TOWN OF SURRY

Surry Code of Ordinances

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Chapter 1: GENERAL PROVISIONS, PURPOSES & ADMINISTRATION

I. GENERAL PROVISIONS:

1. Title

This Code shall be known as the Surry Code of Ordinances (SCO) of the Town of Surry, Maine, and will be referred to as the "Code."

2. Authority

This Code is adopted pursuant to the enabling provisions of Article VIII, Part, Section 1 of the Maine Constitution, the provisions of Title 30-A, M.R.S.A. Section 3001 (Home Rule), the State's growth management law, Title 30-A, M.R.S.A., Sections 4311 et. seq., the Mandatory Shoreland Zoning Act, Title 38 M.R.S.A. Sections 435 et. seq., the State Subdivision Law, Title 30-A, Sections 4001 et. seq., the Manufactured Housing Law, Title 30-A, M.R.S.A., Section 4358, and the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

3. Applicability

The provisions of this Code shall govern all land and all structures within the boundaries of the Town of Surry, including 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.

4. Conflicts with Other Codes

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

This Code supersedes and replaces the Surry Shoreland Zoning Ordinance, Surry Building Ordinance, the Subdivision, Mobile Home Park and the Floodplain Management Ordinances as well as any subsequent amendments to said Ordinances.

5. Validity and Severability

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

6. Effective Date

A. The effective date of this Code shall be the date of the adoption by the voters of Surry at a special Town Meeting on June 9, 1992 and as subsequently amended by said voters.

B. The provisions of the Code regulating land use within the shoreland areas as defined in M.R.S.A. 38, Section 435, having been adopted by the Municipal Legislative body shall be effective upon the date of adoption provided that it is subsequently approved by the

Commissioner of the Department of Environmental Protection. A certified copy of the Code, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner of the Department of Environmental Protection and the State Planning Office for approval

7. Amendments

A. This Code may be amended by a majority vote of the voters of Surry at a special or regular Town Meeting.

B. For amendments involving the provisions of this Code, applicable to the shoreland area as defined in M.R.S.A. 38, Section 435, copies of such 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. Any and all amendments to the Code shall be submitted to the State Planning Office for review and comment. If the Commissioner fails to act on any amendment within forty- five (45) days of 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.

8. Availability

A certified copy of this Code shall be filed with the Town 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 Code shall be posted.

9. Interpretation of District and Zone Boundaries

Unless otherwise set forth on the Official Shoreland Zoning Map, District and Zone boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of District or Zone boundary lines, the Board of Appeals shall be the final authority as to location.

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 or Zone in which it is located, unless a variance is granted.

II. PURPOSES – GENERAL AND SPECIFIC:

The general purposes of this Code are:

1. To promote the health, safety, and general welfare of the residents of the community;

2. To implement the provisions of the Town's Comprehensive Plan and, in particular to assure that new development meets the goals and conforms to the policies of the Comprehensive Plan;

3. To encourage growth in the identified growth areas of the Community, and to limit growth in the designated rural areas;

4. To encourage the most appropriate use of land throughout the community;

5. To promote traffic safety;

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

7. To provide an allotment of land area for new developments sufficient for adequate enjoyment of community life;

8. To protect the environment and to conserve natural and cultural resources;

9. To encourage the formation of community and neighborhood units;

10. To facilitate the provision of public services.

The specific purposes of the various sections of the Code are:

1. Land Use Districts and Zones – (See Chapter 3, Section I, Land Use Districts and Requirements)

The purpose of establishing land use Districts and Zones is to direct future development in a manner which is of overall benefit to the health, safety, and welfare of the citizens of Surry, and to promote sound development practices considering the development itself as well as its compatibility with existing uses of land and the natural resources of the Town of Surry.

2. Subdivision Review– (See Chapter 3, Section V, Performance Standards for Subdivisions)

The purpose of Subdivision Review shall be to:

A. To provide for an expeditious and efficient process for the review of proposed subdivisions;

B. To assure that a minimal level of services and facilities are available to the residents of new subdivisions and that the lots in subdivisions are capable of supporting the proposed uses and structures;

C. To minimize the potential negative impacts from new subdivisions on neighboring properties and on the municipality.

3. Site Plan Review – (See Chapter 3, Section IV, Site Plan Review Standards)

4. Floodplain Management – (See Chapter 5 – Floodplain Management)

The purpose of floodplain management provisions is to comply with the requirements of the National Flood Insurance Act in order to make Flood Insurance available to those who need it. These standards are also intended to address problems associated with development located in Flood Hazard Development areas.

5. Shoreland Area Development Standards – (See Chapter 4—Shoreland Zoning Ordinance)

The purpose of shoreland development standards is to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

6. Manufactured/Mobile Home Park Standards– (See Chapter 3, Section V- subsection 20)

The purpose of the manufactured/mobile home park standards is to recognize the specific circumstances afforded to the regulation of manufactured/ mobile home parks as set forth in M.R.S.A. 30-A, Section 4358. The standards incorporated herein shall be held to be the minimum requirements adopted for the protection of the public health, safety and welfare. To protect the public, among other purposes, such standards are intended to provide for wholesome community environment, adequate municipal and private services, and safe streets.

7. Building and Construction Standards (See Chapter 3, Section VI – Building Codes)

The purpose of the building and construction standards is to insure proper construction practices and use of materials for structures designed for human habitation. These standards are intended to protect general health, safety and welfare with respect to life and property.

8. Telecommunications Facilities and Tower Standards– (See Chapter 3, Section VII – Special Permit Standards for Telecommunications Facilities & Towers)

The purpose of the telecommunications facilities and tower special permit standards is to:

A. Preserve the character and appearance of Surry while allowing adequate telecommunications services to be developed.

B. Protect the scenic, aesthetic, historic, environmental, and natural or man-made resources of Surry.

C. Locate towers and/or antennas in a manner that protects property values, as well as the general safety, health, welfare and quality of life of the citizens of Surry and all those who visit Surry.

D. Minimize the total number, height of towers and other impacts throughout Surry.

E. Provide standards and requirements for the regulation, placement, design, appearance, construction, monitoring, modification and removal of telecommunications facilities and towers.

F. Require coordination and cooperation between providers in the sharing of new and existing towers, whether inside or outside of Surry, and in the construction of new facilities, such as by clustering.

G. Locate towers so that they minimize negative impacts such as, but not limited to, attractive nuisance, noise, compromised views and falling objects.

H. Ensure that new commercial uses are compatible with prevailing rural residential land use patterns as specified in Surry's Comprehensive Plan.

I. Provide a procedural basis for action within a reasonable period of time for requests for authorization to place, construct, operate or modify telecommunications facilities.

J. Permit the construction of new facilities only where other reasonable opportunities have been exhausted.

9. Miscellaneous Additional Ordinances (See Chapter 7)

See the individual ordinances.

III. GENERAL ADMINISTRATION:

1. Planning Board

A. Appointment

A Planning Board shall be created in accordance with the provisions of State Law.

(1) Appointments to the Board shall be made by the Select Board after consultation with the Planning Board.

(2) The Select Board shall provide the Planning Board with a Recording Secretary; this person will accurately maintain all Board records and minutes.

(3) The Board shall consist of seven (7) Members and two (2) Associate Members all of whom are legal residents of the Town of Surry.

(4) The term of each Member shall be three (3) years, except the initial appointments which shall be two for 3 years, three for 2 years, and two for 1 year respectfully. The term of office of an Associate Member shall be three (3) years.

(5) When there is a permanent vacancy, the Select Board shall within 60 days of its occurrence, and after consultation with the Planning Board, appoint a person to serve the unexpired term.

(6) A member of the Select Board or any member of their immediate family or any person who has been a full-time employee with the Town of Surry in the past 12 months, may not serve as a Member or Associate Member.

(7) A Member or Associate Member of the Board may be dismissed for cause by the Select Board upon written charges and after a hearing.

B. Organization and Rules:

(1) The Board shall elect a Chairman and Vice-Chairman from among its Members and may designate a Corresponding Secretary at the discretion of the Board. The term of all officers shall be one (1) year with eligibility for re- election. The Board may create and fill such other offices as it may determine.

(2) When a Member is temporarily unable to act because of interest, physical incapacity, absence or any other reason satisfactory to the Chairman, the Chairman shall designate an Associate Member to sit in his stead.

(3) An Associate Member shall attend all meetings of the Board and participate in its proceedings, but may vote only when designated by the chairman to sit for a Member.

(4) Any question of whether a Member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the Members present and voting, except the Member who is being challenged.

(5) The Chairman shall call at least one regular meeting of the Board each month in which there is business on the agenda requiring Board action.

(6) No business shall be conducted by the Board without the majority of the Board present and voting. The concurring vote of a majority of Members of the Planning Board present and voting shall be necessary to approve an application, order, decision, or matter presented to the Board.

(7) The Board shall adopt rules for the transaction of business and the Recording Secretary shall keep a record of its resolutions, transactions, correspondence, findings, and determinations. All records shall be deemed public and may be inspected at reasonable times.

C. Duties and Powers:

(1) The Board shall perform such duties and exercise such powers as are provided by Town ordinances and the laws of the State of Maine.

(2) The Board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.

(3) The Board may adopt "By-Laws" in addition to these requirements as deemed necessary.

2. Board of Appeals

A. Appointment and Composition

A Board of Appeals shall be created in accordance with the provisions of Title 30-A Section 2691.

(1) The Board of Appeals shall be appointed by the Select Board and shall consist of 5 regular members, and 2 Associates, all of whom shall be legal residents of the Town of Surry, serving staggered terms of 3 years. The Board shall elect annually a Chairman and Secretary from its membership. The Secretary shall keep the minutes of the proceedings of the Board of Appeals, which shall show the vote of each Member upon each question. All minutes of the Board shall be public record. A quorum shall consist of four regular or Associate Members.

(2) When a regular Member is temporarily unable to act because of interest, physical incapacity, absence, or any other satisfactory reason, the Chairman shall designate an

Associate Member to act instead. An Associate Member may participate in the Board's proceedings but may vote only when she/he has been so designated by the Chairman.

(3) Neither a member of the Select Board or any member of their immediate family or any person who has been a full-time employee with the Town of Surry in the past 12 months may serve as a Member.

(4) Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a Member from voting thereon, shall be decided by majority vote of the members present and voting, except the Member who is being challenged.

3. Appeals

A. Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers:

(1) Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by the Code Enforcement Officer or Planning Board in the administration of this Code.

(2) Standard of Review/Burden of Proof. When acting in an appellate capacity the Board of Appeals may reverse the decision of the Planning Board or Code Enforcement Officer (CEO) only upon a finding that the decision was contrary to specific provisions of the Code or contrary to the facts presented to the Planning Board or CEO. The Board of Appeals may remand the matter to the Planning Board (or CEO if under his/her jurisdiction) for further consideration.

(3) Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Code.

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

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the code 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 which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals

determines that the record of the Planning Board proceedings is inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

B. Jurisdiction of Variance Appeals

Variances may be granted only under the following conditions:

(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 Code. Except as provided in subsection (4) (Disability Variance) below, the Board shall not grant a variance unless it finds that:

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

(b) Except in Shoreland Areas, the strict application of the terms of this Code would result in practical difficulty. The term “practical difficulty" shall mean:

[1] That the land cannot be used for a purpose otherwise allowed;

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

[3] That the granting of a variance will not alter the essential character of the locality; and

[4] That the practical difficulty is not the result of action taken by the applicant or a prior owner.

[5] That the granting of a variance will not reduce the value or impair the use of abutting property.

(c) In Shoreland Zones, the strict application of the terms of this Code would result in undue hardship. The term “undue hardship” shall mean:

[1] That the land in question cannot yield a reasonable return unless a variance is granted;

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

[3] That the granting of a variance will not alter the essential character of the locality; and

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

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

(4) Disability Variance. The Board of Appeals, or the Code Enforcement Officer if authorized in accordance with 30-A M.R.S.A. 4353-A, may grant a variance to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives on the property. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under Title 5, section 4553, and the term "structures necessary for access to or egress from the property" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

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

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

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

C. Floodplain Management

For additional aspects of appeals and variances from Flood Plain Management provisions, see Chapter 5 – Floodplain Management.

D. Appeal Procedure

(1) Making an appeal

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

(b) Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:

[1] A concise written statement indicating what relief is requested and why it should be granted.

