one-half to one (2½:1) slope or flatter.

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

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

5. Finished slopes of excavations, except in rock, shall be two and one-half feet horizontally to one foot vertically (2½:1) and shall be loamed with not less than four inches of topsoil and seeded to prevent erosion.

6. Removal of sod, loam, or topsoil shall leave not less than four inches of topsoil. Where sand, gravel, or other minerals are to be removed, sufficient topsoil shall be stockpiled to permit compliance with 5 above.

In all Zones:

7. Permits for excavation and extraction shall require an operational plan which shall show the location of the activity on the parcel, and which shall include provisions to minimize erosion and sedimentation and preserve natural drainage ways. A plan and timetable for the restoration of the site shall be required at the time of application.

8. Restoration of the site shall take place concurrently with excavation and extraction operations.

9. Finished slopes of excavations, except in rock, shall be leveled as much as practical, cleared of slash and large obstructions, and restored so that vegetation can be re-established.

10. No below-grade excavation shall occur within thirty (30) feet of any lot line, except for the permitted use. Natural vegetation shall not, to the greatest extent possible, be disturbed or removed within the thirty (30) foot setback from all lot lines.

11. No excavation, filling, or storage of materials shall occur within thirty (30) feet of the bank of any body of water. No excavation shall result in standing water unless in conformance with a final grading plan approved by the Planning Board.

12. The Planning Board may require other conditions, including hours of operation, routing of trucks, preparation of the final grading plan, and posting of bonds or other financial arrangements sufficient to assure completion of the activity in conformance with conditions of approval.

13. Rock-crushing activities are governed under this section.

N. **Functionally Water Dependent Uses and Structures**

Any new structure located within a required setback from the water requires both Planning Board and DEP permits. Any change of use of an existing structure located within a required

setback from the water requires a Planning Board permit.

O. **Home Occupations**
A home occupation may involve wholesale production for delivery or sale through retail outlets and may include retailing of items produced or services provided on the premises by the residents, provided all other conditions of this Ordinance are met. A home occupation may include lodging facilities of up to and including five rooms for rent. Home Occupations must meet the requirements of the Planning Board Review (Section 17. Administration).

P. **Commercial Use in Residential (RM1) Zone**
Commercial Users are subject to Planning Board Review. In reviewing an application for commercial use, the Planning Board may require mitigation measures to ensure compliance with the performance standards of this Ordinance. Said conditions, if deemed necessary, shall be made a part of the permit approval. The Planning Board may also deny a commercial use activity because of its inability to meet the review requirements outlined in this ordinance.

Q. **Lodging Facilities**

1. Lodging Facilities are numerically defined as follows:
    a. **Lodging 1:** A rooming or guest house where the owner or their representative lives on the property and rents no more than six units on a daily, weekly, or monthly basis. Units do not have kitchens, may or may not have bathrooms, and no meals are provided.
    b. **Lodging 2:** A bed and breakfast guest house where the owner lives on the property and rents no more than six units on a daily, weekly, or monthly basis. Units do not have kitchens, may or may not have bathrooms, and where the owner provides one or more meals per day.
    c. **Lodging 3:** A property with three or more units, with separate kitchen and bathroom facilities for each unit, where the owner may or may not reside on the property on which the structure is located and where the unit(s) are rented on a daily, weekly, or monthly basis but not annually. A property with two or fewer units is not regulated for the purposes of this section.
    d. **Lodging 4:** A hotel or motel housing structure consisting of six units or more, with bathrooms but with or without kitchens, that is rented on a daily or weekly basis. The facility may house a restaurant, pool, exercise facilities, or function room(s). Lodging 4 assumes an on-site management presence, which may or may not live on the site.
2. **General Requirements**
    a. No parking or driveways shall be located within ten (10) feet of any lot line.
    b. Off-street parking shall be provided in accordance with this ordinance. Public parking shall not be used to meet this requirement.
    c. Room size shall be a minimum of one hundred fifty (150) square feet for every two

people.

d. The new construction of hotels, motels, and lodging facilities and conversion of existing structures is prohibited on the harbor side of Atlantic Avenue, Main Street, and Sand's Cove Road, and lots abutting Sand's Cove.

e. Where the lodging facility is located within twenty-five (25) feet (RC District) or thirty-five (35) feet (RM 1 District) of the property line, a buffer or fence at least four feet high shall be constructed to provide a visual and sound control barrier. The Planning Board shall determine the nature, length, and height of the buffer or fence.

R. **Manufacturing, Warehousing, Research Facilities**
Where located adjacent to residential lots, manufacturing, warehousing, and research facilities shall conform to the following:

1. Side and rear yard setbacks shall be not less than fifty (50) feet, of which not less than twenty (20) feet shall be maintained as yard space.
2. No parking or outdoor storage shall be located within the twenty (20) foot yard area.
3. All outdoor storage of material, goods, or vehicles shall be screened from view from adjacent residential lots, as required for off-street parking and loading spaces.
4. The Planning Board may require other conditions to fit the facility harmoniously into its neighborhood.

S. **Multi-Unit Dwellings**

1. **Conversions**
A single-unit dwelling or other building may be converted to a multi-unit dwelling, provided:

   a. Exterior alterations shall be limited to those required to comply with applicable health, building, and fire safety codes and shall not substantially alter the appearance of the building.

   b. If not connected to a public or private sewerage system, the lot must contain sufficient area and suitable soil conditions for on-site disposal in accordance with the Maine State Plumbing Code.

   c. One parking place will be required for each dwelling unit, location to be determined by the Planning Board during review.

2. **New Construction**
Multi-family dwellings shall conform to the following:

   a. The minimum setback from all lot lines shall be thirty (30) feet.

   b. Multi-family dwelling units shall meet all dimensional requirements.

   c. No building shall contain more than ten (10) dwelling units.

   d. All units shall be connected to a common water supply and distribution system, either public or private.

e. All units shall be connected to a public sewerage system, if available, or to a central collection and treatment system in accordance with the Maine State Plumbing Code.

f. No parking area shall be located within ten (10) feet of any lot line.

3. Each apartment unit shall contain the following minimum square feet of living area:

Efficiency or studio apartment	350
One-bedroom apartment	450
Two-bedroom apartment	600
Three-bedroom apartment	750
Four-bedroom apartment	900

4. For onshore lots in the Residential Commercial District areas described in 13(G)(1), the same lot area per dwelling unit in multi-family dwellings shall be required as for single-family dwellings (see Section 15, Dimensional Requirements).

5. The division of a new or existing structure into three or more dwelling units within a five-year period may require subdivision review.

6. Bonus Density: To alleviate year-round housing shortages, bonus densities shall be granted for the following:

   a. For existing structures, including residential and non-residential, on public water and sewer, the density in the RM1 and RC will be limited only by the permitted square footage of units in accordance with 3 above and the existing footprint. No increase in any non-conforming footprint or setback is allowed.

      (1) Where at least thirty percent (30%) of the units will be affordable to renters or homeowners making between eighty percent and one hundred twenty percent (80-120%) of median income, consistent with 30-A M.R.S.A. § 4364, then that density may be increased to two and one-half (2.5) times.

   b. For existing and new structures, not on public water or sewer, the density shall be twice that permitted in the RM1 and RC, provided that the owner can demonstrate adequate water supply and sewage treatment, per unit.

      (1) Where at least thirty percent (30%) of the units will be affordable to renters or homeowners making between eighty percent to one hundred twenty percent (80-120%) of median income, consistent with 30-A M.R.S.A. § 4364, then that density may be increased to two and one-half (2.5) times.

   c. A permit application to the Planning Board for such a change in use shall not be considered complete without Code Enforcement Officer and Fire Chief approval of the building plan in compliance with appropriate building and fire codes, as approved by the Town of Vinalhaven.

   d. When an affordable housing bonus is granted, no more than two parking spaces per three housing units are required.

7. Upon approval of this conversion by the Planning Board, the owner/developer shall record in the Registry of Deeds that such use shall be for year-round housing only. The recorded deed shall be provided to the Code Enforcement Officer prior to issuing a building or change of use permit.

a. In the case of affordability, the owner or developer shall demonstrate to the Code Enforcement Officer that at least thirty percent (30%) of the units are affordable in accordance with 30-A M.R.S.A. § 4364.

T. **Off-Street Parking and Loading Requirements**

1. **Basic Requirements:** In any district where permitted, no use of premises shall be authorized or extended, and no building or structure shall be constructed or enlarged unless there is provided for such extension, construction, or enlargement, off-street automobile parking space within three hundred (300) feet of the principal building, structure, or use of the premises, in accordance with the following schedule of parking requirements. An area of two hundred (200) square feet appropriate for the parking of an automobile, exclusive of maneuvering space, shall be considered as one off-street parking space. No required parking space shall, for the purposes of this Ordinance, serve more than one use. No off-street parking facility shall have more than two entrances and exits on the same street, and no entrance or exit shall exceed twenty-six (26) feet in width. Outlying islands may be exempted from this provision.

2. **Schedule of Minimum Off-Street Parking Requirements:**

   a. Two spaces per dwelling unit, except as noted under S. Multi-Unit Dwellings.

   b. One space for each sleeping room in a lodging facility.

   c. One space for each recreational vehicle, tent, or shelter site in a campground.

   d. One space for every four beds for institutions devoted to the board, care, or treatment of persons.

   e. One space for each one hundred fifty (150) square feet, or fraction thereof, of floor area of any retail, wholesale, or service establishment, office, or professional building.

   f. One space for every three seats, permanent or otherwise, for patrons' use for restaurants and other places serving food or beverage, and for theaters, auditoriums, and other places of amusement or assembly.

   g. One space for each person employed or anticipated to be employed on the largest shift for all types of commercial, industrial, or other permitted use.

   h. Adequate spaces shall be provided to accommodate customers, patrons, and employees at automobile service stations, drive-in establishments, open-air retail businesses and amusements, and other permitted uses not specified.

3. **Off-Street Loading**
   In any District where permitted or allowed, commercial or industrial uses shall provide, as necessary, off-street loading facilities located entirely on the same lot as the building or use to be served so that trucks, trailers, and containers shall not be located for loading on any public way.

4. **Landscaping**
   The Planning Board may require that required parking and loading spaces for non-

residential uses be effectively screened from view by a continuous landscaped area, except that driveways shall be kept open to provide visibility for vehicles entering and leaving.

5. **Parking Areas in the Shoreland Zone**

   a. Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/ Maritime Activities District parking areas shall be set back at least twenty-five (25) feet from the normal high-water line or the upland edge of a wetland. The setback requirement for parking areas serving public boat launching facilities, in Districts other than the Limited Commercial and Commercial Fisheries/Maritime Activities Districts, may be reduced to no less than fifty (50) feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.

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

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

      (1) Typical parking space: Not less than ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

      (2) Internal travel aisles: Not less than twenty (20) feet wide.

U. **Piers, Docks, Wharves, Bridges, and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Body of Water or Within a Wetland**

All damaged wharves and piers require a site visit review by the Code Enforcement Officer before being restored to pre-damaged condition.

All applications for piers, docks, wharves, and other marine structures, both permanent and seasonal, shall be reviewed by the Planning Board or Code Enforcement Officer for conformance with the following standards, and after a site visit by the Code Enforcement Officer. If the Planning Board or Code Enforcement Officer is unable to reach a decision using the criteria below due to either inconclusive or conflicting information, the Planning Board or Code Enforcement Officer will require the applicant to submit an environmental impact analysis assessing the proposal's impact on natural areas, including impacts of the proposed structure in conjunction with other adjacent or abutting structures or property.

No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15, a second structure may be allowed and may remain as long as the lot is not further divided.

The Planning Board or Code Enforcement Officer may also require that the proposal be

modified to ensure conformance with the standards set forth below. Mitigation measures may include, but are not limited to, changes in the design and construction of the marine structure or changes in the magnitude, duration, and location of activities carried out at the marine structure.