[2] A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

(c) Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

(d) The Board of Appeals shall hold a public hearing on the appeal within thirty- five (35) days of its receipt of an appeal request, unless this time period is extended by the parties.

(2) Decision by Board of Appeals

(a) A majority of the Board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.

(b) The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter on which it is required to decide under this Code, or to affect any variation in the application of this Code from its stated terms. The Board may reverse the decision, or failure to act, only if the decision or failure to act was clearly contrary to specific provisions of this Code.

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

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

(e) 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 thereof, and the appropriate order, relief or denial thereof.

(f) The Board of Appeals shall state the reasons and basis for its decision, including a statement of facts found and conclusions reached by the Board of Appeals. The Board of Appeals shall cause written notice of its decision to be delivered to the applicant and to the Maine Department of Environmental Protection within 7 days of the Board's decision. Copies of the written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and municipal officers.

E. Appeal to Superior Court

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

F. Reconsideration

In accordance with 30-A MRSA Section 2691(3) (F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, Planning Board, Code Enforcement Officer, and other parties of interest, including 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 Superior Court must be made within fifteen (15) days after the decision on reconsideration.

G. Shoreland Zones - See Chapter 4

4. Code Enforcement Officer

A. General

A Code Enforcement Officer and deputies as applicable shall be appointed or reappointed annually by the first of July by the Select Board.

Any violation of this Code shall be deemed to be a nuisance.

B. Responsibilities of the Code Enforcement Office

(1) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Code. If the Code Enforcement Officer shall find that any provision of this Code 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 Select Board and be maintained as a permanent record.

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

(3) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

C. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Select Board, upon notice from the Code Enforcement Officer, is 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 Code in the name of the municipality. The Select Board, or its authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Code and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

D. Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Code shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 4452.

NOTE: Current penalties include fines of not less than $100 nor more than $2500 per violation for each day that the violation continues. However, in a Resource Protection Zone the maximum penalty is increased to $5000 (38 MRSA Section 4452).

5. Permits Required

After the effective date of this Code no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the Zone in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Code shall have a copy of the permit on site while the work authorized by the permit is performed. See Chapter 3, UDO – Section VI, Building Codes - subsection 2 (Scope).

A. Building Permit - A building permit shall be obtained from the Code Enforcement Officer for uses and activities which are as indicated in the Land Use Table provided in Chapter 3, UDO – Section VI, Building Codes - subsection 2 (Scope).

B. Planning Board Review Permit - Planning Board approval shall be obtained for all uses and activities as indicated in the Land Use Table provided in Chapter 3, UDO – Section II and, if applicable, under Chapter 3, UDO – Section VII (Telecommunications Facilities and Towers).

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

(1) The replacement culvert is not more than 25% longer than the culvert being replaced;

(2) The replacement culver is no longer than 75 feet; and

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

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

E. Any permit required by this Code shall be in addition to any other permit required by other law or Code.

6. Permit Application

A. Every applicant for a permit shall submit all required information as specified in the Code and a written application, on forms provided by the municipality, to the Code Enforcement Officer.

B. 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. If the person signing the application is not the owner or lessee of the property, then that person shall submit a letter of authorization from the owner or lessee.

C. All applications shall be dated, and received by the Code Enforcement Officer who shall note upon each application the date of its receipt. The Planning Board shall be notified of any application requiring its action by the Code Enforcement Officer. In order to initiate review by the Planning Board, all applications and related materials must be received and determined complete by the Code Enforcement Officer at least ten (10) working days prior to the next regularly scheduled meeting. Ten (10) copies of all application material shall be provided by the applicant. The Code Enforcement Officer shall establish a file for all permit applications. All correspondence, records of meetings and submissions regarding a permit application shall be maintained in the file.

D. 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 or use of a subsurface sewage disposal system.

E. The applicant shall have the burden of proving that the proposed land use activity is in conformance with the purposes and provisions of the Code.

F. Where the development or alteration of a non-conforming lot, structure or use is proposed, the Planning Board must notify abutting property owners after receiving a complete application for any such development and request comment.

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

H. A photographic record is required with applications for development within any of the Shoreland Zones. Pursuant to 38 M.R.S. § 439-A(10), each applicant for a permit for development within a Shoreland Zone must provide to the Code Enforcement Officer: (1) preconstruction photographs, with the application, showing the shoreline vegetation and development site, and (2) no later than 20 days after completion of the development, postconstruction photographs of the shoreline vegetation and development site. These photographic records shall become a part of the permanent file for the subject property.

7. Procedure for Administering Permits

Within 35 days of the date of receiving a written application, the Code Enforcement Officer, shall notify the applicant either that the application is a complete application, or, if the application is incomplete, that specified additional materials are needed to make the application complete. In order to ensure the orderly review of applications, the Planning Board shall prepare a written agenda for each regularly scheduled meeting. The agenda shall be distributed to Board members and posted in the Town Office. The Board will not consider any application not appearing on the agenda. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Code.

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

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

A. Will maintain safe and healthful conditions;

B. Will not result in water pollution, erosion, or sedimentation to surface waters;

C. Will adequately provide for the disposal of all wastewater;

D. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

E. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;

F. Will protect archaeological and historic resources as designated in the comprehensive plan;

G. Will conserve natural beauty;

H. Will avoid problems associated with flood plain development and use; and

I. Is in conformance with the applicable Development Standards.

J. Will not adversely affect existing commercial fishing or maritime activities.

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 that violates any other local Code or regulation or any State law which the municipality is responsible for enforcing

8. Special Exceptions

In addition to the criteria specified in subsection 7 above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection Zone provided that the applicant demonstrates that all of the following conditions are met:

A. There is no location on the property, other than a location within the Resource Protection Zone, where the structure can be built.

B. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of Hancock County before the adoption of the Resource Protection Zone.

C. All proposed buildings, sewage disposal systems and other improvements are:

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

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

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

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

E. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood- plain, and its proximity to moderate-value and high-value wetlands.

9. Expiration of Permit

Following the issuance of a permit, if no substantial start is made in construction or in the use of the property within one year of the date of the permit, the permit shall lapse and become void. Unless otherwise stipulated, the permit for any approved subdivision that is not complete within four years shall become null and void.

10. Vested Rights

The submission of an application shall not be considered the initiation of the review process for the purposes of bringing the applicant under the protection of Title 1, M.R.S.A., @ 302.

11. Application Fees

The application for a permit shall be accompanied by an application fee in such amount as the Select Board may by rule from time to time establish. The fee schedule will be provided to the applicant by the Code Enforcement Officer. Fees shall be established sufficient to cover the cost to the Town in administering the provisions of the Code.

An additional fee may be charged if the Planning Board and/or the Board of Appeals require the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within ten days after the Town submits an estimate for such services to the applicant. Failure to pay the fee to the Town within the required time period shall constitute a violation of the Code. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject.

12. Waivers of Submission Requirements

When the Planning Board makes written findings of fact that there are special circumstances of a particular parcel or proposed use, it may waive portions of the submission requirements, unless otherwise indicated in this Code, provided the applicant has demonstrated that the performance standards of these regulations have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purposes of the Comprehensive Plan, or this Code. In the case of waivers granted under subdivision or site plan review, the final plan to be recorded at the Registry of Deeds shall indicate the waivers granted and the date on which they were granted.

13. Submission Requirements and Review Procedure

A. Permitted Activities Requiring No Submission Requirements - Any land use activities located in a Zone with a 'YES' in the Land Use Table (Chapter 3, UDO – Section II) require no permit and have no submission requirements under this Code. Any permitted activities are still subject to the

applicable development standards contained in this Code. The CEO or building inspector may require submission of evidence in the case of an alleged or suspected violation of this Code.

B. Land Use Activities Requiring a Permit Application Submitted to the Code Enforcement Officer.

(1) Procedure

Any land use activities which require a permit to be issued by the Code Enforcement Officer (CEO) as indicated in the Land Use Table, shall follow the procedure outlined in subsections 5, 6, and 7 above.

(2) Submission

All applicable information required shall be submitted on a written application form provided by the municipality. For submission requirements land use activities located in shoreland areas, see Shoreland Areas submission requirements below.

C. Land Use Activities Requiring a Permit Application Submitted to the Planning Board

(1) Procedure

Any land use activities which require a permit to be issued by the Planning Board as indicated in the Land Use Table, shall follow the procedure outlined in subsections 5, 6, and 7 above.

(2) Submission

All applicable information required shall be submitted on a written application form provided by the municipality. For submission requirements, land use activities located in shoreland areas, see Shoreland Areas submission requirements below.

NOTE: Land uses requiring a permit application submitted to the Planning Board which requires additional information due to applicable Floodplain, Shoreland Area, Site Plan Review, Subdivision or Mobile Home Park Subdivision development standards, phosphorus control standards and Telecommunications Facilities and Towers, refer to the applicable subsection or chapters below.

D. Procedure (Shoreland Zones)

(1) Any proposed development or land use activities within Shoreland Zones as defined, which require a permit as indicated in the Land Use Table, shall follow the procedural outline in subsections 5, 6, 7 above and in Chapter 4, Shoreland Zoning Ordinance.

(2) Submission

(a) All applicable required information shall be submitted on written shoreland area application forms provided by the municipality.

(b) If the proposed Land Use Activities fall within the jurisdiction of Floodplain Development, Site Plan Review or the Subdivision Review Standards of this Code, the procedural and submission requirements of those sections shall apply to the proposed Land Use Activity.

E. Procedure (Flood Hazard Areas)

Any development, as defined, proposed within any areas of special flood hazard as established by the Town of Surry's Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency and dated July, 20 2016, and Flood Insurance Study prepared by the Federal Emergency Management Agency and dated July 20, 2016 which are hereby adopted by reference and are located in the Town Office, shall meet the requirements for development located within Flood Hazard Areas. The application procedure and submission requirements are specified in Chapter 5 (Floodplain Management Provisions) of this Code.

F. Procedure: Site Plan Review

(1) A completed application for site review shall consist of five (5) copies of required plans on sheets measuring no smaller than 11" x 17" and no larger than 24" x 36", and five (5) sets of attachments. Plans shall be drawn to a scale of no greater than 1"=30' for developments under ten acres, and 1"=50' for all others. Where appropriate, the Board may waive or amend these plan requirements.

(2) The submission shall contain the following items, unless the Board, by formal action, waives specific requirements.

(a) A title block in the lower right-hand corner, containing the name and address of the applicant and property owner, the name and address of the preparer of the plan, with professional seal, if applicable, location of the property according to municipal tax maps, the date of the plan preparation or revision, and an ID number unique to the plan.

(b) A standard boundary survey conducted by a surveyor licensed in the State of Maine, with sufficient information to identify and locate interior and exterior boundaries, rights-of-way and street alignments.

(c) An arrow showing true north and the magnetic declination, a graphic scale, and a signature block for members of the Board.

(d) Location and description of all buildings existing or to be placed on the site, and floor plans and front elevations of principal buildings.

(e) Acreage of the total parcel, of rights-of-way, wetlands, and developed areas.

(f) Zoning, including the zones abutting the property, if different, together with required setbacks, density and coverage requirements of the Zone in which the proposed structure(s) is/are located.

(g) Location of physical features such as ledge, wetlands, watercourses, sand and gravel aquifers, and forested areas.

(h) Location and design details of existing and proposed utilities, including power, water, sewer or septic system, and drainage structures.

(i) Location of any park, open space or conservation easement.

(j) Location of any permanently installed machinery likely to cause appreciable noise at the lot lines.

(k) Existing contours and finished grade elevations within the site, together with proposed landscaping and buffering treatments.

(l) Location and necessary design details of all parking and paved areas, sidewalks, curbing, signs, fencing, and other site improvements.

(m) A location map showing the property in relation to other properties and roads in the general vicinity.

(n) A plan for the control of erosion and sedimentation prepared by a licensed professional with expertise in erosion control.

(o) A plan for the treatment of storm water of a 2-year and a 25-year storm, prepared by a registered professional engineer.

(p) A copy of the soil survey map of the area and where the map shows soils with severe restrictions for development, a high-intensity soil survey shall be provided.

(q) Description of any raw, finished, or waste materials to be stored outside the buildings, and any stored materials of a hazardous nature.

(r) Documentation of the applicant's legal interest in the property.

(s) Text of all encumbrances currently on the property and all encumbrances proposed to be placed on the property.

(t) A list containing names and mailing addresses of all owners of record of property abutting the proposed development.

(u) Description of the type and placement of sewage facilities:

Where disposal will be accomplished through subsurface waste disposal system, an analysis of test pits prepared by a licensed site evaluator, with at least two passing test pits located on the plan.

[1] Where disposal will be accomplished through community system, certification of approval by the (town engineer, sewer plant superintendent, or other local official).

[2] Where disposal will be by an engineered private system, prior approval by the Department of Human Services.

(v) Indication of water supply sufficient in quantity and quality for both normal use and fire protection.

(3) In its consideration of an application, the Board may require the applicant to submit such additional materials, studies, analyses and proposals as it may deem necessary for a complete understanding of the development. The required submissions are the applicant's financial responsibility in terms of meeting their burden of proof. Such materials may include the following categories:

(a) Facilities Analysis: Examination of the impact of the development upon capital facilities of the town, such as schools, water supply, public sewer, recreation facilities or highways.

(b) Transportation: Existing and proposed traffic conditions, including capacity, daily and peak hour levels of service and the need for street or traffic control improvements.

(c) Environmental: Relationship between the development and affected land and water resources, which may include lake watershed protection or aquifer protection measures or hazardous material storage.

G. Procedure: Telecommunications Towers and Facilities

The application procedures and submission requirements are specified in Chapter3, UDO – Section VII (Telecommunications Facilities Towers and Facilities) of this Code.

14. Certificate of Occupancy

A Certificate of Occupancy stating that applicable provisions of this Code have been satisfied may be obtained from the Code Enforcement Officer.

A. After a building, structure, or structure additions has been erected or moved pursuant to a permit, site plan approval, or subdivision approval, for the proposed use before the building, structure, or addition may be used or occupied;

B. After a building or structure has been modified to accommodate a home occupation before said home or structure may be used or occupied for a home occupation;

C. Before a change in use of a non-conforming structure.

15. Administrative Procedure for Land and Modular Home / Mobile Home Park Subdivisions

A. Pre-application Meeting, Sketch Plan and Site Inspection

(1) Purpose

The purpose of the pre-application meeting and on-site inspection is for the applicant or his duly authorized representative to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the applicant.

(2) Procedure

(a) The applicant shall present the sketch plan and make a verbal presentation regarding the site and the proposed subdivision.

(b) Following the applicant's presentation, the Board may ask questions and make suggestions to be incorporated by the sub-divider into the application.

(c) The date of the on-site inspection is selected. Two members shall conduct the on-site investigation.

(3) Submission

The Pre-Application Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which does not have to be engineered and may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It will be most helpful to both the sub-divider and the Board for site conditions such as steep slopes, wet areas and vegetative cover to be identified in a general manner. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located. The Sketch Plan shall be accompanied by:

(a) A copy of a portion of the U.S.G.S. 7.5-minute topographic map of the area showing the outline of the proposed subdivision, unless the proposed subdivision is less than 10 acres in size.
(b) A copy of that portion of the county Soil Survey covering the subdivision, showing the outline of the proposed subdivision.

(c) A statement indicating if the proposed development is subject or not subject to the Site Location of Development law (38 M.R.S.A., section 481 et seq.) and the reasons why or why not.

(4) Contour Interval and On-Site Inspection

Within thirty working days of the pre-application meeting, the Board shall hold an on-site inspection of the property and inform the applicant in writing of the required contour interval on the Preliminary Plan, or Final Plan in the case of a Minor Subdivision. The applicant shall place "flagging" at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection.

(5) Establishment of File

Following the pre-application meeting the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the pre- application meeting and application shall be maintained in the file located in the Code Enforcement Office.

B. Minor Subdivisions or Preliminary Plan for Major Subdivisions

(1) General

The Board may require, where it deems necessary to make a determination regarding the criteria for approval from Title 30-A M.R.S.A, subsection 4404, or the standards from Chapter 3, UDO - Section V, Performance Standards for Subdivisions of this Code, that a Minor Subdivision comply with all or any of the submission requirements for a Major Subdivision.

(2) Procedure

(a) Within six months after the on-site inspection by the Board, the developer shall submit ten copies of all application materials for approval of a Final Plan of a minor subdivision or Preliminary Plan of a major subdivision at least ten working days prior to a scheduled meeting of the Board. Applications shall be submitted by mail to the Planning Board in care of the municipal office or delivered by hand to the municipal office. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the board.

(b) All applications for Final Plan approval for a Minor Subdivision or Preliminary Plan for a major subdivision shall be accompanied by a non- refundable per lot or dwelling unit application fee, payable by check to the municipality. In addition, the applicant shall pay a per lot or dwelling unit fee to be deposited in a special account designated for that subdivision application to be used by the Planning Board for hiring independent consulting services to review the application, if necessary. If the balance in this special account shall be drawn down by 75%, the Board shall notify the applicant, and require that an additional fee per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require an additional fee per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any

balance in the account remaining after a decision on the final or preliminary plan application by the Board shall be returned to the applicant.

The current schedule of fees is available from the town office. Fees shall be set by the Select Board (See subsection 11, Application Fees above). If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification and other associated costs as necessary.

(c) The applicant, or his/her duly authorized representative, shall attend the meeting of the Board to present the Final Plan. Failure to attend the meeting to present the Final Plan may result in a delay of the Board's receipt of the plan until the next meeting which the applicant attends.

(d) Upon receipt of an application for Final Plan approval of a minor or preliminary approval of a major subdivision the Board or its representative shall:

[1] Issue a dated receipt to the applicant.

[2] Notify in writing all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project.

[3] Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision includes or crosses the municipal boundary.

(e) Within thirty days of the receipt of the Final or Preliminary Plan application, the board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

(f) Upon a determination that a complete application has been submitted for review, the Board shall notify the applicant in writing of that determination. The Board shall determine whether to hold a public hearing on the Final or Preliminary Plan application.

(g) If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. A copy of the notice shall be mailed to the applicant.

(h) Within thirty days from the public hearing or within sixty days of determining a complete application for a Final Plan has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria contained Title 30-A M.R.S.A., subsection 4404 and the standards in this Code. If the Board finds that all the criteria of the Statute and the standards of these regulations have been met, they shall approve the Final Plan.

If the Board finds that any of the criteria of the Statute or the standards of this Code has not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards will be met by the subdivision.

The reasons for any denial or conditions shall be stated in the records of the Board. In the case of a preliminary plan, while adhering to the same time requirements in this subsection, the Board shall make findings of fact on the application, and approve, or approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

(i) When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:

[1] The specific changes which it will require in the Final Plan.

[2] The character and extent of the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and

[3] The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the Final Plan.

(j) Approval of the preliminary plan shall not constitute approval of the Final Plan or intent to approve the Final Plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval by the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, the Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

(3) Submissions

The Preliminary or Final Plan application shall consist of ten (10) copies of the following items.

(a) An application form.

(b) A Location Map - The Location Map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The Location map shall show:

[1] Existing subdivisions in the proximity of the proposed subdivision.

[2] Locations and names of existing and proposed streets.

[3] Boundaries and designations of zoning Zones.

[4] An outline of the proposed subdivision and any remaining portion of the owner's property if the Final Plan submitted covers only a portion of the owner's entire contiguous holding.

(c) Final Plan For Minor Subdivision - The subdivision plan for a minor subdivision shall consist of two reproducible, stable based plans on 20 # paper, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Office, one digital copy to be sent directly to the Code Enforcement Officer and three copies of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border lines on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Three copies of all information accompanying the plan shall be submitted.

(d) Preliminary Plan - For a major subdivision the preliminary plan shall be submitted in digital format and three hard copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres to be drawn at a scale of not more than two hundred feet to the inch (200ft/inch) provided all necessary detail can easily be read.

(e) The application for approval of a Minor Subdivision or preliminary approval of a Major Subdivision shall include the following information. The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A M.R.S.A., subsection 4404 are met.

[1] Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.

[2] Verification of right, title, or interest in the property.

[3] A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.

[4] A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.

[5] A copy of any deed restrictions or covenants intended to cover all or part of the lots or dwellings in the subdivision.

[6] Indication of the type of sewage disposal to be used in the subdivision.

When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.

[7] Indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydro-geologist familiar with the area.

[8] The date the Plan was prepared, north point, and graphic map scale.

[9] The names and addresses of the record owner, developer, and individual or company who prepared the plan, and adjoining property owners.

[10] A high intensity soil survey by a Certified Soil Scientist. Wetland areas shall be identified on the survey, regardless of size.

[11] The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. The location of any trees larger than 24 inches in diameter at a height of 5 feet above the ground shall be shown on the plan. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted and/or any restrictions to be placed on clearing of existing vegetation.

[12] The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If the proposed subdivision is in the direct watershed of a great pond, the application shall indicate which great pond.

[13] Contour lines at the interval specified by the Board.

[14] The zoning Zone in which the proposed subdivision is located and location of any zoning boundaries affecting the subdivision.

[15] The location and size of existing and/or proposed culverts, and drainage ways on or adjacent to the property to be subdivided.

[16] The location, names, and present widths of existing streets and highways, and existing and proposed easements, building lines, parks and other open spaces on or adjacent to the subdivision. In the case of a Final Plan, the plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established.

[17] The location of any open space to be preserved and a description of proposed improvements and its management.

[18] All parcels of land proposed to be dedicated to public use and the conditions of such dedication. In the case of a Final Plan application, written offers to convey title to the municipality of all public open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Select Board is satisfied with the legal sufficiency of the written offer to convey title shall be included.

[19] If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.

[20] A hydro-geologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology.

(a) Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Sand and Gravel Aquifers Map", by the Maine Geological Survey, 1981, Map No. 28.

(b) The Board may require a hydro-geologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils and the proposed use of shared or common subsurface waste water disposal systems.

[21] For a proposed minor subdivision, a storm water management plan, prepared by a registered professional engineer in accordance with Urban Hydrology for Small Watersheds, T.R. 55, 1986 edition published by the U.S. Soil Conservation Service. Another methodology may be used if the applicant can demonstrate it is equally or more applicable to the site. The Board may waive submission of the storm water management plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns.

[22] For a proposed minor subdivision, an erosion and sedimentation control plan prepared in accordance with the Environmental Quality Handbook, 1986 edition, published by the Maine Soil and Water Conservation Commission. The Board may waive submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction that changes drainage patterns.

[23] Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the Comprehensive Plan.

[24] If the proposed minor subdivision is in the direct watershed of a great pond, phosphorus control plan.

[a] For subdivisions which qualify for the simplified review procedure as described in Chapter 3, UDO – Section V, Performance Standards for Subdivisions -subsection 12.B, the plan shall indicate the location and dimensions of vegetative buffer strips or infiltration systems.

[b] For subdivisions which do not qualify for the simplified review procedure as described in Chapter 3, UDO – Section V, Performance Standards for Subdivisions -subsection 12.B, the following shall be submitted.

(i) A phosphorus Impact Analysis Control Plan conducted using the procedures set forth in Phosphorus Control in Lake Watersheds: A Technical guide for Evaluating New Development, published by the Maine Department of Environmental Protection, May, 1990.

(ii) A long-term maintenance plan for all phosphorus control measures.

(iii) The contour lines shown on the plan shall be at an interval of no greater than five feet.

(iv) Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.

[25] If the proposed major subdivision is in the direct watershed of a great pond, and qualifies for the simplified review procedure for phosphorus control, the plan shall indicate the location and dimensions of vegetative buffer strips or infiltration systems and the application shall include a long-term maintenance plan for all phosphorus control measures.

C. Final Plan for Major Subdivision

(1) Procedure

(a) Within six months after the approval of the Preliminary Plan, the sub-divider shall submit ten (10) copies of an application for approval of the Final Plan at least ten (10) working days prior to a scheduled meeting of the Board. Applications shall be submitted by mail to the Planning Board in care of the municipal offices or delivered by hand to the municipal offices. If the application for the Final Plan is not submitted within six months after Preliminary Plan approval, the Board shall require resubmission of the Preliminary Plan, except as stipulated below. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any changes required by the Board.

If an applicant cannot submit the Final Plan within six months, due to delays caused by other regulatory bodies, or other reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension the Board shall make findings that the applicant has made due progress in preparation of the final plan and

in pursuing approval of the plans before other agencies, and that municipal Codes or regulations which may impact on the proposed development have not been amended.