The Planning Board or Code Enforcement Officer shall approve an application if and only if there is a finding that:

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion. Whenever possible, access from the shore to the marine structure shall be placed on bedrock. Measures shall be taken to minimize soil erosion both during and after construction.
2. The location shall not unreasonably interfere with existing developed or natural beach areas, with access to existing marine structures or points of public access.
3. The marine structure shall be designed, sited, and constructed to avoid, when possible, adverse impacts on significant wildlife habitats or unique natural areas, including but not limited to, fin fish and shellfish fisheries, salt marshes, eelgrass beds, shorebird feeding and nesting habitats, and critical fish spawning and nursery areas.
4. The facility shall be no larger in dimension than necessary to accomplish the purposes for which it is designed. Its size and construction shall not change the intensity of the adjoining land use, and by no means shall it exceed a total distance of more than ⅓ the width of the water body, when proposed for coastal or inland waterways, inlets, and coves. Notwithstanding the dimensional limits below, in areas outside the CFMA zone where the horizontal distance from the normal high water line (NHW) to the normal low water line (NLW) is in excess of one hundred ten (110) feet, permanent structures will not be allowed beyond the NHW mark, except a permanent structure no more than fifteen (15) feet beyond NHW may be permitted if and only if no alternative for access to the water exists on the applicant's property.

	In RC and CFMA Zone	In all other Zones	Commercial Marine Struc. In Res. Zones
Max. length of all structures	160 ft.	160 ft.	160 ft.
Max. length of all piers	100 ft.*	100 ft.*	100 ft.*
Max. width of piers	12 ft.	6 ft.	12 ft.
Max. width of ramp	6 ft.	4 ft.	6 ft.
Max. sq. ft. per float	300 sq. ft.	300 sq. ft.	300 sq. ft.
Min. height of decking over normal high water	3 ft.	3 ft.	3 ft.
Max. length of wharf	No. max.	N/A	100 ft.
Max. width of wharf	100 ft.	N/A	25 ft.
Sideline setback of wharf	0 ft.	15 ft.**	15 ft.**
Sideline setback for piers	10 ft.**	15 ft.**	15 ft.**

* Or length needed to obtain six feet of depth of water at normal low tide, whichever is less.
** If the pier or wharf is shared between property owners, no sideline setback is required.

5. Permanent structures shall not be allowed in Resource Protection areas, except for those areas zoned Resource Protection because of steep slopes.

6. With the permission of the CEO, non-permanent structures may be affixed by fastening devices in rock.

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

8. No existing structures built on, over, or abutting a pier, dock, wharf, or other structure extending beyond the normal high-water line of a body of water or within a wetland shall be converted to residential dwelling units in any district. The installation of plumbing fixtures (including a toilet), which would render such structures readily usable as dwelling units and are not essential for a use requiring direct access to the water as an operational necessity, is prohibited.

9. Unreasonable interference with the natural flow of any surface or subsurface waters, or impedance of the flow of the current of a channel, shall be minimized during the construction and subsequent use of the marine structure.

10. The marine structure shall be designed, sited, and constructed so as not to encroach upon Federally designated navigation channels or mooring areas, or otherwise obstruct by any means whatsoever the free use of piers, docks, common landing areas, and commercial fisheries.

11. Except in the Residential Commercial and CF/MA Districts, structures built on, over, or abutting a pier, wharf, dock, or other structures extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, or structure.

12. In the interest of public safety, the Planning Board or Code Enforcement Officer may require lights and/or reflective materials to be installed on piers, docks, wharves, or floats.

13. Permanent structures projecting into or over bodies of water shall require a permit from the Department of Environmental Protection pursuant to State Law.

V. Ponds

Ponds created for any purpose must meet the specifications of the DEP or the University of Maine Soil and Water Conservation Commission. If a pond is to be used for the purpose of fire prevention, the local Fire Chief must approve the location and design.

W. Restaurants, Outdoor Sales, and Storage

1. Restaurants

a. No parking shall be located within ten (10) feet of any lot line.

b. Refuse containers not within a building shall be placed not less than thirty (30) feet from any lot line and shall be screened from view and maintained so as to prevent access by flies and vermin.

c. Restaurants serving "take-out" food or providing outdoor dining on the premises shall provide suitable waste receptacles for use by customers.

d. The Planning Board may require other conditions to fit the restaurant harmoniously into its neighborhood.

2. **Outdoor Sales and Storage**

a. Lots shall meet all requirements for single-family dwellings.

b. No parking or storage shall be located within twenty (20) feet of any lot line.

c. All outdoor storage of material, goods, or vehicles shall be screened from view from adjacent residential lots, as required for off-street parking and loading spaces.

d. The Planning Board may require other conditions to fit the facility harmoniously into its neighborhood.

X. **Retail and Wholesale Business, Services, Business and Professional Offices**
Where located adjacent to residential lots, retail and wholesale businesses, services, business, and professional offices shall conform to the following:

1. Side and rear yard setbacks shall be not less than thirty (30) feet, of which not less than ten (10) feet shall be maintained as yard space.

2. No parking or outdoor storage shall be located within ten (10) feet of any lot line.

3. All outdoor storage of material, goods, or vehicles shall be screened from view from adjacent residential lots, as required for off-street parking and loading areas.

4. The Planning Board may require other conditions to fit the facility harmoniously into its neighborhood.

Y. **Roads and Driveways**

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

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

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

Section 16(Y)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures, and facilities located nearer to

the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 16(Y)(1) except for that portion of the road or driveway necessary for direct access to the structure.

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

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

d. Road and driveway banks shall be no steeper than a slope of two horizontal to one vertical (2:1) and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 16(K).

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

f. To prevent road and driveway surface drainage from directly entering bodies of water, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a body of water, tributary stream, or upland edge of a wetland. Surface drainage that is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

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

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

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

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

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

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

h. Where roads and driveways connect with public roads, ditches, culverts, bridges, dips, water turnouts, and other stormwater runoff control installations must be approved by the road commissioner and shall be maintained on a regular basis to assure effective functioning.

2. **In all zones**, the Planning Board shall ensure that site distances, angle of intersection, and steepness of slope shall be considered before a permit is granted.

a. The minimum width for roads shall be no less than ten (10) feet with a total clearance width of sixteen (16) feet.

b. Turnouts on single-lane roads will be provided every five hundred (500) feet.

c. At all intersections of roads and driveways with public roads, a sight distance of two hundred fifty (250) feet on each side is required.

d. The minimum angle of intersection with public roads shall be sixty degrees (60°).

e. The maximum grade for roads is twenty-five percent (25%).

Z. **Public and Private Institutional Structures**

In the case of public and private schools, public and quasi-public buildings, churches, and other religious facilities and cemeteries, the Planning Board may require conditions to fit these uses harmoniously into their neighborhoods.

AA. **Septic Waste Disposal**

1. Lots lawfully in existence as of the date of this ordinance are exempted from lot coverage requirements (see Section 15, Dimensional Requirements Table) for the purpose of wastewater disposal.

2. All subsurface wastewater disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules.

3. **In the Shoreland Zone:**

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

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

BB. **Signs**

1. All signs shall require a Planning Board permit except the following:
   a. Name signs are limited to two signs per premises and a sign area of two square feet.
   b. Signs relating to the sale, rental, or lease of the property are limited to two signs per premises and a sign area of six square feet each and are not intended to be viewed simultaneously.
   c. Signs relating to trespassing and hunting are without restrictions as to number but are limited to a sign area of two square feet.
2. Outdoor signs in all Districts shall be governed by the following provisions:
   a. No signs shall extend higher than twenty (20) feet above the ground.
   b. No sign shall exceed eighteen (18) square feet in the Residential Commercial and CF/MA Districts and six square feet in all other districts.
   c. Signs may be illuminated only by shielded non-flashing lights and shall be illuminated no brighter than the equivalent of a shielded one-hundred (100) watt incandescent lightbulb per side.
   d. All signs shall be securely fastened so as to withstand all elements.
   e. Signs and billboards not on the premises where the advertised goods or services are sold shall be limited to one sign with a maximum sign area of six square feet.
3. Signs relating to public safety shall be permitted without restrictions.

CC. **Soils**

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

DD. **Storm Water Runoff**

1. All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces, and wooded areas, shall be retained to reduce runoff and encourage infiltration of stormwater.
2. Stormwater runoff control systems shall be maintained as necessary to ensure proper

functioning.

3. The Stormwater Management Law (38 M.R.S.A. § 420-D) requires a full permit to be obtained from the DEP prior to the construction of a project consisting of one acre or more of developed area in a stream, coastal or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area, but less than one acre of impervious area and less than five acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.

EE. **Swimming Pools**

1. Swimming pools shall meet the same setback requirements as residential structures.
2. Water source requires Planning Board approval. The Planning Board may require that an off-site water source be utilized to fill and maintain swimming pools.

Sections FF, GG, and HH have been added pursuant to DEP CH 1000 updated standards as of September 30, 2025.

FF. **Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal**

1. Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
   a. Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one-half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
   b. Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one-half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one-half (4.5) feet above the ground level.
   c. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas or other permanently cleared areas, and stumps are not

removed. For the purposes of this provision, dead trees are those trees that contain no foliage during the growing season.

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

e. The Code Enforcement Officer may require more than a one–for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one-half (4.5) feet above the ground level.

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

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

(2) The area from which a storm-damaged tree is removed does not result in new lawn areas or other permanently cleared areas;

(3) Stumps from the storm-damaged trees may not be removed;

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

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

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

GG. **Exemptions to Clearing and Vegetation Removal Requirements**

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15(P), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

1. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as, but not limited to, cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to the lack of removal of vegetation every two (2) years, reverts to primarily woody vegetation, the requirements of Section 15(P) apply;

2. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;

3. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
4. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;
5. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A § 343-E, and that is located along:
    a. A coastal wetland; or
    b. A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A § 465-A.
6. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
    a. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
    b. Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
    c. If applicable, clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.
7. The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

HH. **Revegetation Requirements**

When revegetation is required in response to violations of the vegetation standards set forth in Section 15(P), to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

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

2. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
3. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
4. Revegetation activities must meet the following requirements for trees and saplings:
    a. All trees and saplings removed must be replaced with native noninvasive species;
    b. Replacement vegetation must at a minimum consist of saplings;
    c. If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
    d. No one species shall make up 50% or more of the number of trees and saplings planted;
    e. If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
    f. A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
5. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
    a. All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
    b. Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
    c. If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
    d. No one species shall make up 50% or more of the number of planted woody vegetation plants; and
    e. Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years
6. Revegetation activities must meet the following requirements for ground vegetation and ground cover:

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

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

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

II. **Towers**

Towers, antennas, windmills, and similar structures having no floor area shall not exceed sixty-five (65) feet in height above natural grade. This section shall not apply to essential services.

JJ. **Water Quality**

1. In the Shoreland, no activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream, or wetland.
2. No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that runoff, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor or taste, or unsightliness or be harmful to human, animal, plant or aquatic life.
3. All hazardous material storage or disposal and all solid and liquid waste disposal, except domestic sewage, is prohibited from bedrock aquifer recharge areas as mapped, excepting the current town landfill.
4. All underground storage tanks shall meet the requirements of the Maine Department of Environmental Protection's regulations in "Standards for Permitting Underground Oil Storage Facilities" for siting tanks over sand and gravel aquifers. All underground tanks shall be double-contained.
5. All commercial bulk petroleum sites shall have a spill prevention, countermeasures, and control plan.
6. Only less persistent pesticides and herbicides (those with a half-life of less than twenty (20) days in unsaturated soils) are permitted in aquifer recharge areas as mapped, except in the Resource Protection Zone and the Water District Zone, where the application of all pesticides and herbicides is prohibited, except approved herbicides or pesticides for water treatment.
7. Salt and salt-sand stockpiles shall not be located in aquifer recharge areas as mapped unless they are covered and located on an impermeable base.

8. The following provisions apply to the **Water District Zone only**:
    a. No borrow pit or quarry shall be permitted within the watershed.
    b. No agricultural use or animal husbandry shall be permitted within the watershed.
    c. No herbicides or pesticides shall be used within the watershed, except approved herbicides or pesticides used for water treatment.
    d. Swimming and all water activities that involve body contact with the water are prohibited in the Water District.
9. Where there is evidence of saltwater intrusion into bedrock wells within five hundred (500) feet of a proposed well site, the Planning Board or Code Enforcement Officer may require an impartial hydrogeological survey to be done at the expense of the applicant for the well permit.