(b) All applications for Final Plan approval for a Major Subdivision shall be accompanied by an application fee per lot or dwelling unit payable by check to the municipality (See subsection 11 above (Application Fees). If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification or other costs as needed.

(c) Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where applicable.

[1] Maine Department of Environmental Protection, under the Site Location of Development Act, Natural Resources Protection Act, or if a Wastewater Discharge License is needed.

[2] Maine Department of Human Services, if the sub-divider proposes to provide a public water system.

[3] Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is/are to be utilized.

[4] U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required, i.e., wetlands alteration.

(d) Upon receiving an application for Final Plan approval of a major subdivision, the town shall issue a dated receipt to the applicant.

(e) The developer, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.

(f) Within thirty days of the receipt of the Final Plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

(g) Upon determination that a complete application has been submitted for review, the town shall issue a dated receipt to the developer. The Board shall determine whether to hold a public hearing on the Final Plan application.

(h) If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing. In addition, the notice of the hearing shall be posted in at least three prominent places within the municipality at least seven days prior to the hearing.

(i) The Board shall notify the Road Commissioner, School Superintendent, Police Chief, and Fire Chief of the proposed subdivision, the number of lots proposed, the length of roadways, and the size and construction characteristics thereof. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.

(j) Before the board grants approval of the Final Plan, the developer shall meet the performance guarantee requirements contained in this section.

(k) Within thirty days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in Title 30-A M.R.S.A., subsection 4404 and the standards of these regulations. If the Board finds that all the criteria of the Statute and the standards of these regulations have been met, they shall approve the Final Plan. If the Board finds that any of the criteria of the Statute or the standards of these regulations has not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

(2) The Final Plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side for binding and a one (1) inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement of the Board. Two reproducible, plans that meet the plan recording requirements for the Registry of Deeds, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Office, and three hard copies of the plan and one digital copy shall also be submitted. In addition, one copy of the Final Digital Plans, and all accompanying information shall be e-mailed to each Board member no less than seven days prior to the meeting.

The Final Plan shall include or be accompanied by the following information:

(a) Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.

(b) The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.

(c) Indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Sewer Zone indicating the Zone has reviewed and approved the sewerage design shall be submitted.

(d) Indication of the type of water supply system(s) to be used in the subdivision.

[1] A written statement shall be submitted from the Fire Chief approving all hydrant locations or other fire protection measures deemed necessary.

[2] When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydro-geologist familiar with the area.

(e) The date the Plan was prepared, north point, graphic map scale.

(f) The names and addresses of the record owner, developer, and individual or company who prepared the plan.

(g) The location of any zoning boundaries affecting the subdivision.

(h) If different than those submitted with the Preliminary Plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.

(i) The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

(j) The location, names, and present widths of existing and proposed streets, highways, easements, buildings, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a registered land surveyor.

(k) Street plans, meeting the requirements of Chapter 3, UDO – Section V, Performance Standards for Subdivisions – subsections 21-25. The final plan shall show marks in the center of the streets every 50 (fifty) feet to aid in the assignment of street numbers for the structures to be constructed.

(l) An erosion and sedimentation control plan prepared in accordance with the most recent edition of the Environmental Quality Handbook, published by the Maine Soil and Water Conservation Commission or other publication approved for use by the Planning Board. The Board may waive submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction that changes drainage patterns and that no driveway or house construction will occur on sites with slopes steeper than 10%.

(m) A storm water management plan, prepared by a registered professional engineer in accordance with Urban Hydrology for Small Watersheds, T.R.55, 1986 edition, published by the U.S. Soil Conservation Service. Another methodology may be used if the applicant can demonstrate it is equally applicable to the site. The Board may waive submission of the storm water management plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or

grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 10% of the area of the subdivision.

(n) The width and location of any streets, public improvements, and any common space or areas. These shall be shown upon the plot plan submissions. Include the proposed street numbering system in accordance with the Surry Addressing Ordinance for E911 Service.

(o) All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If the proposed streets and/or open spaces or other land is to be offered to the municipality, written evidence that the Select Board is satisfied with
3the legal sufficiency of the written offer to convey title shall be included.

(p) The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.

(q) If any portion of the proposed subdivision is in the direct watershed of a great pond, and does not qualify for the simplified review procedure for phosphorus control, the following shall be submitted or indicated on the plan.

[1] A Phosphorus Impact Analysis and Control Plan conducted using the procedures set forth in Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, published by the Maine Department of Environmental Protection, revised May, 1990. The Analysis and Control Plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the Technical Guide.

[2] A long-term maintenance plan for all phosphorus control measures.

[3] The contour lines shown on the plan shall be at an interval of no greater than five feet.

[4] Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.

(r) A list of construction items, with cost estimates, that will be completed by the developer prior to the sale of lots, and evidence that the sub-divider has financial commitments or resources to cover these costs.

(3) Final Approval and Filing

(a) No plan shall be approved by the Board as long as the sub-divider is in violation of the provisions of a previously approved Plan within the municipality.
(b) Upon findings of fact and determination that all standards in Title 30-A M.R.SA., subsection 4404, and these regulations have been met, and upon voting to approve the

subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One (1) copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within Forty-Five (45) days of the date upon which the plan is approved and signed by the Board shall become null and void.

(c) No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with this section. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A., subsection 4404, and the standards of this Code. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.

(d) The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Select Board covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

(e) Except in the case of a phased development plan, failure to complete construction of the subdivision within four years of the date of approval and signing of the Plan shall render the Plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.3

(4) Revisions to Approved Plans

(a) Procedure
An applicant for a revision to a previously approved plan shall, at least ten working days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots, the procedures for preliminary plan approval shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots, the procedures for final plan approval shall be followed.

(b) Submissions

The applicant shall submit a copy of the approval plan, as well as three copies of the proposed revisions. The application shall also include enough supporting information to allow the Board

to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the book and page or cabinet and sheet on which the original plan is recorded at the registry of deeds.

(c) Scope of Review

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

(5) Performance Guarantees

(a) Types of Guarantees

With submittal of the application for Final Plan approval, the developer shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

[1] Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account.

[2] A performance bond payable to the Town issued by a surety company, approved by the Select Board, or Administrative Assistant.

[3] An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, if approved by the Select Board.

(b) Contents of Guarantee

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part of all of the performance guarantee to the developer, and a date after which the developer will be in default and the Town shall have access to the funds to finish construction.

(c) Escrow Account

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the sub-divider, the municipality shall be named as owner or co- owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the sub-divider unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the

amount returned to the developer and the amount withdrawn to complete the required improvements.

(d) Performance Bond

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the developer, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.

(e) Letter of Credit

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the subdivision and may not be used for any other project or loan.

(f) Phasing of Development

The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

(g) Release of Guarantee

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Code Enforcement Officer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

(h) Default

If, upon inspection, the Code Enforcement Officer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he shall so report in writing to the Select Board, the Board and the developer or builder. The Select Board shall take any steps necessary to preserve the Town's rights.

(i) Improvements Guaranteed

Performance guarantees shall be tendered for all improvements required to meet the standards of this Code and for the construction of the streets, storm water management facilities, shared or common sewage collection or disposal facilities, shared or common water systems, and erosion and sedimentation control measures.

16. Non-Conformance

A. Purpose

It is the intent of this Code to promote land use conformities, except that nonconforming conditions that legally existed before the effective date of this Code shall be allowed to continue, subject to the requirements set forth in this section.

B. General

(1) Transfer of Ownership: Nonconforming structures, lots, and uses may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming structure or lot, subject to the provisions of this Code.

(2) Repair and Maintenance: This Code allows, without a permit, the normal upkeep and maintenance of nonconforming uses and structures including repairs or renovations which do not involve expansion or replacement 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.

C. Non-Conforming Structures

Expansions: 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 or create a new non-conformity. If a structure is located partially within a public or private right-of-way, expansion of that portion of the structure within the right-of- way is prohibited. If a structure is located wholly within a public or private right- of-way, the structure may not be expanded. For the purpose of this subsection related to non-conforming structures located partially or wholly within a public or private right-of-way, the front yard setback requirement is waived.

D. Non-Conforming Uses

(1) Expansions: Expansions of nonconforming uses are prohibited, except that nonconforming 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 subsection 16(C): Non- Conforming Structures, above.
(2) Resumption Prohibited: A lot, building or structure in or on which a nonconforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a nonconforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one-year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

(3) Change of Use: An existing nonconforming use may be changed to another nonconforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board.

E. Non-Conforming Lots

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

Any lot created prior to the effective date of this Code, being June 9, 1992, which does not meet the minimum lot size requirements of any state or local provision regulating minimum lot sizes, at the time the lot was created, the lot shall not be considered a non-conforming lot of record for the purpose of this Code.

(2) Contiguous Lots - Vacant or Partially Built: If two (2) or more lots or combinations of lots and portions of lots with contiguous property lines are in undivided ownership at the time of the passage or amendment of this Code, and if all or part of the lots do not meet the requirement for lot width and area as established by this Code, then the lands involved shall be considered to be an individual parcel for the purpose of this Code. No portion of such parcel shall be sold, leased developed or used which does not meet lot width and area requirements established by this Code. If two or more contiguous lots or parcels in single or joint ownership of record as of June 9, 1992 or after, do not individually meet the dimensional requirements of this Code or subsequent amendments and, if one or more lots are vacant or contain no principal structure, the lots shall be combined so that each new lot will meet the minimum dimensional requirements of the Zone (or become as conforming as possible).

These lots shall not be divided in the future unless the division meets the requirements of this Cod and the State subsurface wastewater rules.

17. Installation of Public Utility Service

In the Shoreland Zones, a public utility, water district, sanitary district, or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility

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Chapter 2: DEFINITIONS

1. Construction of Language

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

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

The present tense includes the future tense, the singular number includes the plural, and the plural numbers includes the singular.

The words "shall" and "will" are mandatory; the word "may" is permissive. The word "lot" includes the words "plot" and "parcel". The word "building" includes the word "structure".

The word "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 words “district” and “zone” are used interchangeably to mean specified portions of the Town, delineated on the official zoning map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Code.

The words "Town" or "municipality" mean the Town of Surry, Maine.

2. Definitions of Key Terms

In this Code the following terms shall have the following meanings:

100 Year Flood: See Base Flood

Abutter: The owner of any property with one or more common boundaries, or across the street or stream from, the property involved in an application or appeal.

Accessory Dwelling Unit: A secondary dwelling unit that does not exceed 800 square feet or 1/3 of the footprint area of the primary dwelling unit.

Accessory Use or Structure: A use or structure which is incidental and subordinate to the principal use or structure. The term "incidental" in reference to the principal use or structure shall mean both a) subordinate and minor in significance to the principal use or structure, and b) attendant to the principal use or structure.

Such accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Adequate Capacity (for Telecommunication Facilities and Towers): Capacity is considered to be "adequate" if the grade of service (GOS) is p.05 or better for median traffic levels offered during the typical busy hour, as assessed by direct measurement of the personal wireless service facility in question. The GOS shall be determined by the use of standard Erland B Calculations. As call blocking may occur in either the land line or radio portions of a wireless network, adequate capacity for this regulation shall apply only to the capacity of the radio components. Where capacity must be determined prior to the installation of the personal wireless services facility in question, adequate capacity shall be determined on the basis of a 20% busy hour (20% of all offered traffic occurring within the busiest hour of the day), with the total daily traffic based on aggregate estimates of the expected traffic in the coverage area.

Adequate Coverage (for Telecommunication Facilities and Towers): Coverage is considered to be "adequate" within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that the majority of the time, transceivers properly installed and operated will be able to communicate with the base station. In the case of cellular communications in a rural environment like Surry, this would be signal strength of at least -90 dBm for at least 75% of the coverage area. It is acceptable for there to be holes within the area of adequate coverage where the signal is less than -90 dBm, as long as the signal regains its strength to greater than -90 dBm further away from the base station. For the limited purpose of determining whether the use of a repeater is necessary or desirable, there shall be deemed not to be adequate coverage within said holes. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain strength of greater than -90 dBm.

Adjacent Grade: The natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

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

Agriculture: The production, keeping or maintenance for sale or lease, of plants 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 greenhouse products. Agriculture does not include forest management, timber harvesting activities. Agriculture does not include the production, keeping, or maintenance of marijuana.

Alteration: Any change or modification in construction, or change in the structural members of a building or structure such as bearing walls, columns, beams or girders, or in the use of

a building. The term shall also include change, modification, expansion, or addition of a deck, dormer, staircase, or roof of the building or other change in volume or floor area.

Amusement Facility: Any private, commercial premises which are maintained or operated primarily for the amusement, patronage, or recreation of the public, containing four (4) or more table sports, pinball machines, video games, or similar mechanical or electronic games, whether activated by coins, tokens, or discs, or whether activated through remote control by the management.

Anchorage Area: An area of the harbor set aside for the anchoring of Vessels.

Animal Breeding or Care: The keeping or raising of six (6) or more animals, including domestic animals, birds, and pets. This definition also includes kennels.

Antenna: A device which is attached to a tower or other structure for transmitting or receiving electromagnetic waves. Examples include, but are not limited to, whip, panel, microwave, and dish antennas.

Applicant: The person applying for a permit or license under this Code who demonstrates legal standing or interest to apply by means of ownership, authorized agent, or option or purchase and sale agreement or the like.

Aquaculture: The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Aquifer: An underground bed or stratum of earth, gravel or porous stone that contains water.

Area of Special Flood Hazard: The land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in this Code in Chapter 5, Floodplain Management - Section 1 (Purpose and Establishment).

Authorized Agent: A person having written authorization to act on behalf of a property owner. The authorization shall be signed by the property owner(s).

Automobile Body Shop: A business establishment engaged in general repair and replacement of body, frame, or fender parts as well as straightening and repair or painting and undercoating of the same, but not a gasoline service station.

Automobile Graveyard, Junkyard: A place where three or more unregistered, unserviceable, discarded, worn-out, or junked automotive vehicles, or bodies, or engines thereof are gathered together.

Automobile Repair Shop: A business establishment engaged in general repair, engine rebuilding, or parts replacement, but not a gasoline service station.

Available Space (for Telecommunication Facilities and Towers): The space on a tower or structure to which antennas of a telecommunications provider are both structurally able and electromagnetically able to be attached.

Average Daily Traffic (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement: Any portion of a structure with a floor-to-ceiling height of six feet or more and having more than 50% of its volume below the existing ground level.

Base Station: The primary sending and receiving site in a wireless telecommunications network. More than one base station and/or more than one variety of telecommunications provider can be located on a single tower or structure.

Bed and Breakfast: Any dwelling in which transient lodging or boarding and lodging are provided and offered to the public by the owner for compensation for less than one week. This dwelling shall also be the full-time, permanent residence of its owner; otherwise, it shall be classified as a hotel/motel. There shall be no provisions for cooking in any individual guest room.

Berth: The place where a vessel lies when at a wharf or pier.

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Board: "Board"

A. With respect to the Surry Code of Ordinances, means the Planning Board of the Town of Surry or the Town of Surry Board of Appeals.

Boarding/Lodging Facility: Any residential structure where lodging or boarding and lodging are provided for compensation for a period of at least one week, and where a family residing in the building acts as proprietor or owner. When the criteria for a family residing in the building cannot be met, the building shall be classified as a hotel/motel. There shall be no provisions for cooking in any individual guest room.

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.

Breakaway Wall: A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Buffer Area: A part of a property or an entire property, which is not built upon, is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

Building: See Structure.

Building or Structure Height: The vertical distance between the highest point of the structure and the average grade of the existing or original ground adjoining the building, whichever distance is greater. This distance shall not apply to chimneys, antennas and other similar appurtenances which are attached and incidental to the primary use of a structure, but the vertical distance shall apply to any structure that is essential to the intended use of the property.

Bulletin 65: Bulletin 65, entitled Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields, published by the FCC Office of Engineering and Technology, Edition 97-01, dated August 1997, or more recent versions thereof, as they may be adopted.

Bureau of Forestry: The State of Maine Department of Agriculture, Conservation and Forestry, Bureau of Forestry.

Business and Professional Offices: The place of business of doctors, lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance businesses, psychiatrists, counselors, and the like or in which a business conducts its administrative, financial or clerical operations including banks and other financial services, but not retail sales nor activities utilizing trucks as part of the business operations.

Campground: Campground means, in addition to the generally accepted definitions, camping areas, recreational vehicle parks, or other premises where tents, recreational vehicles, rental cabins and cottages are permitted on 2 or more sites for compensation. Campground includes but is not limited to, sites intended for recreational purposes rather than permanent residency. The word "campground" shall include the words "camping ground", and "tenting grounds".

Canopy: The more or less continuous cover formed by tree crowns in a wooded area.

Cemetery: Property used for the interring of the dead.

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Certificate of Compliance: A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Code.

Channel (for Telecommunication Facilities and Towers): The segment of the radiation spectrum from an antenna that carries one signal. An antenna may radiate on many channels simultaneously.

Channel: An area of a waterway kept clear of moorings or other obstructions to all the free passage of Vessels.

Church: A building or structure, or group of buildings or structures, designed, primarily intended and used for the conduct of religious services, excluding school.

Civic Center: A building or complex of buildings that house municipal offices and services, and which may include cultural, recreational, athletic, convention and entertainment facilities owned and/or operated by a governmental agency.

Club: Any voluntary association of persons organized for social, religious, benevolent, literary, scientific, or political purposes; whose facilities, especially a clubhouse, are open to members and guests only and not the general public; and not engaged in activities customarily carried on by a business or for pecuniary gain. Such term shall include fraternities, sororities, and social clubs generally.

Cluster Development: A development consisting exclusively of residential dwelling units, or mixed residential and commercial uses planned, developed as a whole or in a programmed series of developments, and controlled by one developer on a tract of 5 or more lots, or one tract with 3 or more principal structures or dwelling units, which contemplates an innovative, more compact grouping of dwelling units. Cluster developments treat the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of permanent, common open space, and the permanent retention of the natural characteristics of the land.

Coastal High Hazard Area: The area subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designed on a Flood Insurance Rate Map (FIRM) as zone A, A1-30, VE, V1-30 or V.

Zone A- Areas with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30-year mortgage. Because detailed analyses are not performed for such areas; no depths or base flood elevations are shown within these zones.
Zone AE—The base flood elevations are provided. AE zones are now used on new format FIRMS instead of A1-A30 zones.

Zone V—Coastal areas with a 1% or greater chance of flooding and an additional hazard associated with storm waves. These areas have a 26% chance of flooding over the life of a 30-year mortgage. Base flood elevations derived from detailed analyses are shown at selected intervals within these zones.

VE, V1-V30—Coastal areas with a 1% or greater chance of flooding an additional hazard associated with storm waves. These areas have a 26% chance of flooding over the life of a 30-year mortgage. Base flood elevations derived from detailed analyses are shown at selected intervals within these zones.

Coastal Wetlands: All tidal and sub tidal 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. 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.

Code Enforcement Officer: A person certified under Title 30-A MRSA, Section 4451 (including exceptions in Section 4451, paragraph 1) and employed by a municipality to enforce all applicable shoreland zoning, internal plumbing, subsurface wastewater disposal, building standards, comprehensive planning and land use laws and Codes.

Co-Location (for Telecommunication Facilities and Towers): The use of a single mount on the ground by more than one carrier (vertical co-location), and /or several mounts on an existing structure by more than one carrier.

Commercial Maritime Facility: Any commercial facility within the Limited Residential or CFMA Zones.

Commercial Recreation: Any commercial enterprise which receives a fee in return for the provision of some recreational activity including but not limited to: campgrounds, racquet and tennis clubs, health facilities, amusement parks, golf courses, gymnasiums and swimming pools etc., but not including bowling alleys or amusement centers, as defined herein.

Commercial Use: The use of lands, buildings, or structures, other than a "home occupation" as defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Commercial Vessel: A Vessel that generates income and is registered as commercial.

Common Open Space: Land within or related to a subdivision, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation, forestry or agricultural activities.

Community Center: A building which provides a meeting place for local, non-profit community organizations on a regular basis. The Center shall not be engaged in activities customarily carried on by a commercial use.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by this Code or by a vote by the Board to waive the submission of required information.

Conditional Use (*Floodplain*): A use that, because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Chapter 5, Floodplain Management - Section 7 (Conditional Use Review of this Code).

Conforming: A building, structure, use of land, or portion thereof, which complies with the provisions of this Code.

Congested Areas: Those areas of Surry Waters (Salt and Fresh) that are determined by the Waterways Commission and designated by a vote at Town Meeting to be approaching or to have reached saturation of available mooring space.

Congregate Housing: Residential housing consisting of private apartments and central dining facilities and within which a congregate housing supportive services program serves functionally impaired elderly or disabled occupants; the individuals are unable to live independently yet do not require the constant supervision or intensive health care available at intermediate care or skilled nursing facilities. Congregate housing shall include only those facilities which have been certified by the State of Maine as meeting all certification standards and guidelines for congregate housing facilities as promulgated by the Department of Human Services pursuant to the provisions of Maine State Statutes.

Conservation Easement: A non-possessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

Constructed: Built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, and the like, shall be considered a part of construction.

Consumer Fireworks: "Consumer Fireworks" has the same meaning as in 27 Code of the Federal Regulations Section 555.11 or subsequent provisions, but includes only products that are tested and certified by a 3rd party laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. Consumer Fireworks **excludes:**

1. Missile type rockets, as defined by State Fire Marshal by rule;

2. Helicopter and aerial spinners, as defined by State Fire Marshal by rule; and

3. Sky rockets, and bottle rockets. For purposes of this paragraph "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

Convenience Store: A store intended to service the town primarily with the sale of merchandise, including such items as, but not limited to, basic foods, newspapers, household items and emergency home repair articles, as well as "sit-down" dining, "eat-in" foods, or "take-out" windows.

Convention Center: A facility or group of buildings in close proximity constructed and operated for conventions, trade shows, exhibits, meetings, banquets, and other social gatherings, includes parking facilities that serve the center. May be associated with a hotel.

Curb Cut: The opening along the curb line at which point vehicles may enter or leave the roadway.

Day Care / Child Care: Homes and Centers registered or licensed as such by the Maine Department of Health and Human Services.

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DBM: Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to I milliwatt (1/1000th watt), correctly written as "dBm".

Decommissioning: The physical removal of all components of a solar energy development, including but not limited to solar panels and associated anchoring systems and foundations to a depth of at least 36 inches or to the depth of bedrock, whichever is less, and other structures, buildings, roads, fences, cables, electrical components, or associated facilities and foundations to a depth of at least 36 inches or to the depth of bedrock, whichever is less, to the extent the components of the development are not otherwise in or proposed to be placed in productive use otherwise authorized to remain by the permitting entity.
For any portion of a solar energy development located on land classified as farmland at any time within five (5) years preceding the start of construction development, "decommissioning" means the physical removal of such components to the depth of at least 48 inches or to the depth of bedrock, whichever is less, to the extend such components are not otherwise in or proposed to be placed in productive use or otherwise authorized to remain in place by the permitting entity. "Decommissioning" includes the grading to post construction grade and revegetation of all earth disturbed during construction and decommissioning, except for areas already restored, providing for the recycling of the waste components of the solar energy development that are recyclable, including but not limited to, solar panels, by a facility authorized to accept such materials for recycling and providing for the disposal of the waste components of the solar energy development that are not recyclable by a facility authorized to accept such materials for disposal.

Demonstrate: To show and explain through written or printed medium.

Density: The number of dwelling units or principal structures per area of land.

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

Development: Any man-made change to improved or unimproved real estate, water or vegetation, including but not limited, to buildings or other structures;

Dimensional Requirements: Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore or road frontage and height.

Direct Watershed of a Great Pond: That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the Comprehensive Plan. Due to the scale of the map in the Comprehensive Plan, there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicants cannot agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a registered land surveyor showing where the drainage divide lies.

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 that 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 that requires special education, vocational rehabilitation or related services.

District: A specified portion of the municipality, delineated on the official zoning map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Code.

Driveway: A vehicular access-way less than 500 feet in length serving two single family dwellings, or one two-family dwelling, or less, including access to vacant lots to permit resource based management activities, e.g. harvesting.

Dwelling: Any building or structure, or portion thereof, designed or used for residential purposes.

(1) Single-Family Dwelling - Any structure containing only one (1) dwelling unit for occupation by not more than one (1) family.

(2 Two-Family Dwelling - A building containing two (2) dwelling units, for occupancy by not more than two (2) families.

(3) Multi-Family Dwelling - A building containing three (3) or more dwelling units, such buildings being designed exclusively for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.