KK. **Contract Zoning**

1. **Purpose**: This ordinance provision is for the purpose of recognizing that, from time to time, a particular property's development does not meet the dimensional or land use requirements of this ordinance, yet is judged by the community to be an acceptable land use and development in the community, consistent with the Comprehensive Plan. Hence, Vinalhaven permits the contract zoning of properties pursuant to 30-A M.R.S.A. § 4352.
2. **Requirements**: The legislative body of the community may consider the rezoning of a property into a contract zone, permitting a use, subject to conditions, that is not generally consistent with this ordinance. Such a contract zone change could result in a change of land use activity or in dimensional requirements for the specific property in question. In exchange for a change in use or dimensional requirements, the property owner shall agree to certain conditions set during the following procedure:
3. **Procedure**: All proposals for contract zoning shall first be presented to the Planning Board and Planning Commission for consideration.
    a. **Public Hearing**: The Planning Commission shall conduct a public hearing before any property is rezoned under this subsection. Notice of this hearing must be posted in the municipal office at least thirteen (13) days before the public hearing. Notice must also be published at least two times in a newspaper having general circulation in the municipality. The date of the first publication must be at least seven days before the hearing. Notice must also be sent to the owner or owners of the property to be rezoned and to the owners of all property abutting the property to be rezoned at the last known address of those owners. Notice also must be sent to a public drinking water supplier if the area to be rezoned is within its source water protection area. This notice must contain a copy of the proposed conditions and restrictions with a map indicating the property to be rezoned.
    b. The application shall be consistent with the requirements of Section 17 Administration of this ordinance. The Planning Board may determine that additional information is necessary to make a recommendation for a contract zoning change.
    c. The application, on both a map and in text, shall define the deviations from the existing land use and dimensional requirements that are necessary for the project to develop.

d. The Planning Board shall determine that the application for a contract zone is complete and shall present it to the Planning Commission for public hearing and its consideration.

4. **Recommendation and Findings**: Upon full review and an affirmative vote by the Planning Commission, a town warrant for a zoning change for the property in question shall be prepared and presented to the Town for consideration at Town Meeting. In their recommendation, the Board shall find that:

   a. The change in use and dimensional requirements shall be consistent with Vinalhaven's Comprehensive (Growth Management) Plan.

   b. That the rezoned areas, land use activities, and dimensional adjustments are generally consistent with existing and permitted uses around them.

   c. There are certain conditions, restrictions, and changes in land use and dimensions that shall be clearly identified on the plan and, upon Town Meeting approval, shall become the zoning for the property in question and be identified as a new district under Section 9 of the Land Use Ordinance.

5. **Town Meeting Zoning Amendment**

   In amending the zoning ordinance to act on this contract zoning, the Town Meeting process shall be followed, consistent with Section 8 of the Land Use Ordinance, subject to the process above.

Section 17. ADMINISTRATION

A. Administering Bodies and Agents

1. **Code Enforcement Officer**
   A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.

2. **Board of Appeals**
   The Board of Appeals shall consist of five regular members and two alternate members. Regular members shall be appointed by the Board of Selectmen for three-year terms, and alternate members shall be appointed for one-year terms. Appointments shall be staggered to provide that, other than to fill vacancies, no more than two members are appointed for three-year terms in each year.

3. **Planning Board**
   The Planning Board shall consist of five regular members and two alternate members. Regular members shall be appointed by the Board of Selectmen for three-year terms, and the alternate members shall be appointed for one-year terms. Appointments shall be staggered to provide that, other than to fill vacancies, no more than two members are appointed for three-year terms in any one year.

4. **Planning Commission**
   The Planning Commission shall have the purpose of preparing and reviewing changes to the Comprehensive Plan and to Land Use Ordinances within the Town. The Planning Commission shall have all the responsibilities of a local planning committee as set forth in Section 4324 of Title 30-A of the Maine Revised Statutes. The Planning Commission

shall consist of not less than five members. The Commission's members shall be appointed by the Board of Selectmen for three-year terms, which shall be staggered to provide that, other than to fill vacancies, no more than three members are appointed for three-year terms in any one year.

5. All members of the Planning Board, Appeals Board, and Planning Commission on the effective date of this ordinance shall continue to serve until the expiration of their terms, previously appointed to their positions by the Board of Selectmen.

B. Permits Required

1. A permit shall be required for all new construction and alteration of structures, installation of modular and mobile homes, moving or changing use of existing structures, and earth-moving activities, including road construction. Such activity shall not take place within the Town of Vinalhaven unless a permit for such action has been issued by the Planning Board, LPI, or Code Enforcement Officer, except as permitted in Section 14.

    a. A permit shall be required from the Planning Board for the demolition of any structure two hundred (200) square feet or more. This permit shall not be issued any sooner than thirty (30) calendar days after the application has been completed and the abutting property owners and neighbors within one hundred (100) feet of the applicant's parcel have been notified by the Code Enforcement Officer.

2. This Ordinance allows, without a permit, the normal upkeep and maintenance of structures and uses, including repairs and renovations that do not involve expansion or change of the use or structure. Nothing in the Ordinance shall prevent the strengthening or restoring to safe condition any part of a structure declared unsafe by the Code Enforcement Officer.

3. In the Shoreland Zone, after the effective date of this Ordinance, no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district for which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued non-conforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on-site while the work authorized by the permit is performed.

    a. A permit is not required for the replacement of an existing road culvert as long as:
        (1) The replacement culvert is not more than twenty-five percent (25%) longer than the culvert being replaced.
        (2) The replacement culvert is not longer than seventy-five (75) feet.
        (3) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

4. A permit is not required for an archeological excavation in the shoreland zone as long as the excavation is conducted by an archeologist listed on the State Historic Preservation Officer's level 1 or 2 approved list, and unreasonable erosion and sedimentation are prevented by means of adequate and timely temporary and permanent stabilization measures.

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

C. **Fees**

1. Building permit and subdivision application fees shall be set by the Vinalhaven Board of Selectmen. Payment of any fee after a project has begun will not in any way affect the imposition of any fines or court-ordered payments. Application and permit fees are not refundable.
2. The fee for all appeals shall be set by the Vinalhaven Board of Selectmen.

D. **Permit Application**

Applications must be in writing, with all necessary information, and on forms provided by Town officials. Applications shall be accompanied by payment, a valid plumbing permit, or a sanitary waste discharge permit if applicable, and any applicable Federal or State permits. Permits requiring Planning Board approval shall be submitted to the Code Enforcement Officer by 5 o'clock PM fourteen (14) days prior to the regularly scheduled Planning Board meeting. A separate form shall be submitted for each activity for which the applicant is seeking a permit.

1. Planning Board Applications should include the following:
   a. **Map and lot number of the parcel**. Applications must clearly show the exact dimensions and footprint of all structures and their relationship to wells, septic systems, lot lines, and water bodies.
   b. For commercial and multifamily uses, a drawing of where the structures will be located on the parcel, the setbacks from property lines, and the presence of existing roads, right of ways, utilities, and road intersections with driveways.
   c. **Title, right, or interest**. Provide a complete copy of the deed, a current lease, or purchase option as evidence of title, right, or interest in the property and proposed activity.
   d. **Full Project Description for commercial use**. Provide a complete description of the full scope of activity, including:
      (1) type and scope of business
      (2) structures
      (3) work and activity completed on the site
      (4) services provided
      (5) hours of operation
      (6) storage of trash
      (7) chemical use or hazardous materials and storage plan
      (8) deliveries and distribution trips
      (9) customer trips
      (10) other information deemed relevant to the proposal
2. Copies of any required local, State, or Federal permits or applications to the appropriate

agencies will be submitted with the application. All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct.

3. All applications shall be dated, and the Code Enforcement Officer shall note upon each application the date and time of its receipt and determine whether Code Enforcement Officer or Planning Board approval is required.
4. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface wastewater disposal system. If on public sewer or water, a statement of sufficient capacity from those agencies is required as part of the application.
5. Inspection and approval by the Town Fire Chief in accordance with appropriate codes of materials, including the construction and installation of chimneys, fireplaces, and wood-burning stoves, shall take place before usage. A written review by the Fire Chief shall be made available to the review authority and placed on file in the Town Office after inspection.
6. There shall be no construction above the foundation of any structure until the Code Enforcement Officer inspects and approves the foundation for conformance with the provisions of this ordinance and appropriate building permits.
7. Application for a well permit must be accompanied by a subsurface waste disposal system design or must comply with all applicable state regulations. All wells must be located at least 100 feet from any existing or mapped septic system.
8. Independent Review: The Planning Board may determine that additional expertise is necessary to evaluate the permit. The said evaluation shall be at the expense of the applicant.

E. **Procedure for Administering Permits**

1. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications within thirty-five (35) days of receiving a completed application. An application is complete when all documents the Planning Board requires are attached.
2. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within thirty-five (35) days after the first available date on the Planning Board's agenda following receipt of the completed application, or within thirty-five (35) days of the public hearing if one is held.
3. **Public Hearing.** The Planning Board may elect to hold a public hearing on a proposed application. Public Notice for the public hearing shall be published in a local newspaper, posted at Town Hall, and on the community's website at least thirty (30) days prior to Planning Board review. All abutters within five hundred (500) feet of the proposed application shall be notified. All costs associated with that notice shall be paid for by the applicant prior to any Planning Board decisions.
4. **Site Visits.** The Planning Board may determine that a site visit is necessary to make a

final determination. The time and date of that site visit shall be posted at the Town Hall and on the Town's website to ensure public notice. A quorum (see 17.E.5) of Planning Board members will make a site visit to the property.

5. **Quorum.** A quorum of the Planning Board shall consist of three members. No meeting shall be held in the absence of a quorum unless the absences are due to vacancies on the Board. A majority of the FULL BOARD is required to either approve or deny an application. If the vote is tied when the full Board is not present, the motion is tabled until such time as the full Board is present. If the vote is tied when the full Board is present, the motion fails.
6. **Continuances.** All Planning Board meetings or portions thereof may be continued or tabled for reasonable cause and reconvened as determined by a majority of the Board. Reasonable cause may include, but is not limited to, incomplete testimony or requests that an applicant or their representative be present at a meeting to address concerns of the Board. If such requests are not satisfied by an applicant for two consecutive meetings, the Board may deny the application.
7. Permits shall be approved if and only if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance. The applicant shall have the burden of proving that the proposed land use activity conforms with the purposes and provisions of this Ordinance.
8. **Performance Standards for Review**. After the submission of an application to the Planning Board or Code Enforcement Officer is determined complete, the Planning Board or Code Enforcement Officer shall act to approve, approve with conditions, or deny an application. That decision and findings of fact shall be based on compliance with the following standards:
    a. Will not result in unsafe or unhealthful conditions.
    b. Will not result in water pollution, erosion, or sedimentation to surface waters.
    c. Will not adversely affect the quality or quantity of fresh groundwater in the bedrock or elsewhere, or result in the depletion of the fresh groundwater so that saltwater intrusion into wells occurs, or adversely affect any groundwater recharge areas as mapped.
    d. Will adequately provide for the disposal of all wastewater.
    e. Will not have an adverse impact on spawning grounds, fish, aquatic life, birds, or other wildlife habitat.
    f. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters.
    g. Will protect archaeological and historic resources as designated in the comprehensive plan, including cemeteries.
    h. Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district.
    i. Will not have an unreasonable impact on natural beauty.
    j. Will avoid problems associated with floodplain development and use.
    k. Meets the following additional performance standards, when deemed applicable by

the Code Enforcement Officer or Planning Board:

(1) **Water.** The supply of water and demonstration that there will not be a negative impact on the public water system (if public) or on neighbors (if private).

(2) **Septic Waste.** The applicant will provide details for waste disposal and the adequacy of existing systems to accept that waste so as not to impact surrounding properties.

(3) **Parking & Traffic.** No decrease in the level of service for traffic movement at the entrance or to adjacent public or privately shared roads; for reference, see Land Use Standards, Section 16(T), of the Vinalhaven Zoning Ordinance.

(4) **Noise.** The applicant shall demonstrate that the use will not increase ambient noise levels at the property's boundary.

(5) **Vibration.** The applicant shall demonstrate that use shall not increase ambient noise levels at the property's boundary.

(6) **Odor.** The applicant shall demonstrate that the use will not increase the ambient odor levels at the property's boundary.

(7) **Visual Impact.** The project will blend harmoniously with adjacent properties in terms of:

(a) Architectural design
(b) Landscape design, and
(c) The natural environment

(8) **Benefits to the Community.** The applicant shall provide an assessment of community needs and benefits. Needs could be in the form of new tax revenue, jobs, services provided, or products developed.

(9) Conformance with the provisions of Section 16, Land Use Standards, as well as the other provisions and purpose of this Ordinance.

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

10. When a permit issued by the Planning Board is signed by three members of the Planning Board, it becomes valid.

11. A notice of permit shall be prominently displayed at the site of the permitted structure or activity.

12. No structure shall be occupied until the owner or occupant has obtained a Certificate of Occupancy signed by both the Code Enforcement Officer and the Local Plumbing Inspector, attesting to the complete and final installation of any required subsurface waste disposal system and compliance with the requirements of the ordinance.

F. **Expiration of Permit**

Building permits shall expire after two years unless the exterior of the structure is finished by

that time. If the exterior is not finished after two years, the Code Enforcement Officer will provide written notification to the owner that the permit has expired.

In the Shoreland zone, building permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

Prior to expiration, a one-year extension may be applied for. The extensions shall cost fifty percent (50%) of the original application cost. Any new regulations approved since the original application will be enforced at the time of the extension.

If ownership changes before a permitted project is complete and a new owner wishes to utilize the permit, the new owner is responsible for complying with all aspects of the permit and must notify the Code Enforcement Officer of the ownership change. The Code Enforcement Officer will make note of the ownership change in the permit records. Timelines for expiration of permit as above are not changed by the change in ownership.

G. **Pending Applications for Building Permits**
Nothing in this Ordinance shall require any change in the plans, construction size, or designated use for any structure or part thereof for which an application for a building permit has been made or a building permit has been issued prior to the adoption or amendment of this Ordinance, provided a substantial start has been made on such structure within twelve (12) months after the issuance of such permit.

H. **Installation of Public Utility Service**
No public utility, water district, sanitary district, or any utility company of any kind may install services to any new structure unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials.

I. **Appeals**

1. **Powers and Duties of the Board of Appeals**
The Board of Appeals shall have the following powers:

   a. **Administrative Appeals:** To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by the Planning Board in the administration of this Ordinance, except those under Section 21, Subdivisions, and to hear and decide administrative appeals on a "de novo" basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by the Code Enforcement Officer in his or her review or an action on a permit application under this ordinance. Any order, requirement, decision, or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

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

c. A decision of the Code Enforcement Officer to take enforcement action for a violation of this ordinance or any permit issued pursuant to this ordinance is not appealable to the Board of Appeals. This Ordinance shall be enforced in accordance with 30-A M.R.S.A. § 4452.

2. **Variance Appeals**
Variances are granted only under the following conditions:

a. **General Variances**

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

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

(3) The Board shall not grant a variance unless it finds that:

(a) The proposed structure or use would meet the provisions of Section 16 except for the specific provision that has created the non-conformity and from which relief is sought; and

(b) The strict application of the terms of this Ordinance would result in undue hardship as defined in this Ordinance. The term "undue hardship" shall mean:

(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.

(5) That the land in question cannot yield a reasonable return unless a variance is granted.

(6) That the granting of a variance is based on demonstrated need, not convenience, and no other feasible alternative is available.

b. **Set Back Variances for single-family dwellings**

Notwithstanding the provisions in a. General Variances above, the Board of Appeals may grant a variance from a setback requirement only when strict application of the zoning ordinance to the petitioner and the petitioner's property would cause undue hardship.

This subsection is strictly limited to permitting a variance from a setback requirement for a single-family dwelling that is the primary year-round residence of the petitioner. A variance under this subsection may not exceed 20% of a setback requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage.

c. **Variances for Access for Persons with Disabilities**

Notwithstanding Section 17(I)(2)(a)(3) above, in accordance with 30-A M.R.S.A. § 4353-A, the Code Enforcement Officer may approve a permit to the owner of a

residential dwelling unit for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses that dwelling. The permit is deemed to include the variance, which shall be solely for 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 Code Enforcement Officer may impose conditions on the permit, including limiting the permit to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include ramps and associated railing, and wall or roof systems necessary for the safety or effectiveness of the structure. Such permitting is subject to Sections 17(I)(2)(f) and 17(I)(4)(b)(4) below.

The conditions incorporated into permits issued pursuant to var"ances granted under this Section are described in Section 13(I)(C)(8), Establishment of Districts: Resource Protection, of this Ordinance.

d. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions on a variance as it deems necessary. If the Board of Appeals grants a variance under this Section, 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, indicating the fact that a variance (including any conditions on the variance) has been granted, and the date of the granting shall be prepared in recordable form. This certificate must be recorded by the petitioner in the Knox County Registry of Deeds within ninety (90) days of final approval of the variance, or the variance is void. The variance is not valid until recorded as provided in this subsection. The party receiving the variance shall comply with any conditions imposed.

e. Within the Shoreland Zone, a copy of each variance request, including the application and all supporting information supplied by the applicant, may be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to a hearing by the Board of Appeals. Any comments received from the Commissioner prior to the hearing of the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

f. Notwithstanding any other provision of this Land Use Ordinance, all provisions of the Floodplain Management Ordinance adopted by the Town shall apply, and variances may not be granted except as provided therein.

3. **Administrative Appeals**

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

b. When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing and may reverse the decision of the Planning Board only upon

finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or consider any evidence that was not presented to the Planning Board, but the Board of Appeals may receive and consider written and oral arguments. If the Board of Appeals determines that the records of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact-finding.

4. **Appeal Procedure**

   a. **Making an Appeal**

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

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

         (a) A concise written statement indicating what relief is requested, which section of the Ordinance is involved, and why an appeal or variance should be granted.

         (b) A sketch drawn to scale showing lot lines, location of existing buildings and structures, and other physical features of the lot pertinent to the relief sought.

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

      (4) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application unless this period is extended by the parties.

   b. **Decision by Board of Appeals**

      (1) A majority of the full voting membership of the board shall constitute a quorum for the purpose of deciding an appeal.

      (2) The person filing the appeal shall have the burden of proof.

      (3) The Board shall decide all administrative appeals and variance appeals within thirty-five (35) days after the close of the hearing and shall then issue a written decision on all appeals.

      (4) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall give written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

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

5. **Appeal to Superior Court Except as provided by 30-A M.R.S.A. § 2691(3)(F)**
Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to the Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

6. **Reconsideration**
In accordance with 30-A M.R.S.A. § 2691(3)(F), the Board of Appeals may reconsider any decision within 45 days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, proper notification to the landowner, petitioner, Planning Board, Code Enforcement Officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsideration decision to the Superior Court must be made within fifteen (15) days after the decision on reconsideration.

J. **Enforcement**

1. **Nuisances**
Any violation of this Ordinance shall be deemed to be a nuisance.

2. **Code Enforcement Officer**

a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

b. The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On an annual basis, a summary of this record shall be submitted to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.

3. **Legal Actions**
   When the above action does not result in the correction or abatement of the violation or nuisance condition, the municipal officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety, will result in substantial environmental damage, or will result in substantial injustice.

4. **Fines**
   Any person, including but not limited to a landowner, a landowner's agent, or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A M.R.S.A. § 4452.

5. Notwithstanding any other provision of this Land Use Ordinance, all provisions of the Floodplain Management Ordinance adopted by the Town shall apply, and variances may not be granted except as provided therein.

Section 18. DEFINITIONS

A. Construction of Language

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have the meaning implied by their context in the Ordinance or their ordinarily accepted meaning. In the case of any difference of meaning or implication between the text of this Ordinance and any map, illustration, or table, the text shall control.

The word "person" includes firm, association, organization, partnership, trust, company, or corporation as well as an individual or any other legal entity.

The words "shall" and "will" are mandatory; the word "may" is permissive.

The word "lot" includes the words "plot" and "parcel".

The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied".

The word "town" means the town of Vinalhaven.

The words "governing authority" mean the voters of the town of Vinalhaven.

B. **Definitions**

In this Ordinance, the following terms shall have the following meanings:

Abutter - one whose property abuts, is contiguous, or joins at a border or boundaries, including the property across a street, road, public or private way.

Accessory Structure - a structure that is incidental and subordinate to the principal structure, and which is detached from the principal structure but located on the same lot. A deck or similar extension of the principal structure, or a garage attached to the principal structure by a roof or a common wall, is considered part of the principal structure.

Accessory Dwelling Unit - means a self-contained dwelling unit located within, attached to, or detached from a single dwelling unit located on the same parcel of land. An accessory dwelling unit must be a minimum of one hundred ninety (190) square feet.

Accessory Use - a use that is clearly incidental and subordinate to the principal use of the lot. An accessory use, when aggregated with other accessory uses on the same lot, shall not subordinate the principal use of the lot.

Affordable Housing - dwelling units affordable to renters at eighty percent (80%) or less and for homeowners at less than one hundred twenty percent (120%) of median income, where no more than thirty percent (30%) of one's income goes toward housing.

Aggrieved Party - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance, an abutter, or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance, or a group of five or more citizens of the municipality who represent an interest adverse to the grant or denial of such permit or variance.

Agriculture - the production, keeping, or maintenance for sale or lease of plants and/or animals, including but not limited to forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits and vegetables, and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

Alteration - any exterior change, addition, or modification in construction other than cosmetic or decorative, which changes the square or cubic footage of a building.

Animal Husbandry - the keeping of any domesticated animals other than customary household pets.

Aquaculture - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Authorized Agent - anyone having written authorization, signed by the property owner, to act on behalf of a property owner.

Automobile Graveyard - a yard, field, or other area used as a place of storage, other than temporary storage, by an establishment or place of business that is engaged primarily in doing auto body repair work for the purpose of making repairs to render a motor vehicle serviceable, or three or more unserviceable, discarded, worn out, or junked motor vehicles.

Automobile Repair Garage - a place where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision services such as body, frame, or fender

straightening and repair, overall painting and undercoating of motor vehicles.

Automobile Service Station - a place where gasoline or any other automobile engine fuel, kerosene, motor oil and lubricants, or grease are retailed directly to the public on the premises, including the sale of minor accessories and the servicing and minor repair of automobiles, not including storage of unlicensed vehicles, and not including body, frame, and fender straightening and repair.

Basal Area - the area of cross-section of a tree stem at four and one-half (4½) feet above ground level and inclusive of bark.

Basement - any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than fifty percent (50%) of its volume below the existing ground level.

Bed and Breakfast - a single-family, owner-occupied dwelling in which lodging or lodging and meals are offered to guests for compensation.

Billboard - a sign, structure, or surface larger than four square feet that is available for advertising purposes for goods or services rendered off the premises.

Boarding House - any residential structure where lodging and meals are provided for compensation for a period of at least two weeks, and where a family residing in the building acts as proprietor or owner, and where there are no provisions for cooking in any individual room other than the main kitchen.

Boathouse - a structure for the storage of boats and related marine equipment only. No residential use and no internal plumbing is permitted.

Boat Launching Facility - a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Boatyard - a commercial facility with provisions for storage, building, and/or repair of boats, boat engines, and other marine-related equipment.

Body of Water - shall include the following:

Pond - any inland impoundment, natural or manmade, which collects and stores surface water, and which has a surface area in excess of one-half acre.

Quarry - a man-made impoundment of fresh water or flooded pit created during the extraction of stone that has a water surface area in excess of one-half acre.

Stream - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey, on the website of the United States Geological Survey or the national map, to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

Tidal - any area upon which tidal action occurs.

Buffer Strip - a strip of land extending seventy-five (75) feet, horizontal distance, from the normal high-water line of a body of water, tributary stream, or the upland edge of a wetland where existing vegetation must be maintained.

Building - any structure and its attachments, such as decks, breezeways, and porches, which are supported by columns or walls for the housing or enclosure of persons, animals, or personal property, excluding mobile homes (which have a separate definition).

Bureau of Forestry - State of Maine Department of Agriculture, Conservation and Forestry, Bureau of Forestry.

Campground/Shoreland District - any area or tract of land to accommodate two or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles, or other shelters.

Campground/Other Districts - any premises established for camping for which a fee is charged.

Campsite, Individual Private - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to parking areas, fireplaces, or tent platforms.

Canopy - the more or less continuous cover formed by tree crowns in a wooded area.

Car Wash - Any facility where boats and or motor vehicles are washed for hire or where facilities are made available for washing boats and motor vehicles for hire. This definition shall not apply to non-profit organizations providing occasional car and boat washing as a fundraising event, as long as that organization has obtained the permission of the Vinalhaven Water District to do so.