(4) 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. The term shall include mobile homes, but not recreational vehicles. Any additional living space which is offered for lease or rent to the general public shall be considered another dwelling unit therefore making additional lot size dimensional requirements necessary.

Electrical Equipment: Any device associated with a Solar Energy System, such as an outdoor electrical unit/control box, that transfers energy from the Solar Energy System to the intended location.

Electricity Generation (production, output): The amount of electric energy produced by transforming other forms of energy, commonly expressed in kilowatt-hours (kWh) or megawatt-hours (MWh).

Elevated Building: A non-basement building:

(1) built, in the case of a building in Zones AE or A, to have the top of the elevated floor, or in the case of a building in Zone VE, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and

(2) adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the cases of Zones AE or A, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Chapter 5, Floodplain Management – Section 6 (Development Standards) - subsection (L) of this Code. In the case of Zone VE, Elevated Building also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Chapter 5, Floodplain Management – Section 6 (Development Standards) – subsection (P)(2)(b)(3) of this Code.

Elevation: The elevation at grade or ground level shall be given in Above Mean Sea Level (AMSL). The height of the wireless service facility shall be given in Above Ground Level (AGL). AGL is a measurement of height from the natural grade of a site to the highest point of a structure. The total elevation of the wireless service facility is AGL plus AMSL.

Elevation Certificate: An official form (FEMA Form 81-31, 01/03, as amended) that

(1) is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,

(2) is required for purchasing flood insurance.

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

EMF: Electromagnetic Fields, often expressed in wavelengths or frequencies to indicate their placement on the electromagnetic spectrum. The radio frequencies usually radiate away from their generating source—hence wireless capability. The radio frequencies are identified between 3 kilohertz to 300 gigahertz and include AM & FM radio, TV, radar, cellular/PCS technologies, emergency fire & police, paging services, and satellite broadcasting among many others. Microwaves are a portion of the radio frequencies.

Engineered Subsurface WasteWater Disposal System: A subsurface waste water disposal system designed, installed, and operated as a single unit to treat 2000 gallons per day or more; or any system designed to treat wastewater with characteristics significantly different from domestic wastewater. Environmental Assessment or EA: An official document required by NEPA whenever an action may have a significant environmental impact on, among other things, wilderness areas, wildlife reserves, endangered species habitat, historical sites, Indian religious sites, flood plains, wetlands, residential neighborhoods (such as that caused by high intensity white lights), and human health (such as that caused by excessive radio frequency electromagnetic radiation)

Environmental Assessment or EA: An official document required by NEAP whenever an action may have a significant impact on, among other things, wilderness areas, wildlife preserves, endangered species habitat historical sites, Native American religious sites, flood plains, wetlands, residential neighborhoods (such as that caused by high density white lights), and human health (such as that caused by excessive radio frequency electromagnetic radiation).

Equipment Shelter: An enclosed or semi-enclosed structure, cabinet, shed or box located at the Base Station designed principally to house batteries and electrical equipment used in connection with Personal Wireless Service transmissions

ERP: Effective Radiated Power: Describes station output, including the transmitter, antenna and everything in between, when considering transmitter power and system gains and losses. Essential Services. Gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Essential Services: Facilities for the transmission or distribution of water, gas, electricity or essential communications or for the collection, treatment or disposal of wastes, including without limitation, towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm 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 but not buildings.
Expansion of a Structure: An increase in the footprint or the height or area of a structure, including all extensions such as, but not limited to, attached decks, garages, porches, and greenhouses.

Expansion of Use: The addition of one or more months to a use's operating season; or the use of more footprint of a structure or ground area devoted to a particular use.

Facility Site (for Telecommunications Facility and Towers): The property, or any part thereof, which is owned, or leased by one or more telecommunications providers and upon which one or more telecommunications facilities and required landscaping are located. This includes any lot or location that has met all other criteria required pursuant to the within regulations as a "telecommunications facility", including the requirement that said site is able to provide adequate coverage and adequate capacity to a significant portion of Surry.

Fairway: The navigable waters of a harbor or other Waterway.

Fall Zone (for Telecommunication Facilities and Towers): The area on the ground within a prescribed radius from the base of a wireless communications facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice), collapsing material, or tower.

Family: One or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from a group occupying a tourist home, rooming house, hotel, motel or inn.

FCC: The Federal Communications Commission, the federal government agency responsible for regulating telecommunications in the United States.

FCC 96-326: An FCC Report and Order adopted and released August 1, 1996, ET Docket No. 93-62, in the Matter of Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation.

Filling: Depositing or dumping any matter on or into the ground or water.

Final Plan: The final drawings, on which the applicant's plan of subdivision is presented to the Planning Board for approval and which, if approved, must be recorded at the Registry of Deeds.

Float: Any floating structure, other than a Vessel, normally used as a point of transfer for passengers, fishing gear, or other goods and not designed for self-propelled navigation.

Flood or Flooding:

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event, which results in flooding as defined in paragraph 1(a) of this definition.

Flood Elevation Study: An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM): An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study: See Flood Elevation Study.

Floodplain or Flood-Prone Area: Any land area susceptible to being inundated by water from any source (see definition of "flooding").

Floodplain Management: The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations: zoning Codes, subdivision regulations, building codes, health regulations, special purpose Codes (such as floodplain Code, grading Code, and erosion control Code) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood Proofing: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway: The channel of a river or other water course and the adjacent land areas that must be reserved to allow for the discharge of a 100-year flood without cumulatively increasing the water surface elevation by more than one (1) foot in height.

Floodway Encroachment Lines: The lines marking the limits of floodways on federal, state, and local floodplain maps.

Floor Area: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

Footprint: The entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

Forested Buffer Zone: The front yard area between roads or streets and proposed structures in which 60% of existing vegetation 4 inches or greater in diameter at 4½ feet above the ground shall be maintained in its natural state. Vegetation which poses a safety hazard may be removed as long as the vegetation became unsafe by natural means. Any vegetation which has become unsafe due to excess fill or other means shall require replanting or replacement.

Forested Wetland: A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty [20] feet) or taller.

Forestry: Forestry means services relating to forestry requiring the application of forestry principles and techniques. The services include, but are not limited to, investigations, consultations, timber inventory, development of forest management plans, responsible supervision of forest management, forest utilization, appraisal of severed and unlevered timber, forest economics or other forest activities as carries out in connection with any public or private lands. Forestry does not include services for the physical implementation of cutting, hauling, handling, or processing or forest products or for the physical implementation of timber stand improvements or other silvicultural activities or measuring or scaling activities performed by persons licensed under Title 10, section 2365-A.

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

Freeboard: A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect or urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Freshwater Wetland: Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

(1) Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and

(2) Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

Frontage, Road: The horizontal, straight-line distance between the intersections of the side lot lines with the road right-of-way or the existing tarred or gravel road.

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

Functionally Water Dependent Uses: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish 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 and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters. Recreational boat storage buildings are not considered to be a functionally water dependent use.

Garage: An accessory building, or part of a principal building, including a car port, used primarily for the storage of motor vehicles as an accessory use.

Gasoline Service Station: Any place of business at which gasoline, other motor fuels or motor oil are sold to the public, and put into a motor vehicle on the premises, regardless of any other business on the premises.

GHZ: Gigahertz. A measure of electromagnetic radiation equaling one billion hertz.

Grade of Service (for Telecommunication Facilities and Towers): A measure of the percentage of calls which are able to connect to the base station, during the busiest hour of the day. Grade of service is expressed as a number, such as p.05, which means that 95% of callers will connect on their first try. A lower number (p.04) indicates a better grade of service.

Great Pond: Any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Code, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Great Pond Classified GPA: Any great pond classified GPA, pursuant to 38 M.R.S.A., Article 4- A, Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

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

Hazard Tree: A tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure or loss of a major structural component of the tree in a manner that will strike a target area. A normal range of environmental conditions does not include meteorological anomalies, such as but not limited to hurricanes, hurricane force winds, tornados, micro-bursts, or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to shoreline or bank stability. A target area 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 other developed areas where people frequently gather and linger.

Hazardous Material: Any gaseous, liquid or solid materials, either in pure form or incorporated into other materials, designated as hazardous by the Maine Department of Environmental Protection.

Height of a Structure: The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that has no floor area.

Height of a Tower: The vertical distance from the highest point of the structure, plus any device attached, to the grade before construction.

Hertz: One hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second.

High Intensity Soil Survey: A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that point. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

Historic Structure: Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic Zone or a Zone preliminarily determined by the Secretary of the Interior to qualify as a registered historic Zone;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior, or

(b) Directly by the Secretary of the Interior in states without approved programs.

Home Occupation: An occupation or profession which is carried on in no more than 25% of the ground area of a detached, single-family dwelling unit by the full-time permanent occupant of the dwelling, which is clearly incidental and secondary to the use of the dwelling for residential purposes and which does not change the character thereof. (by way of illustration and not of limitation, the term home occupation shall include making foods such as breads, cookies or preserves, rugs, birdhouses, fishing flies, and quilts). The term "home occupation" shall include both professional and personal services, within the limits on number of employees established in Chapter 3, Unified Development Ordinance - Section III, Performance Standards – General, Section - subsection 8 of this Code. A retail sales outlet does not qualify as a home business unless the item sold is a product of the owner's labor, (e.g. manufactured, produced, created, grown).

Hospital: An institution providing, but not limited to, an acute care health care facility with permanent inpatient beds, planned, organized, operated, and maintained to offer for a continuing period of time facilities and services for the diagnosis and treatment of illness, injury and deformity; with a governing board, and an organized medical staff, offering continuous 24 hour professional nursing care; with a plan to provide emergency treatment 24 hours a day including other services as defined in the "Regulations for Licensure of General and Specialty Hospitals in the State of Maine," as a general hospital, specialty hospital or critical access hospital. For the purpose of this Code, "hospital" does not include nursing home.

Hotel/Motel: A commercial building or group of buildings built to accommodate for a fee travelers and other transient guests who are staying for a limited duration with sleeping rooms without cooking facilities, each rental unit having its own private bathroom and its own separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel may include restaurant facilities where food is prepared and meals served to its guests and other customers.

Hydric Soils: Those soils characterized by the presence of wetland vegetation, hydrology, and to wet soils as defined within the current effective edition of the Federal Manual for

identifying and delineating jurisdictional wetlands and as shown as being part of or adjacent to the hydric soils delineated within the Soil Conservation Services Medium Intensity Soil Survey.

In-Law: One or more persons who are related by blood or marriage.

In-Law Accessory Apartment: An apartment contained or attached to a single family dwelling of accessory structure which meets the requirements of Chapter 3, Unified Development Ordinance – Section III, Performance Standards – General - subsection 13 of this Code.

Increase in Nonconformity of a Structure: Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures

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

Industrial: The assembling, fabrication, finishing, manufacturing, packaging, or processing of goods. This does not include marijuana and / or marijuana products.

Inherently Hazardous Substance (IHS): A liquid chemical, compressed gas, or product that has a flash point at or lower than 38 degrees Celsius or 100 degrees Fahrenheit, including, but not limited to butane, propane, and diethyl either. “Inherently hazardous substance” does not include any form of alcohol or ethanol. As the term is defined in 28-B M.R.S. § 102, as may be amended.

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

Kennel: An establishment, in which more than six (6) dogs or six (6) cats are sold, bred, boarded, or trained.

Level of Service: A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the Highway Capacity Manual, 2016 edition, published by the National Academy of Sciences,

Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

Licensed Carrier: A company authorized by the FCC to construct and operate a wireless communications facility.

Littoral Land Owner: A property owner having rights to land in the coastal zone between the limits of high and low tides.

Locally Established Datum: An elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Location: References to site location as the exact longitude and latitude, to the nearest tenth of a second, with bearing or orientation referenced to true North.

Lodging Place: A building or structure or any part of a building or structure, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are furnished for the public for business purposes. "Lodging Place" includes, but is not limited to, hotels, motels, beds & breakfasts, inns where the owner or managing entity maintains the lodging facility and the structures are located in the same general physical location. "Lodging Place" includes a property under common management where four (4) or more rooms, cottages or condominium units are rented to the public.

Lot: An area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the County Registry of Deeds.

NOTE: "New" Lot: A lot created after June 9, 1992.

Lot Area: The total horizontal 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, Corner: A lot with at least two contiguous sides abutting upon a street or right of way.