Change of use - a change from one use in the land use table to another use, or the addition of a new use to an existing use.

Code Enforcement Officer - a person duly appointed to administer this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, and the like, where applicable.

Commercial Use - the use of lands, buildings, and/or structures for the generation of income from the production, buying, or selling of goods and/or services, exclusive of not-for-profit personal use, rental of dwelling units for purely residential use, or a "home occupation" defined herein.

Constructed - includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises that are required for construction. Excavation, fill, paving, drainage, and the like shall be considered as part of construction.

Construction Drawings - drawings showing the location, profile, grades, size and type of drains, sewers, water mains, underground power and telephone ducts, pavements, cross-section of roads, miscellaneous structures, drainage, and other easements, and similar items.

Contiguous Lots - lots in the same ownership which adjoin at any line or point, except that lots on opposite sides of a public road shall be each considered a separate tract or parcel unless such road was established by the owner of the land on both sides thereof.

Deck - an open, unroofed porch or platform extending from a structure.

Development - a change in land use involving alteration of the land, water, or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Dock - any structure, whether permanent or temporary, which acts as a landing place for

watercraft. This includes any combination of piers, docks, and floats.

Dimensional Requirements - numerical standards relating to spatial relationships, including but not limited to setback, lot area, shore frontage, and height.

Disability - any disability, infirmity, malformation, disfigurement, congenital defect, or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions, or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation, or related services.

District - a specified portion of the municipality, delineated on the Official Land Use Map, within which certain regulations and requirements or various combinations thereof apply under provisions of this ordinance.

Driveway - a vehicular access-way less than 500 feet in length serving no more than two single-family dwellings or one two-family dwelling.

Dwelling - any building, structure, or portion thereof designed or used for residential purposes.

Single-unit - a building containing only one dwelling unit for occupation by not more than one family.

Two-unit - a building containing two dwelling units for occupancy by not more than two families.

Multi-unit - a building containing three or more dwelling units, such as buildings being designed for residential use and occupancy by three or more families living independently of one another, with the number of families not exceeding the dwelling units.

Dwelling Unit - a room or suite of rooms designed and equipped primarily for use as living quarters for only one family, including provisions for living and sleeping.

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

Essential Services - the construction, alteration, or maintenance of gas, electrical, or communication facilities; steam, fuel, electric power, or water transmission or distribution lines, towers, and related equipment; telephone cables or lines, poles, and related equipment; gas, oil, water, slurry, or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants, and similar accessories, but shall not include service drops or buildings that are necessary for the furnishing of such services, the interruption of which would endanger the life, health, or safety of the whole or part of the population.

Excavation contractor - an individual or firm that either is engaged in a business that causes the disturbance of one or more cubic yards of soil, or is in a business in which the disturbance of one or more cubic yards of soil results from an activity that the individual or firm is retained to perform. Disturbance includes: grading, filling, and removal. A person or

firm engaged in agriculture or timber harvesting activities is not considered an excavation contractor as long as best management practices for erosion and sedimentation control are used. Municipal, state, and federal employees engaged in projects associated with that employment are not considered excavation contractors.

Expansion of a structure - an increase in the footprint or height of a structure, including all extensions such as, but not limited to: attached decks, garages, porches, and greenhouses.

Expansion of use - the addition of weeks or months to a use's operating season; or the use of more floor area or ground area devoted to a particular use; or the provision of additional seats or seating capacity.

Family - one or more persons occupying a premises and living as a single housekeeping unit.

Filling - depositing or dumping any matter on or into the ground or water.

Flood Insurance Map - the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the Town.

Flood Hazard, Special - the land in the flood plain having a one percent (1%) or greater chance of flooding in a given year.

Flood Plain - the lands adjacent to a body of water that have been or may be covered by the base flood.

Floor Area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure, such as porches and decks.

Foundation - the supporting substructure of a building or other structure, including but not limited to basements, slabs, sills, posts, or frost walls.

Frontage - the horizontal distance, measured in a straight line, between the intersections of the lot lines with the front lot line.

Frontage, Shore - the horizontal distance, measured in a straight line, between the intersections of the lot lines with the shoreline at normal high-water elevation.

Frontage, Subdivision - shall be measured as the linear distance between the sidelines of a lot, measured along the line that borders upon whatever right-of-way serves as legal access to the lot.

Frost Wall - a masonry foundation wall extending below the ground surface, supported by footings located below the frost line to protect structures from frost heaves.

Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses

that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functional water-dependent use.

Great Pond - Any inland body of water which, in a natural state, has a surface area in excess of ten (10) acres (40,000m^2) and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres (120,000m^2)

Ground Cover - small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Guest House - a detached accessory dwelling unit located on the same lot as the principal dwelling unit.

Hazard tree - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that, under the normal range of environmental conditions at the site, exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes, hurricane-force winds, tornadoes, microbursts, or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability, and those trees that pose a serious and imminent risk to wildfire spread to structures. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

Height of a structure -

A. With respect to existing principal or accessory structures, including legally existing nonconforming structures, located within an area of special food hazard that have been or are proposed to be relocated, reconstructed, replaced or elevated to be consistent with the minimum elevation required by a local floodplain management ordinance., the vertical distance between the bottom of the sill of the structure to the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances that have no floor area; and

B. With respect to new principal or accessory structures and to existing principal or accessory structures other than those described in paragraph A, including legally existing nonconforming structures, the vertical distance between the mean original grade at the downhill side of the structure, prior to construction, and the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances that have no floor area.

Home Occupation - an occupation or profession which is customarily conducted on or in a dwelling unit or other structure accessory to a dwelling unit, clearly incidental and secondary to the residential use of the dwelling unit, carried on by residents of the dwelling unit, and employing not more than four people not residing on the premises.

Increase in Non-conformity of a Structure - In the Shoreland Zone, any change in a structure or property which causes further deviation from the dimensional standard(s) creating the non-conformity, such as, but not limited to, reduction in a water body, tributary stream, or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions that either meet the dimensional standard or that cause no further increase in the linear extent of non-conformance of the existing structure shall not be considered to increase non-conformity. For example, there is no

increase in non-conformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing non-conforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland. Included in this allowance are expansions that infill irregularly shaped structures.

Industrial - Relating to the assembling, fabrication, finishing, manufacturing, packaging, and processing of goods, or the extraction of minerals.

Institutional - Of or relating to a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure, or land use for public purposes.

Junkyard - a yard, field, or other area used as a place of storage for discarded, worn out, or junked plumbing, heating supplies, household appliances and furniture; discarded, scrap, and junked lumber; old or scrap copper, brass, rope, rags, batteries, paper trash, rubber or plastic debris, waste and all scrap iron, steel, and other scraps ferrous or non-ferrous material; and garbage dumps, waste dumps, and sanitary landfills.

Laundromat - A business open to the public that provides washing, drying, and/or ironing machines for hire to be used by customers on the premises.

Lodging facility - an accommodation, further described under performance standards, Section 16. Q. Lodging 1-4, including a motel, hotel, inn, rooming house, tourist home, bed and breakfast. and seasonal or short-term rental, as defined herein, accommodating temporary paying guests.

Lot - a parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by this Ordinance.

Lot Area - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Lot Coverage - the percentage of the lot covered by all buildings and paved surfaces, including but not limited to driveways, walkways, parking areas, and patios.

Lot of Record - a parcel of land, a legal description of which, or the dimensions of which, are recorded on a document or map on file in the Knox County Registry of Deeds.

Manufactured Housing Unit - structures, transportable in one or more sections, which are constructed in a manufacturing facility and are transported to a building site and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating/air conditioning, and electrical systems contained therein.

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.

Marina - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops, and marine fuel service facilities.

Marine Use 1 - Marine use is intentionally defined broadly to include commercial fishing activities or their byproducts, commercial aquaculture production or their byproducts, including onshore facilities for processing. Commercial aquaculture production is the production of cultured fish, shellfish, seaweed, or other marine plants for human and animal consumption, including hatcheries and cultivating activities occurring on water and the delivery of harvested products to onshore facilities for processing.

Marine Use 2 - Consistent with Marine Use 1 and including retail sales to the general public.

Mineral Exploration - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources. Such methods of determination must create minimal disturbance to the land, and need to include reasonable measures to restore the land to its original condition.

Mineral Extraction - any operation within any twelve (12) month period that removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and transports or has transported the product removed, away from the extraction site.

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

Mobile Home - a structure designed as a dwelling unit, consisting of not less than four hundred fifty (450) square feet, located on a permanent foundation, and containing sleeping accommodations, a toilet, a tub or shower bath, and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems; and designed to be transported after fabrication on its own wheels.

Mobile Home Park - a parcel of land under unified ownership approved by the municipality for the placement of three or more mobile homes.

Municipal and Quasi-municipal Facilities - For purposes of this ordinance, municipal and quasi-municipal facilities are those facilities that are under direct municipal control or operate under a Maine State charter for the sole benefit of the municipality. Facilities include water, sewer, emergency power, community fire protection, community airfields, and similar facilities but do not include any facilities operating on a for-profit basis.

Native - indigenous to the local forests.

Net Residential Density - the residential land available for development after subtracting roadways and land not suitable for building because of wetlands, substandard drainage, or other natural impediments.

Non-conforming Condition - a non-conforming lot, structure, or use that is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment was approved.

Non-conforming Lot of Record - a lot shown on a plan or deed recorded prior to the effective date of this Ordinance or subsequent amendment that does not meet the area, frontage, width, or depth requirements of the district in which it is located.

Non-conforming Structure - a structure which does not meet all the dimensional requirements (setback, height, lot coverage), but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming Use - the use of buildings, structures, premises, land, or parts thereof which is not allowed in the district in which it is located, or which does not meet the performance standards proscribed for it by this Ordinance, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Normal High-water Line (non-tidal waters) - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water, or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Observed adjacent to tidal waters, setbacks are measured from the upland edge of the "coastal wetland".

Normal High-water Mark of Coastal Waters - All areas below the highest annual tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

Normal High-water Mark of Inland Waters - that line on the shores and banks of non-tidal waters which is apparent because of the different character of the soil or the vegetation due to the prolonged action of water. Relative to vegetation, it is the line where the vegetation changes from predominantly aquatic to predominantly terrestrial. In places where the shore or the bank is of such character that the high-water mark cannot be easily determined (rockslides, ledges, rapidly eroding or slumping banks), the normal high-water mark shall be estimated from places where it can be determined by the above method.

Nursing Home or Assisted Living - any facility which provides meals, lodging, assisted living, or nursing or personal care services for compensation.

Official Submittal Date - for Subdivisions, the date of written acknowledgment by the Planning Board of the receipt of an application at a regularly scheduled Planning Board meeting. This is for all three stages of a Subdivision application: Pre-application Plan, Preliminary Plan, and Final Plan.

Person - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Piers, Wharves, Bridges, and Other Structures and uses Projecting into Water Bodies -

Seasonal - Structures that remain in or over the water for less than seven months in any period of twelve (12) consecutive months.

Permanent - Structures that remain in or over the water for seven months or more in any period of twelve (12) consecutive months.

Planning Board - the Planning Board of the Town of Vinalhaven, as created by 30-A M.R.S.A. § 3001, 4311, et. seq.

Plat - a map showing the location and boundaries of individual parcels of land subdivided into lots with roads, easements, etc. drawn to scale.

Pond - see Body of Water.

Porch - an exterior appendage to a building forming a covered approach or vestibule to a doorway.

Preliminary Subdivision Plan - the preliminary drawings and supporting documents indicating the proposed layout of the subdivision.

Principal Structure - a building other than one that is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal Use - a use other than one which is wholly incidental or accessory to another use on the same premises.

Professional Offices - the place of business for doctors, lawyers, accountants, architects, surveyors, psychiatrists, psychologists, and counselors, but not including financial institutions or personal services.

Public Facility - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Quarry - see Body of water.

Recreational Facility - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities, but including tennis courts and swimming pools.

Recreational Vehicle - a vehicle or an attachment to a vehicle designed to be towed and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, must be registered with the State Division of Motor Vehicles, and have a self-contained tank within the vehicle for the storage of human waste and gray water.

Replacement System - a system intended to replace an existing system that is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or any existing overboard wastewater discharge.

Residential dwelling unit - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping, and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities, regardless of the time period rented. Recreational vehicles are not residential dwelling units.