Lot, Coverage: The percentage of a lot covered by all buildings or structures including non-vegetated surfaces.

Lot Lines: The lines bounding a lot as defined below.

(1) Front Lot Line: Interior lots: the line separating the lot from a street right-of-way. Corner lot or through lot; the line separating the lot from either street right-

of-way. Where a right-of-way does not exist or cannot be determined the front line shall be the edge of the paved or graveled area of the road.

(2) Rear Lot Line: The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.

(3) Side Lot Line: Any lot line other than the front lot line or rear lot line.

Lot of Record or Non-conforming Lot: A single parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the County Register of Deeds prior to the adoption of applicable requirements that the lot does not conform to.

Lot, Through: Any interior lot having frontages on two more or less parallel streets or rights of way or between a street and a body of water, or a right of way and a body of water, or between two bodies or water, as distinguished from a corner lot. All sides of through lots adjacent to streets, rights of way, and bodies of water shall be considered frontage, and front yards shall be provided as required.

Lot Width: The distance between the side boundaries of the lot measured at the front setback line.

Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Chapter 5, Floodplain Management, Section 6, Development Standards -subsection (L) of this Code.

Major Modification (for Telecommunications Facilities and Towers): With respect to an existing telecommunications facility, any change, or proposed change in power input or output, number of antennas, change in antenna(s) type or model, repositioning of antenna(s), change in number of channels per antenna above the maximum number approved under an existing special permit, or conversion of a single-use facility into a co-location facility. With respect to an existing tower, any increase, or proposed increase in dimensions of an existing and permitted tower or other structure designed to support telecommunications transmission, receiving, and/or relaying antennas, and/or equipment.

Manufactured Home / Mobile Home: Manufactured housing means a structural unit or units designed to be used as a dwelling or dwellings and constructed in a manufacturing facility then transported by the use of its own chassis or placement on an independent chassis to a building site. Manufactured housing includes any type of building that is constructed at a manufacturing facility and that may be purchased, sold, offered for sale, or brokered by a licensee in the interim. Three types of manufactured housing are included. They are:

a) Units constructed after June 15, 1976 that the manufacturer certifies are constructed in compliance with the code adopted by the United States Department of Housing and Urban Development and that are structures, transportable in one or more sections that, in the traveling mode, are 8 body feet or more in width and 40 body feet or more in length or, when erected on site, are 320 or more square feet and are built on a permanent chassis and designed to be used as a dwelling with or without permanent foundations, when connected to the required utilities, including plumbing, heating, air-conditioning and electrical systems within the units; except that "manufactured housing" included any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 United States Code, Section 5401 et seq.;

b) State-certified modular homes, which are those units that the manufacturer certifies are constructed in compliance with the State's laws governing manufactured housing, meaning structures, transportable in one or more sections, that are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems with the units;

c) Units constructed prior to June 15, 1976 that are structures, transportable in one or more sections, that are 8 feet or more in width and are 32 feet or more in length and are built on a permanent chassis and designed to be used as dwellings, with our without permanent foundations, when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems with the units.

Manufactured Home / Mobile Home Park: A parcel of land under unified ownership approved by the municipality for the placement of 3 or more manufactured homes.

Manufactured Home / Mobile Home Subdivision: A parcel of land approved by the town for the placement of three or more manufactured homes on individually owned lots.

Marina: A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities. Marinas shall be limited to those serving predominantly fishing and commercial vessels, providing 50% or fewer slips and/or moorings for non-commercial boats (excepting rowboats and dinghies 20' or smaller).

Market Value: The most probable price (in terms of money) which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: The buyer and seller are typically motivated. Both parties are well informed or well advised, and acting in what they consider their best interests. A reasonable time is allowed for exposure in the open market. Payment is made in

terms of cash in United States dollars or in terms of financial arrangements comparable thereto. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Mean Sea Level: Means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.

MHZ: Megahertz: A measure of electromagnetic radiation equaling one million hertz.

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

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

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

Minor Development: Means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Chapter 5. Floodplain Management, Section 6, Development Standards, -subsection J (Accessory Structures) of this Code, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

Mobile Home: See **Manufactured Home / Mobile Home**

Mobile Home Park: See **Manufactured Home / Mobile Home Park**

Mobile Home Subdivision: See **Manufactured Home / Mobile Home Subdivision**

Monopole: A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal, or a wooden pole with below grade foundations (See Tower).

Mooring: A permanent means of securing a Vessel or Float to the bottom of a mooring area. The owner of a mooring may not trespass on private property to reach his/her mooring.

More Non-Conforming: Any change in a structure or property which causes further deviation from dimensional standards creating the nonconformity; such as, but not limited to, reduction on water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which cause no further increase in the linear extent of the nonconformance of the existing structure shall not be considered to increase the nonconformity. i.e., there is no increase in the nonconformity with the setback requirements for water bodies, wetlands or tributary streams, if the expansion extends no further into the required setback area than any portion of the existing structure. A structure may be expanded laterally, provided that the expansion is no closer to the water body, wetland or tributary stream than the closest portion of the existing structure from that water body or wetland. Included in the allowance are expansions which in-fill irregularly shaped structures.

Mount: The structure or surface upon which antennas are mounted, including the following four types of mounts:

ROOF MOUNTED - on the roof of a building;
SIDE MOUNTED - on the side of a building;
GROUND MOUNTED - on the ground (see Tower);
STRUCTURE MOUNTED – on a structure other than a building.

Mounting: The manner in which a Solar Energy System (SES) or Photovoltaic (PV) system is affixed to a roof or the ground (i.e., roof mount, or ground mount)

Multi-Unit or Multi-Family Residential: A residential structure containing three (3) or more residential dwelling units.

Municipal Engineer: Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.

Municipal Resident: (for the purposes of the Harbors & Waterways Ordinance): Any person who occupies a dwelling in the municipality for more than 180 days per calendar year.

National Geodetic Vertical Datum (NGVD): Means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

Native: Indigenous to the local forests.

Natural Grade: The original topographic elevation of the property as indicated by States Geological Service (USGS) Maps or by survey, prior to any removal, shifting or placement of earth and/or rock by the applicant.

Neighborhood "Convenience" Store: A store of less than 1,500 square feet of floor space intended to service the convenience of a residential neighborhood primarily with the sale of

merchandise, including such items as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items, but not to include "sit-down" dining or "eat-in" foods or take out windows.

Net Development Area: As determined in Chapter 3, Unified Development Ordinance, Section III, Performance Standards – General - subsection 4 of this Code.

Net Residential Acreage: The area of a lot or lots which is useable for determining allowable densities, as set forth in the Net Acreage calculations standard contained in Chapter 3, Unified Development Ordinance, Section III, Performance Standards – General - subsection 4 of this Code .

Net Residential Density: The number of dwelling units per net residential acreage.

New Construction: Structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

Non-Conforming Condition: A non-conforming lot, structure or use which is allowed solely because it was in lawful existence as of June 9, 1992 or prior to the effective date of subsequent amendments to the applicable ordinances.

Non-Conforming Lot: A single lot of record which, as of June 9, 1992 or on the effective date of subsequent amendments to the applicable ordinances, does not meet the criteria for the District or Zone in which it is located.

Non-Conforming Structure: A structure which does not meet any one or more of the following dimensional requirements; setback, height, lot coverage or footprint, but which is allowed solely because it was in lawful existence as of June 9, 1992 or on the effective date of subsequent amendments to the applicable ordinances.

Non-Conforming Use: Use of buildings, structures premises, land or parts thereof which is not allowed in the District or Zone in which it is situated, but which is allowed to remain solely because it was in lawful existence as of June 9, 1992 or on the effective date of subsequent amendments to the applicable ordinances.

Non-Native Species of Vegetation: A species of vegetation listed by the Maine Department of Agriculture, Conservation, and Forestry as being invasive in Maine and not native to Maine ecosystems.

Normal High-Water Line (non-tidal waters): That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water, or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

NOTE: Adjacent to tidal waters, setbacks are measured from the upland edge of the "coastal wetland".

Nursing Home: A privately operated establishment where maintenance and personal or nursing care are provided for persons who are unable to care for themselves.

One-Hundred Year Flood: See Base Flood

Outhaul or Clothesline Mooring: A system with 2 anchors, one on the beach on one in the water connected by a loop of line used to secure a dinghy.

Outlet Stream: Any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

Panel Antenna: A flat surface antenna usually developed in multiples.

Park: "Park" means public property owned by the Town of Surry set aside for the use and enjoyment of the residents of the town and the general public.

Parks and Recreation: Non-commercially operated recreation facilities open to the general public including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, restrooms, bath houses, and the maintenance of such land and facilities. The term shall not include campgrounds, or commercial recreation and amusement centers.

Permitted Use: Uses which are listed as permitted uses in the various Districts or Zones set forth in this Code. The term shall not include prohibited uses.

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

Personal Wireless Services: Commercial mobile services, wireless internet and broadband services, unlicensed wireless services, common carrier wireless exchange access services, cellular services, Personal Communications Systems (PCS), specialized mobile radio services, and paging services.

Personal Wireless Service Facility: All equipment (including repeaters) with which an entity licensed to provide personal wireless services broadcasts and receives the radio-frequency waves which carry their services, and all locations of said equipment or any part thereof. This facility may be sited on one or more towers or structures owned and permitted by another.

Phased Development: A development of land that is under unified control and is planned and developed as a whole in a single development operation of programmed series of development stages. The development often includes a mixture of uses and may include streets, buildings, open space, and other site features.

Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line or Within a Wetland:

(1) Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

(2) Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Planning Board: The Planning Board of the Town of Surry.

Power: The rate at which work is performed (the rate of producing, transferring, or using energy). Power is measured in Watts (W), kilowatts (kW), Megawatts (MW), etc. in Alternating Current (AC).

Preliminary Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

Prime Agricultural Soils: Those soils considered best suited for producing food, feed, forage, fiber, and oilseed crops by the Soil Conservation Services. It has the soil quality,

growing season, and moisture supply needed to produce a sustained high yield of crops while using acceptable farming methods, and as shown or listed as prime agricultural soils on the current medium intensity soil survey published by the Soil Conservation Service.

Principal Structure: A structure other than one that is used for purposes wholly incidental or accessory to the use of another structure or use on the same premises/parcel/lot.

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

Professional Engineer: A professional engineer, registered in the State of Maine.

Property Owner: Any person owning real estate in Surry

Protected Natural Resource: "Protected Natural Resource" means coastal sand dune systems, coastal wetlands, significant wildlife habitat, fragile mountain areas, freshwater wetlands, community public water system primary protection areas, great ponds or rivers, streams or brooks.

Public and Private Schools: Primary and secondary schools, or parochial schools, which satisfy either of the following requirements: the school is not operated for a profit or as a gainful business; or the school teaches courses of study which are sufficient to qualify attendance in compliance with State compulsory education requirements.

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

Public Utility: Any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public.

Qualifying Property (Pace Ordinance): A real property located in the PACE district of the Municipality.

Radial Plots (for Telecommunication Facilities and Towers): Radial plots are the result of drawing equally spaced lines (radials) from the point of an antenna, calculating the expected signal and indicating this graphically on a map. The relative signal strength may be indicated by varying the size or color at each point being studied along the radial; a threshold plot uses a mark to indicate whether that point is strong enough to provide adequate coverage—i.e., the points meeting the threshold of adequate coverage. The drawback is the concentration of points close to the antenna and the divergence of points from the site near the ends of the radials.

Radio Frequency Engineer: An engineer specializing in the design, review, and monitoring of radio frequency technologies.

Recent Flood Plain Soils: The following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles
Fryeburg	Hadley	Limerick
Love well	Medomak	Ondawa
Podunk	Rumney	Saco
Suncook	Sunday	Winoosk

Recording Plan: An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

Recreational Facility: A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

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

Regulatory Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the Base Flood (100-year Flood) without cumulatively increasing the water surface elevation by more than one (1) foot in height.

Renewable Energy Installation: A fixture, product, system, device, or interacting group of devices installed behind the meter at a qualifying property or on a contiguous property under common ownership, that produces energy or heat from renewable sources, including but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems, and other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

Repeater: A small receiver/relay transmitter of not more than 20 watts' output designed to provide service to areas which are not able to receive adequate coverage directly from a base station.

Replacement System: A system intended to replace: 1) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2) any existing overboard wastewater discharge.

Resident: A person who is domiciled in the Town of Surry, Maine.