Residential Use - any land use which includes a dwelling unit.

Re-subdivision - a division of an existing subdivision or any change in the plan for an approved subdivision that affects the lot lines, including land transactions by the subdivider not indicated on the approved plan, or the relocation of any street or lot line in a subdivision.

Riprap - rocks, irregularly shaped, and at least 6 inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two units horizontal to one unit vertical or less (2:1).

Road - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or by the repeated passage of motorized vehicles, excluding a driveway as defined.

Road Classification:

State or Town road - a strip of land held by the State or Town for the passage and use of the general public by motor vehicles and for which the State or Town has maintenance responsibility.

Private road - a way that the general public has no right to pass over, by foot or vehicle, and for which the Town has no maintenance responsibility.

Public easement - an easement held by the town for the purposes of public access for which the town has no maintenance responsibility.

Salt Marsh - Areas of coastal wetland (most often along coastal bays) that support salt-tolerant species, and where, at average high tide during the growing season, the soil is regularly inundated by tidal waters. The predominant species is salt marsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass (*Ruppia cirrhosa)*, eelgrass (*Zostera)*, and Sago pondweed (*Stuckenia pectinate*).

Salt Meadow - Areas of a coastal wetland that support salt-tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season, but is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush (*Juncus gerardii*); common threesquare (*Schoenoplectus pungens*) occurs in fresher areas.

Sapling - a tree species that is less than two (2) inches in diameter at four and one-half (4.5) feet above ground level.

Seasonal - existing, occupied, or in use for less than seven months of the year.

Seasonal Dwelling - a dwelling which is not used as a principal or year-round residence. Evidence of use as a principal or year-round residence includes, but is not limited to, the listing of that dwelling as an occupant's legal residence for the purpose of voting, filing a state tax return or automobile registration, and the occupancy of that dwelling for a period exceeding 7 months in the calendar year.

Seedling - a young tree species that is less than four and one half (4.5) feet in height above ground level.

Service Drop - any utility line extension that does not cross or run beneath any portion of a water body provided that:

1. In the case of electric service
    a. The placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
    b. The total length of the extension is less than one thousand (1,000) feet.
2. In the case of telephone service
    a. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
    b. The extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback - the nearest horizontal distance from a lot line or the normal high-water line of a water body or tributary stream, or upland edge of wetland to the nearest part of a structure, road, parking space, or other regulated object or area.

Shore Frontage - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreland Zone (also known as Shoreland Buffer) - the land area located within two

hundred fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within two hundred fifty (250) feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within two hundred fifty (250) feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

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

Short-term Rental - A rented dwelling unit which is intended and available for rent for less than thirty (30) days.

Significant Wildlife Habitat - Habitats for animal species appearing on official State or Federal lists of endangered or threatened species. High and moderate value deer wintering and travel corridors, waterfowl and wading bird habitats (including nesting and feeding areas), and shorebird habitats (including nesting, feeding, and staging areas) as defined by the Dept. of Inland Fisheries and Wildlife. Critical spawning and nursery areas for Atlantic sea-run salmon, as defined by the Atlantic Sea Run Salmon Commission.

Specific Zone Change - the change in the uses permitted on a lot, or in the structures on it, to a use not generally permitted in its district, such as residential use to commercial use, approved by town vote, transferable to subsequent owners of the property but not interchangeable with any other commercial use. A lot shall revert to its previous classification automatically after two years if the approved use is not implemented within that time.

Stream - see Body of Water.

Structure - anything temporarily or permanently located, built, constructed, or erected for the support, shelter, or enclosure of persons, animals, goods, or property of any kind or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.

Marine structure - any non-habitable structure, whether permanent or temporary, built on or over a water body, including but not limited to piers, docks, wharves, breakwaters, culverts, jetties, groins, bridges, soil erosion retaining walls, bait sheds, processing facilities, etc.

Permanent structure - a structure which is placed on or in the water or shore for a period of seven months or longer in any twelve (12) consecutive month period, and is fixed permanently in position, either by method of construction or anchorage.

Seasonal structure - a structure which is placed on or in the water or shore for a period of no greater than seven (7) months, in any period of twelve (12) months (typically from April to October). These can be docks, floats, ramps, etc.

Commercial marine structure - a pier or wharf constructed for the purpose of facilitating a commercial activity such as but not limited to commercial fishing.

Pier - a permanent walkway oriented perpendicular to the shore to access the water.

Wharf - a permanent structure oriented parallel to the shore to provide working and storage space with access to watercraft.

Subdivider - assessed owner or owners of land to be subdivided, or person or persons with documented title, right, or interest in the land to be subdivided.

Subdivider's Agent or Representative - a person who has written authorization to act for the subdivider.

Subdivision of Land - as defined in 30-A M.R.S.A. § 4401:

1. Subdivision means the division of a tract or parcel of land into three or more lots of less than forty (40) acres each within any five-year period that begins after September 22, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise, except that a division accomplished by devise, condemnation, order of a court, gift to a person related by blood, marriage, or adoption, unless the intent of such gift is to avoid the objectives of this section, or a division accomplished by a transfer of any interest in the land to the owner of abutting land, does not create a lot or lots for the purposes of this definition. The division of a tract or parcel into three or more lots, and upon all lots on which a permanent dwelling structure legally existed before September 23, 1971, is not a subdivision.

   In determining whether a tract or parcel of land is divided into three or more lots, the first dividing of the tract or parcel is considered to create the first two lots and the next dividing of either of these first two lots, by whomever accomplished, is considered to create a third lot, unless:

   a. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use, a single-family residence for a period of at least five years before the second dividing occurs; or

   b. The division of the tract or parcel is otherwise exempt under this section.

2. A lot of forty (40) or more acres shall be counted as a lot requiring Planning Board review in a subdivision if the parcel from which it was divided is located entirely or partially in the Shoreland Zone.
3. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into three or more dwelling units within a five-year period, the construction or placement of three or more dwelling units on a single tract or parcel of land within a five-year period, and the division of an existing structure previously used for commercial or industrial use into three or more dwelling units within a five-year period.

Substantial Expansion of a Building - floor space increase of thirty percent (30%) of the existing approved area or volume.

Substantial Expansion of Use - the use of new materials, systems, or processes not normally associated with the existing use.

Substantial Improvement - any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or

structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for the improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications that are solely necessary to ensure safe living conditions or for any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Substantial start - completion of thirty (30%) percent of a permitted structure or use measured as a percentage of the estimated total cost.

Subsurface wastewater disposal system - any system designed to dispose of waste or wastewater on or beneath the surface of the earth; includes, but is not limited to septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A Section 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.

Tidal Waters - all waters affected by tidal action during the maximum spring tide.

Timber Harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to 16(H), Clearing of Vegetation for Development.

Tree - a woody perennial plant that has a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, that has a more or less definite crown, and that reaches a height of at least ten (10) feet at maturity.

Tributary Stream - a channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material, or bedrock, and which is connected hydrologically with other water bodies. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. Water setback requirements apply to tributary streams within the shoreland zone.

Undue Hardship - see Variance.

Unique Natural Area - areas registered as "Critical" pursuant to 5 M.R.S.A. § 3314; areas designated as a National Natural Landmark; areas where the occurrence of endangered, threatened, or rare plants, animals, and natural communities identified by the Maine Natural Heritage Programs is observed.

Upland Edge of a Wetland - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt-tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are

six meters (approximately twenty (20) feet) tall or taller.

Variance - a relaxation of the terms of the Ordinance, where such variance would not be contrary to the public interest and where, owing to conditions peculiar to the property, literal enforcement of this Ordinance would result in unnecessary and undue hardship. A financial hardship shall not constitute grounds for granting a variance. The term "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.
5. That the land in question cannot yield a reasonable return unless a variance is granted.
6. That the granting of a variance is based on demonstrated need, not convenience, and no other feasible alternative is available.

Vegetation - all live trees, shrubs, and other plants, including, without limitation, trees both over and under four inches in diameter, measured at four and one-half (4½) feet above ground level.

Volume of a Structure - the volume of all portions of a structure enclosed by a roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Waterbody - see Body of Water.

Water Crossing - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland, whether under, through, or over the water or wetland. Such projects include, but may not be limited to, roads, fords, bridges, culverts, water lines, sewer lines, and cables, as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Wetland - a freshwater or coastal wetland.

1. Freshwater wetland - freshwater swamps, marshes, bogs, and similar areas, ponds, and quarries other than forested wetlands which are:
    a. Of two or more contiguous acres; or of less than two contiguous acres and adjacent to a surface water body, excluding any river, stream, or brook such that in a natural state, the combined surface area is in excess of two acres; and
    b. Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.
    c. Areas mapped on the Vinalhaven Freshwater Wetlands Map.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

2. Coastal wetland - all tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action

during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

NOTE: All areas below the highest annual tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

3. Forested wetland - a freshwater wetland dominated by woody vegetation that is six meters (approximately twenty (20) feet) tall or taller.

Widow's Walk - an uncovered platform or walk atop a roof.

Woody Vegetation - live trees or woody, non-herbaceous shrubs.

Year-round Rental Unit - A dwelling unit suitable for year-round use that is available and intended for rent or lease twelve (12) months per year, with no limit imposed on which dates during the year it is available to rent.

Section 19. WIRELESS TELECOMMUNICATIONS FACILITIES – Text available upon request.

Section 20. WIND POWER FACILITY – Text available upon request.

Section 21: SUBDIVISIONS

I. **Purpose**

The purpose of this section of the Ordinance is to ensure the comfort, convenience, safety, health, and welfare of the people of the town of Vinalhaven, to protect the environment, and to promote the development of an economically sound and stable community, as well as those purposes set forth in Section 1 of the Ordinance.

II. **Review Criteria**

In approving subdivisions, the Planning Board shall, before granting approval, make written findings of fact that the provisions of this section of the Ordinance have been met and that the proposed subdivision will meet the following review criteria:

A. **Pollution**

The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:

1. The elevation of the land above sea level and its relation to the flood plains.
2. The nature of soils and subsoils and their ability to adequately support waste

disposal.

3. The slope of the land and its effect on drainage.
4. The availability of drainage ways for disposal of effluents.
5. The applicable state and local health and water resource rules and regulations.

B. **Sufficient Water**
The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision.

C. **Municipal or Quasi-Municipal Water Supply**
The proposed subdivision will not cause an unreasonable burden on an existing municipal or quarter-municipal water supply if one is to be used.

D. **Erosion**
The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water that could result in dangerous or unhealthy conditions.

E. **Traffic**
The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.

F. **Sewage Disposal**
The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.

G. **Municipal Solid Waste Disposal**
The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste if municipal services are to be utilized.

H. **Scenic, Cultural, and Natural Values**
The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, rare and irreplaceable natural areas, or any public rights for access to the shoreline. The subdivision shall not have an undue impact on archeological history and should include a plan for preservation where such a history is identified. No subdivision shall impact an existing cemetery; however, the preservation of the cemetery within the subdivision plan is permitted.

I. **Municipal Services**
The proposed subdivision will not create an adverse fiscal impact on local government or place an unreasonable burden on the ability of the local government to provide municipal or government services.

J. **Conformity with Local Ordinances and Plans**
The proposed subdivision conforms with this Ordinance, the most recently approved Comprehensive Plan, and any other State or local development plan or land use plan, if any. In making this determination, the Planning Board may interpret these ordinances and plans.

K. **Financial and Technical Capacity**
The subdivider has adequate financial and technical capacity to meet the standards of this section.

L. **Surface Waters; Outstanding River Segments**
Whenever situated entirely or partially within the watershed of any pond or lake or within two hundred fifty (250) feet of any wetland, pond, or stream, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

M. **Ground Water**
The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater, freshwater wetlands, rivers, streams, or brooks.

N. **Flood Areas**
Based on the Federal Emergency Management Agency's Flood Boundary, Floodway Maps, and Flood Insurance Rate Maps, and information presented by the applicant, the Planning Board will determine whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the one hundred (100) year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plat approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the one hundred (100) year flood elevation.

O. **Freshwater Wetlands**
Any maps submitted as part of the application must identify all freshwater wetlands within the proposed subdivision, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

P. **Stormwater**
The proposed subdivision will provide for adequate stormwater management.

Q. **River, Stream, or Brook**
Any maps submitted as part of the application must identify any river, stream, or brook within or abutting the proposed subdivision.

III. Authority and Administration

A. **Authority**
This ordinance is enacted under the authority granted to the Town by the statutes of the State of Maine, 30-A M.R.S.A. § 3001, and in accordance with the provisions of 30-A M.R.S.A § 4401-4407.

B. **Applicability**
The provisions of this section of the Ordinance shall apply to all proposed subdivisions, as defined below, within the boundaries of the Town of Vinalhaven and all islands under the jurisdiction of the Town of Vinalhaven.

C. **Administration**
The provisions of this section of the ordinance shall be administered by the Town of Vinalhaven Planning Board, using application forms approved by the Vinalhaven Planning Board.

1. At each stage of the subdivision review process, an applicant shall request to

be placed on the Planning Board's agenda at least seven calendar days prior to the regularly scheduled meeting at which they wish to be heard. Submission requirements shall be accompanied by the appropriate documentation as prescribed by the Planning Board and the application fee.

2. An application fee of one hundred dollars ($100.00) is required for subdivisions at the time of initial application. A lot fee of one hundred dollars ($100.00) per lot is required before final approval of the subdivision. Fees for subdivisions are not refundable.
3. The Planning Board may require the subdivider to engage independent experts acceptable to the Planning Board to aid in the review of the subdivision application at the expense of the subdivider.

IV. Application: Procedure and Requirements

A. Procedure

1. Upon receiving an application at a regularly scheduled Planning Board meeting, the Planning Board shall ensure that all appropriate fees have been paid, issue the applicant a dated receipt, and instruct the Code Enforcement Officer to notify by mail all property owners within five hundred (500) feet of the proposed subdivision, specifying the location of the subdivision and a general description of the project.
2. The applicant, or their duly authorized representative, shall attend all meetings of the Planning Board at which the subdivision application and plan are discussed.
3. Within thirty (30) days of receiving an application, the Planning Board shall notify the applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to complete the application.
4. The Planning Board may schedule a site visit and preliminary public hearing before the complete application for subdivision is received.
5. The site visit of the land to be subdivided shall be scheduled so that at least a majority of the Planning Board members and the applicant or their agent will be in attendance. In addition, the Chairman may also request that the Code Enforcement Officer attend the on-site inspection.
6. After the Planning Board has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision.
7. If the Planning Board decides to hold a public hearing on an application for subdivision approval, it shall hold the hearing within thirty (30) days after determining it has received a complete application. The Planning Board shall have notice of the date, time, and place of the hearing:
    1. Given to the applicant; and
    2. Published at least two times in a newspaper having general circulation in the municipality in which the subdivision is proposed. The date of the first

publication must be at least seven days before the hearing.

8. Within thirty (30) days of the public hearing described in 7 above, or within sixty (60) days of determining it has received a complete application if no hearing is held, or within any other time limit that is otherwise mutually agreed to, the Planning Board:
    1. must approve the proposed subdivision if it meets the review criteria and other local standards; or
    2. must grant approval of the proposed subdivision upon terms and conditions it considers advisable to meet the review criteria and other local standards, and to ensure that the public's health, safety, and general welfare are protected; or
    3. deny the proposed subdivision if it fails to meet the review criteria.
9. At any point in the foregoing and following procedure, and prior to approval of the subdivision, the Planning Board may require additional changes in the final plan as a result of substantial new information.
10. The Planning Board may request an additional site inspection to view the location of lot markers, proposed roads, or test pits prior to approval.
11. The Planning Board, at its sole discretion, may require a high-intensity soil survey of the development site and a soil suitability assessment for all proposed uses.
12. The Planning Board shall notify the Road Commissioner and Fire Chief of the proposed subdivision, including the number of lots proposed and the length of the roadways. The Planning Board shall request, in writing, that the officials comment on the infrastructure necessary to service the proposed subdivision.

B. **Submission Requirements: Application for Subdivision**

The provisions governing a proposed subdivision will be those in effect on the date the Planning Board accepts a complete Preliminary Application for a subdivision.

An application for subdivision must include:

1. A subdivision application form, completed and signed by the applicant;
2. A copy of the Tax Map showing the property to be subdivided and all portions of abutting properties, including those separated only by a public way or a water body, within five hundred (500) feet of any property line of the proposed subdivision;
3. A copy of the U.S. Geological Survey Topographical Quadrangle showing the property to be subdivided and the area within five hundred (500) feet of the proposed subdivision boundary;
4. A copy of the Vinalhaven Soils Map showing the property to be subdivided and the area within five hundred (500) feet of the proposed subdivision boundary;
5. A map, preferably an actual field perimeter survey of the property to be subdivided, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the property shall be located on the ground and marked by monuments or rods as indicated on the map. The following information shall either be shown on the plan or accompany the

application:

a. names and addresses of all owners of abutting properties and property within five hundred (500) feet of any property line of the proposed subdivision;

b. boundaries of land use districts, where applicable;

c. names of existing and proposed roads or rights-of-way;

d. sketch of proposed lot lines with approximate dimensions and lot areas;

e. any river, wetland, stream, or brook within or abutting the proposed subdivision and all land defined as not suitable for development;

f. location of existing buildings, wells, septic systems, or soil tests, or other existing physical features, including all wells, septic systems, and soil tests within five hundred (500) feet of the proposed subdivision;

g. indication of the type of water supply system(s) to be used in the subdivision and the proposed sites for wells located at least one hundred (100) feet from any septic system;

h. if any portion of the subdivision is in a flood-prone area, the boundaries of any flood-hazard area and the one hundred (100) year flood elevation shall be delineated;

6. An indication of the type of sewage disposal to be used in the subdivision:

   a. If public sewer: a letter from the servicing sewer district confirming there is adequate capacity within the sewer district's system to transport and treat the sewage;

   b. If subsurface sewage disposal systems: soil tests and analyses prepared by a licensed site evaluator. The location of all soil tests shall be shown;

7. A copy of the deed to the property to be subdivided;

8. A copy of any deed restrictions, covenants, easements, right-of-way, or other encumbrances currently affecting the property.

C. **Subdivision Requirements: Complete Subdivision Application**

A complete subdivision application shall include a reproducible, stable-based transparent original, and three copies of a map drawn to a scale of not more than one hundred (100) feet to the inch. The size of the sheets shall be eight and one-half by eleven (8½ x 11) inches or a multiple thereof, but in no case larger than thirty-four by forty-four (34 x 44) inches, or as required by the Knox County Registry of Deeds. Submissions for the Final Plan shall include the following:

1. All the information presented in the original application and on the map, and any amendments thereto as required by the Planning Board. The final survey map (Plan) shall include the following:

   a. complete descriptive data by bearings and distances, made and certified by a licensed land surveyor, indicating corners of all proposed lots within the property to be subdivided. The corners of the lots shall be located on the ground and marked by monuments or rods as indicated on the map and

permanently secured according to the standards of the Maine Board of Land Surveyors.

b. the name, registration number, and seal of the land surveyor, architect, engineer, or planning consultant who prepared the plan;

c. road names, pedestrian ways, lot and utility easements, open spaces, and other areas to be reserved for or dedicated to public use and/or ownership;

d. lots and blocks within the subdivision numbered in accordance with local practice;

e. provisions for utility placement;

f. proposed name of the subdivision or identifying title, if any, and date, north point, graphic map scale, number of acres within the proposed subdivision and within each proposed lot of the subdivision;

g. location and width of proposed right-of-way to each of the proposed lots and designation of lots as either house or wood lot;

h. space on the Plan for the approval of the Planning Board, conditions required by the Planning Board, certification by the Town Clerk, and date of approval.

2. The following approvals, in writing, where appropriate:

   a. Maine Department of Human Services, if the applicant proposes to provide a central water supply system;

   b. the servicing sewer district, if an existing public sewage disposal system is to be used;

   c. Maine Department of Human Services, if a centralized or shared subsurface waste disposal system(s) is to be utilized;

   d. Road Commissioner's recommendations for specifications for roads within the subdivision;

   e. Fire Chief concerning the availability of fire hydrants, fire ponds, other matters affecting fire safety, and any recommendations;

   f. Vinalhaven Water District, if applicable, regarding the availability of water supply and approving the public water system to be installed by the subdivider.

3. A copy of any covenants or deed restrictions proposed to cover all or part of the lots in the subdivision.

4. In the interest of public safety, the Planning Board may require a covenant or deed restriction providing for the maintenance of all private roads serving two or more lots in the subdivision.

5. A soil erosion and sedimentation control plan and drainage plan, if required by the Planning Board.

6. Construction drawings showing cross sections of the proposed roads and storm drains, if required by the Planning Board.

7. A soils report identifying soil types and boundaries and locations of soil tests if the

Planning Board requires detailed soil information in accordance with the USDA Soil Conservation Service National Cooperative Soil Classification or the Soil Suitability Guide for Land Use Planning in Maine.

8. If applicable, evidence that the subdivider has established some form of performance guarantee if required, as described below.
9. Any assessments of environmental impacts or other evaluations by independent experts required and approved by the Planning Board to aid in the review of the plan.
10. The character and extent of the required improvements for which waivers have been requested and/or which, in the opinion of the Planning Board, may be waived without jeopardy to public health, safety, and general welfare.

D. **Subdivision Approval and Filing**

1. No subdivision shall be approved by the Planning Board as long as the applicant is in default on any portion of the application requirements.
2. Upon findings of fact and determination that all review criteria in 30-A M.R.S.A. § 4404, and all local regulations have been met, and upon voting to approve the subdivision, the Planning Board shall sign the Plan. The Planning Board shall specify in writing its findings of fact and reasons for any conditions or denial. Any subdivision not recorded in the Registry of Deeds by the applicant within ninety (90) days of the date upon which the Plan is approved and signed by the Planning Board shall be considered void and shall require resubmission, review, and approval.
3. At the time the Planning Board grants subdivision approval, it may permit the Plan to be divided into two or more sections, subject to any conditions the Planning Board deems necessary in order to ensure the orderly development of the Plan.
4. No changes, erasures, modifications, or revisions shall be made in any Plan after approval has been given by the Planning Board and endorsed in writing on the Plan, unless the revised Plan is first submitted, and the Planning Board approves any modifications. The Planning Board shall make findings that the revised plan meets the standards of 30-A M.R.S.A. § 4404, and this ordinance. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Planning Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.
5. The approval by the Planning Board of a subdivision shall not be deemed to constitute or be evidence of any acceptance by the Town of any road, easement, or other open space shown on the subdivision Plan. When a park, playground, or other recreation area shall have been shown on the Plan to be dedicated to the Town, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Planning Board shall require the Plan to contain appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

E. **Revisions to Approved Subdivisions**

1. An applicant proposing a revision to a previously approved subdivision shall, at least twenty-one (21) days in advance, ask to be placed on the Planning Board agenda. If the revision involves the creation of additional lots, the applicant shall follow the procedure for subdivision approval above.
2. The applicant shall submit one copy of the approved Plan, as well as a reproducible stable-based original and three copies of the proposed revision.

V. General Performance Standards

In reviewing applications for subdivisions, the Planning Board shall consider the following general performance standards. In all instances, the burden of proof shall be the responsibility of the applicant proposing the subdivision.

A. **Conformance with Comprehensive Plan**
Any proposed subdivision shall be in conformity with the Comprehensive Plan of Vinalhaven and with the provisions of all pertinent State laws and local ordinances and regulations.

B. **Preservation of Natural and Historic Features**

1. The Planning Board may require that the proposed subdivision include a landscape plan that will show how scenic, historic, or environmentally sensitive areas will be preserved.
2. The road and lot layout shall be adapted to the topography.
3. Extensive grading and filling shall be avoided as much as possible. Except for surplus topsoil from roads, parking areas, and building excavations, topsoil shall not be removed from the site.
4. Land in the subdivision to be reserved as open space or natural area shall be so labeled, with the notation, "Open space not to be developed," on the Plan. The open space so designated shall also be marked by metes and bounds.

C. **Land Not Suitable for Development**

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

1. Land which is situated below the normal high-water mark of any water body.
2. Land which is located within the one hundred (100) year frequency flood plain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the subdivider shows proof through the submittal of materials prepared by a Registered Land Surveyor which show that the property in question lies at least two feet above the one hundred (100) year flood level. The elevation of filled or made land shall not be considered.

3. Land which is part of a right-of-way or road easement, including rights-of-way for roads and utilities.
4. Land that has been created by filling or draining a pond or wetland.

D. **Lots**

1. All lots shall meet the minimum requirements of the Vinalhaven Land Use Ordinance for the zoning district in which they are located. The lot configuration should be designated to maximize access to solar energy on building sites with suitable orientation whenever practical.
2. Where a tract is subdivided into lots substantially larger than the minimum size required by the Vinalhaven Land Use Ordinance, the Planning Board, in its review, may consider the potential effect of future subdivision.
3. If a lot on one side of a stream, road, or other similar barrier fails to meet the minimum lot size required, it may not be combined with a lot on the other side of the barrier to meet the minimum lot size or for the purpose of on-site waste disposal.
4. Odd-shaped lots in which narrow strips are joined to other parcels to meet minimum lot size requirements are prohibited. Lots of ten acres or more must have a lot-length-to-lot-width ratio of no more than five to one (5:1).
5. Any proposed subdivision shall be so designed that every lot has frontage upon a roadway, granting legal access, and so that no part of the tract is landlocked. Such roadway shall be part of the construction plan of the subdivider. The minimum road frontage for each lot shall be two hundred (200) feet, except where accessed by an approved cul-de-sac, in which case the minimum road frontage shall be fifty (50) feet.

E. **Preservation of Natural Drainage Ways**

Proposed drainage ways shall be designed in such a way as to preserve the existing water courses. When possible, the natural lines of drainage should be used for site drainage.

F. **Utilities**

The Planning Board shall encourage all utilities to be installed underground but shall not require that utilities be installed underground.

G. **Monuments**

1. Permanent monuments shall be set at all corners and angle points of subdivision boundaries.
2. All monuments shall be referenced on the plan. They shall be secured according to the standards of the Maine Board of Land Surveyors.
3. All corners shall be marked with iron rods not less than five-eighths (5/8) inch in diameter. Such rods shall be driven securely so that removal or vandalism is discouraged. Rods shall extend at least twenty-four (24) inches above the ground

in wooded rural areas and be clearly painted or marked for ease of locating. In residential and village areas, rods may be driven flush with the finished grade. In ledge or stone, all rods will be set in borings.

H. **Required Improvements**

It shall be the responsibility of the developer to ensure that all required improvements, such as roads, sidewalks, stormwater drainage systems, utilities, and where appropriate, centralized water supply and sanitary sewage systems shall be installed.

I. **Piers, Docks, Wharves**

If a marine structure, such as a pier, dock, or wharf, is proposed by the applicant, they shall provide a community dock in lieu of the development of docks on individual lots. The applicant may request a waiver to allow for additional community docks, provided a demonstrated need can be shown for the additional facilities. A waiver may only be granted if the applicant demonstrates that an additional dock or docks are required because of excessive distance, safety considerations, the protection of natural or scenic areas, topography, or to minimize adverse impact on wetlands or wildlife habitat.

VI. Road Design and Construction Standards

A. General Requirements

1. The proposed subdivision shall provide for safe access to and from public and private roads. Safe access shall be assured by providing an adequate number and location of access points with respect to sight distances, intersections, schools, and other traffic generators.
2. Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to lots.
3. The Planning Board shall not approve any subdivision plan unless proposed roads are designed in accordance with the specifications contained in this ordinance. Approval of a subdivision by the Planning Board shall not be deemed to constitute or be evidence of acceptance by the Town of any road or easement.
4. Applicants shall submit to the Planning Board, as part of their Plan, detailed construction drawings showing the profile and typical cross-section of the proposed roads. The plans shall include the following information:
    a. date, scale, and magnetic or true north point.
    b. intersections of the proposed road with existing roads.
    c. roadway and right-of-way limits, including edge of pavement, edge of shoulder, sidewalks, and curbs.
    d. complete curve data shall be indicated for all horizontal and vertical curves.
    e. turning radii at all intersections.

f. center line gradients, and

g. locations of all existing and proposed utilities.

B. **Road Design Standards**

1. These design standards shall be met by all roads within subdivisions reviewed under this ordinance and shall control the roadway, shoulders, sidewalks, drainage systems, culverts, and other appurtenances, subject, however, to any higher, stricter, or additional standards for roads and driveways in the Shoreland Zone as set forth in the land use standards section.
2. Roads shall be designed to discourage through traffic within a subdivision.
3. Any subdivision containing thirty lots or more shall have at least two road connections with an existing public road or roads on an approved development plan.
4. The following design standards apply according to whether the road is a public or private right of way, but are subject to the overriding requirement that safe and convenient emergency vehicle access to all lots shall be provided and maintained (see paragraph A above).

Description	Public Rights-of-Way	Private Rights-of-Way
Minimum right-of-way width	60'	50'
Minimum surface width	18'	16' (10' for single-track road)
Shoulder width	4'	3'
Minimum grade	0.5%	0.5%
Maximum grade	12%	15%
Minimum centerline radius	200'	200'(1) of curvature
Minimum sight distance	200'	200' stopping distance
Minimum sight distance at intersect	400'	300'(2)
Roadway crown	1/8 in. per ft.	1/8 in. per ft.
Minimum angle of road at intersect	60°	60°
Maximum grade within 50' of inter	3%	3%
Height of which limbs are cleared	14'	14'

Notes: (1) May be reduced by the Planning Board for private roads only if minimum sight distance is not obstructed by terrain, vegetation, structures, or other obstructions, and will remain unobstructed (pursuant to suitable easement(s) when necessary). Radius shall not be reduced below one hundred (100) feet. (2) Four hundred (400) feet at the intersection with public right-of-way carrying through traffic.

5. **Dead-End Roads**

In addition to the design standards above, dead-end roads shall be constructed to provide a turnaround with the following requirements for radii: sixty-five (65) foot property line radii and fifty-five (55) feet outer edge of travel way radii. The Planning Board may require the reservation of a twenty (20), fifty (50), or sixty-six (66) feet easement in line with the dead-end road to provide continuation of pedestrian traffic or utilities to the next road or to access possible future subdivisions or development.

6. **Grades, Intersections, and Sight Distances**

   a. Grades of all roads shall conform in general to the terrain so that cut and fill are minimized while maintaining the grade standards above.

   b. All changes in grade shall be connected by vertical curves to provide for at least the minimum sight distances.

   c. Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

   d. Cross (four-cornered) road intersections shall be avoided. A minimum distance of two hundred feet shall be maintained between the center lines of side roads.

   e. Turnouts every four hundred (400) feet or more frequently if appropriate shall be required on single-track roads or driveways. The Planning Board may require more frequent turnouts at its discretion if conditions warrant it.

C. **Preparation**

Before any clearing has started on the right-of-way, the centerline of the new road shall be staked or flagged at fifty (50) foot intervals.

D. **Cleanup**

Following road construction, the subdivider/applicant shall conduct a thorough cleanup of stumps and debris from the entire road right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the Plan, and be suitably covered with fill and topsoil and then seeded.

VII. Drainage Design and Construction Standards

A. General provisions

1. The storm drainage system should not adversely affect neighboring properties, downstream water quality, or cause soil erosion. Whenever possible, on-site absorption of run-off water shall be utilized to minimize discharges from the site.

2. Surface water run-off shall be minimized and detained on-site if possible. If it is not possible to detain water on-site, downstream improvements to the channel may be required of the applicant to prevent flooding caused by the project. The natural state of water courses, swales, floodways, or rights-of-way shall be maintained.

3. The subdivider shall provide for proper drainage systems to be installed by subsequent lot owner(s) and contractors. This provision shall be by covenant or other appropriate written contract.

4. The drainage design and construction standards in this section are subject to any higher, stricter, or additional standards for drainage systems, culverts, and other related features in the Shoreland Zone as set forth in the land use standards section.

B. Stormwater Management Design Standards

1. Adequate provision shall be made for the disposal of all stormwater generated within the development, as well as any drained groundwater, through a management system of swales, culverts, underdrain, and/or water courses. The stormwater management system shall be designed to conduct stormwater flows to existing water courses.
2. The minimum pipe size for any storm drainage pipe shall be twelve (12) inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. The pipe shall be bedded in a fine granular material, containing no stones larger than three inches, or organic matter, reaching a minimum of six inches below the bottom of the pipe. This material must extend to six inches above the top of the pipe, and be covered with a minimum of an additional twelve inches of fine gravel.
3. Catch basins shall be installed where necessary and located at the curb line.
4. Inlets and outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce stormwater velocity.
5. The stormwater management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built, and shall include a surplus design capacity factor of twenty-five percent (25%) for potential increases in upstream runoff.
6. Downstream drainage requirements shall be studied to determine the effect of the proposed development. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the development. The applicant shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.
7. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the stormwater drainage system.

VIII. Performance Guarantees Required

A. Types of Performance Guarantees

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

B. Amount of Guarantees

The amount of the guarantee shall be one hundred twenty-five percent (125%) of the cost of furnishing, installing, connecting, and completing in good working condition all the road grading, storm drainage, utilities, and other similar improvements, as specified in the Plan. All guarantees shall be conditioned upon the completion of all

such improvements within five years from the date of the approval of the subdivision, as recorded on the subdivision plat. If a performance guarantee as described in paragraph (A) above has been satisfactorily filed with the Town, building permits may be issued for construction within the subdivision prior to completion of required improvements, but prior to occupancy of a building or dwelling unit, the improvements serving that building or dwelling unit shall be in place and serviceable.

C. **Conditional Agreements**

A conditional agreement, if acceptable in lieu of a performance guarantee, shall be endorsed by the Planning Board on the Plan, and shall provide that no lot or parcel of land may be conveyed, and that no permit may be issued by the Code Enforcement Officer or Planning Board, for any building or other permanent structure within the subdivision until the completion of the road construction, storm drainage, utilities, and other similar improvements specified by the Planning Board on the Plan. The agreement shall be conditioned upon the completion of all such improvements within five years from the date of the approval of the Plan and recorded on the subdivision plat.

D. **Inspection of Required Improvements**

1. Completion of required improvements shall be determined by the Code Enforcement Officer to their satisfaction, who shall certify that all improvements assured by the performance guarantee or conditional agreement have been constructed in accordance with the Plan and all applicable codes and regulations. Before construction or required improvements begin, the subdivider shall provide the Code Enforcement Officer with adequate written notice and a proposed schedule of construction.
2. If a Code Enforcement Officer determines that construction standards are not being applied, then he or she shall take appropriate enforcement measures to ensure compliance.
3. Monitoring by the Town shall not in any way cause the Town to be liable for the improvement. All grades, materials, engineering, and construction techniques are the responsibility of the applicant.

E. **Release of Guarantee**

The performance guarantee shall be released by the Planning Board upon the request of the applicant only after:

1. The Board receives the certifications of completion required in paragraph D-1 (Inspection of Required Improvements) above.
2. The applicant has furnished the Town with an accurate record plan and profile (which may be the original reproducible drawing with corrections, provided the Town has been provided with a print of the unaltered originals [mylars] approved by the Planning Board) of all roads including drainage lines, sanitary sewerage lines, water mains, and all other utilities as actually installed, with sufficient ties for proper identification.

IX. Appeals

Any aggrieved party having proper standing may appeal any decision of the Planning Board under this Section 17, Subdivisions only, to the Superior Court of Knox County, within thirty (30) days in accordance with Rule 80B of the Maine Rules of Civil Procedure.

X. Enforcement

A. Violations and Enforcement

1. No person, corporation, or other legal entity may sell or offer to sell any land in a subdivision that has not been approved by the Planning Board and recorded in the Registry of Deeds.
2. No public utility, water district, or sewer district shall serve any lot in a subdivision for which a Plan has not been approved by the Planning Board and recorded in the Registry of Deeds.
3. No development of the infrastructure of a subdivision may begin until Plan approval by the Planning Board and recording in the Registry of Deeds. The development includes the grading and construction of roads, the grading of lots, and the construction of buildings.

B. Amendments After Approval

No changes, erasures, or modifications shall be made in a Final Plan after approval has been given by the Planning Board unless the plan is first resubmitted, and the Planning Board approves any modifications. The applicant is not required to go through the complete review process of a new subdivision, unless, in the judgment of the Planning Board, the amendment substantially alters the character of the original subdivision, or unless the change constitutes a re-subdivision. If an amended Plan is recorded without complying with this requirement, it shall be null and void. The Planning Board may institute proceedings to have the plan stricken from the Registry of Deeds.