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.

Responsible Parties: (for Telecommunication Facilities and Towers) The owners, operators, lessees, sub-lessees and licensees of any tower or telecommunication facility granted a permit hereunder or land on which such tower or facility may exist, and their successors, assigns, and general partners. Operators shall include any operator that causes any facility to cease to operate.

Restaurant: An establishment where meals are prepared and served to the public for consumption on the premises entirely within a completely enclosed building; and where no food or beverages are served directly to occupants of motor vehicles or directly to pedestrian traffic from an exterior service opening or counter, or any combination of the foregoing; and where customers are not permitted or encouraged by the design of the physical facilities, by advertising,

or by the servicing or packaging procedures, to take out food or beverage for consumption outside the enclosed building.

Retail Business: A business establishment engaged in the sale, rental, or lease of goods or services to the ultimate consumer for direct use or consumption and not for resale.

Right-of-Way: All public or private roads and streets, state and federal highways, private ways (now called public easements), and public land reservations for the purpose of public access, including utility rights-of-way, but not including driveways.

Riparian Land Owner: Shall mean the owners of land bordering on a river or other body of water.

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

River: A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth. The portion of a river that is subject to tidal action is a coastal wetland.

Riverine: Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Road: An existing State, county, or town way or a street dedicated for public use and shown upon a plan duly approved by the Planning Board and recorded in the County Registry of Deeds or a road dedicated for public use and shown on a plan duly recorded in the County Registry of Deeds prior to the establishment of the Planning Board and the grant to the Planning Board of its power to approve plans. The term shall also include private, undedicated roads which are described in a recorded document excluding driveways, as defined. The term "road" shall not include those ways which have been discontinued or abandoned (see also "Street Classification").

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 irregularly inundated by tidal waters. The predominant species is salt marsh cord grass (*Spartina Aterniflora*). More open areas often support widgeon grass, eelgrass, and sago pondweed.

Salt Meadow: Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cord grass (S*partina Patens*) and black rush; common three-square occurs in fresher areas.

Sapling: A tree species that is less than 2 inches in diameter at 4.5 feet above ground level.

Security Barrier (for Telecommunication Facilities and Towers): A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

School: A public or private education institution formed for educational purposes covering kindergarten through grade 12 or any portion thereof.

Security Barrier (for Telecommunications Facilities and Towers): A locked, impenetrable wall, fence, or berm that completely seals an area from unauthorized entry or trespass.

Seedling: A young tree species that is less than 4.5 feet in height above ground level.

Separation (for Telecommunications Facilities and Towers): The distance between one carrier's array of antennas and another carrier's array.

Septic System: See "Subsurface Sewage Disposal System"

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

(1) in the case of electric service:

(a) the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of- way; and

(b) the total length of the extension is less than one thousand (1,000) feet.

(2) in the case of telephone service:

(a) the extension, regardless of length, will be made by the installation of telephone wires to 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 minimum required horizontal distance from a lot line, or from the centerline of the travel way of a road, or the normal high waterline of a waterbody or, tributary streams, or the upland edge of coastal or freshwater wetlands, to the nearest impervious surface (roads, driveways, parking lots), building or structure, (including porches, steps, decks, and railings) or other regulated object or area.

Shopping Center: Any concentration of two or more retail stores or service establishments under one ownership or management containing 15,000 square feet or more of gross floor space.

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.

Shorefront Owner: The owner of a parcel of land that borders on that area of Surry off which a mooring is being requested.

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

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

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in these regulations as a reference for unobstructed road visibility.

Signal Propagation Studies: Computer generated estimates of the signal emanating, and prediction of coverage, from antennas or repeaters sited on a specific tower or structure. The height above ground, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these simulations. They are the primary tool for determining whether a site will provide Adequate Coverage for the telecommunications facility proposed for the site.

Significant River Segments: See 38 M.R.S.A. section 437. There are NO Significant River Segments located in the Town of Surry.

Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval. May be used by the applicant as the basis for preparing the subdivision plans as part of the application for subdivision approval.

Slope: See 'Sustained Slope'

Solar Array: Multiple solar panels combined together to create one system.

Solar Collector: A solar PV cell, panel, or array, or solar thermal collector device, that relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

Solar Energy System (SES): A system of devices or structural design features, including all related equipment, whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical or chemical means.

Solar Energy System, Ground-Mounted: A solar energy system that is structurally mounted to the ground and is not roof-mounted, and may be of any size as follows:

a. Solar Energy System, Small-Scale: A system with a power generation capacity of up to one hundred (100) kilowatts (hereafter "KW) alternating current (hereafter "AC").

b. Solar Energy System, Medium-Scale: A system with a power generation capacity of between one hundred one (101) KW DC and five hundred (500) KW AC.

c. Solar Energy Systems, Large-Scale: A system with a power generation capacity of greater than five hundred one (501) KW AC.

Solar Energy System, Roof-Mounted: A Solar Energy System that is mounted on the roof of a building or structure and has a power generation capacity of up to one Hundred (100) KW AC.

Special Flood Hazard Area: See Area of Special Flood Hazard.

Stable: Any location where more than three (3) animals of the equine species, horse, pony, donkey or hinny, engage in equine activities. Including but not limited to boarding stables, riding facilities, training, teaching or testing facilities, and hoof care, including but not limited to horseshoeing.

Start of Construction: The date the building permit was issued, provided actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvements or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a mobile home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basements, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State License: Any license, registration, or certification issued by the State Licensing Authority.

Storm-Damaged Tree: A tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

Stream: A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent high resolution version of the National Hydrography Dataset available from the United States Geological Survey (USGS) on the website of the USGS 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.

Street Classifications:

(1) **Arterial Street:** A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial streets:

(a) Route 172
(b) Route 176

(2) **Collector Street:** A street with average daily traffic of 200 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

(3) **Cul-de-sac:** A street with only one outlet and having the other end of the reversal of traffic movement.

(4) I**ndustrial or Commercial Street:** Streets servicing industrial or commercial uses.

(5) **Minor Residential Street:** A street servicing only residential properties and which has an average daily traffic of less than 200 vehicles per day.

(6) **Private Right of Way**: A minor residential street servicing no more than eight dwelling units, which is not intended to be dedicated as a public way.

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 wastewater 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. Setback requirements apply to structures.

Subdivision: The division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

(1) In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of such tract or parcel is considered to create the first 2 lots and the next dividing of

either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

(a) Both divisions are accomplished by a sub-divider who has retained one of the lots for the sub-divider's own use as a single-family residence that has been the sub-divider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or

(b) The division of the tract or parcel is otherwise exempt under this subchapter.

(2) The dividing of a tract or parcel of land and the lot or lots so made, which dividing of lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

(3) A lot of 40 or more acres does not count as a lot for the purposes of this definition.

(4) A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

(5) A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

(6) A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

(7) A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph cannot be given for consideration that is more than ½ the assessed value of the real estate.

(8) A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

(9) A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this

subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection.

(10) The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

(11) In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

(12) Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.

Subdivision, Major: Any subdivision containing more than four lots or any subdivision containing a proposed street.

Subdivision, Minor: Any subdivision containing four lots or less, and in which no street is proposed to be constructed.

Substantial Damage: Damage of any origin sustained by a structure whereby cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, additions, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or:

(2) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantial Start: Completion of 30 percent of a permitted structure or use measured as a percentage of total estimated cost determined by the CEO.

Subsurface Sewage 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 water 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.

Swimming Pool: An outdoor man-made receptacle or excavation designed to hold water to a depth of at least twenty-four (24) inches, primarily for swimming or bathing, whether in ground or above the ground.

Telecommunications Facility: All equipment (including repeaters) with which a tele-communications provider broadcasts and receives radio-frequency waves which carry their services and all locations of said equipment or any part thereof. This facility may be sited on one or more towers or structures owned and permitted by another owner or entity.

Teleport: A facility utilizing satellite dishes of greater than 2.0 meters in diameter designed to uplink to communications satellites for transmitting in the C-Band (4-6) GHz) spectrum.

Testing Protocol: The protocol with which the proposed personal wireless facilities (and, if they are to be co-located, the combination of the proposed and existing facilities) are tested for compliance with limits adopted by the FCC for human exposure to radio frequency electromagnetic fields. The Planning Board may use any such protocol that is based on sound engineering practice, including (a) the Cobbs Protocol, (b) Bulletin 65, or (c) IEEE c95.3-1991, Recommended Practice for the Measurement of Potentially Hazardous Electromagnetic Fields – RF and Microwave.

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

Tiled Coverage Plots: Tiled plots result from calculating the signal at uniformly spaced locations on a rectangular grid, or tile, of the area of concern. Unlike radial plots, tiled plots provide a uniform distribution of points over an area of interest; usually the same grid will be used as different sites are examined, and it is not necessary that the transmitter site be within the grid or area of interest. As with radial plots, the graphic display or plot can be either signal strength or adequate threshold. This method requires substantially more topographic data and longer (computer) execution time than radial plots, but is preferable for comparative analysis.

Tilt: The angle of the solar panels and/or solar collector relative to horizontal. Tilt is often between 5 and 40 degrees. Solar Energy Systems tilt can be manually or automatically adjusted throughout the year. Alternatively, fixed-tilt systems remain at a static tilt year-round.

Tower: A support structure intended to support antennas and associated equipment. This includes:

GUYED TOWER: A monopole tower or lattice tower that is tied to the ground or other surface by diagonal cables.

LATTICE TOWER: A type of mount that is self-supporting with multiple legs and cross bracing of structural steel.

MONOPOLE TOWER: The type of mount that is self-supporting with a single shaft of wood, steel, fiberglass, or concrete, and a platform (or racks) for panel and whip antennas arrayed at the top.

Tract or Parcel of Land: All contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road after September 22,1971.

Tree: A woody perennial plant with a well-defined trunk(s) at least 2 inches in diameter at 4.5 feet above the ground, with a more or less definite crown, and reaching height of at least 10 feet at maturity.

Tributary Stream: A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Code and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

NOTE: Water setback requirements apply to tributary streams within the Shoreland Zone.

Trust (Pace Ordinance): The Efficiency Maine Trust established in 35-A M.R.S.A.§ 10103 and/or its agent(s), if any.

Undue Hardship: As used in this Code, the words “undue hardship” shall mean all of the following:

(1) That the land in question cannot yield a reasonable return unless a variance is granted; and

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

(3) That the granting of a variance will not alter the essential character of the locality; and

(4) That the hardship is not the result of action taken by the applicant or a prior owner. A variance is not justified unless all elements are present in this case.

Upland Edge of a Wetland: The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty [20] feet) tall or taller

Usable Open Space: That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding 10%.

Use: The manner in which land or a structure is arranged, designed or intended, or is occupied.

Utility Service: The generation, transmission and or distribution of electricity, gas, communication, and water; the collection and treatment of sewage and solid waste and the provision of mass transportation.

Vacation Rental: A residential property that is rented for vacation, leisure or recreation purposes for a day, week or month, but not more than 90 days to a person who has a permanent residence to which the person intends to return.

Variance: (for flood plain management purposes only) A grant of relief by a community from the terms of a Floodplain Management regulation.

Vegetation: All live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 ½ feet above ground level.

Velocity Zone: An area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Violation: Any person, including. but not limited to, a landowner; the landowner's agent or a contractor, who violates any of the provisions of this Code may be subject to the enforcement provisions of MRSA Title 30-A. §4452.

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

Water Body: Any great pond, river, or stream.

Water Crossing: Any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland, whether under, though, 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 crossing for timber harvesting equipment and related activities.

Wetland: A freshwater or coastal wetland, meaning those areas that are inundated or saturated by surface or ground water at a frequency and duration to support and, that under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions.

Whip Antenna: Sometimes known as an omni-directional antenna, a thin rod that transmits and receives signals in all directions.

Woody Vegetation: Live trees or woody, non-herbaceous shrubs.

Workshops and Studios - Contractors, Craftsmen, and Artists: An enclosed space, with a maximum of 4 on-site employees, for the housing and/or operating of machinery, the provision of services, the fabrication of art, craft or building-related products, and related interior storage. Total area of all structures shall not exceed 2,000 square feet. This Workshops and Studios land use is intended to serve, by way of illustration and without limitation, owner operated businesses (e.g. electricians, mechanical contractors, plumbers, wood workers, painters, photographers, potters, sculptors, and weavers). Any retail sales at this site shall be limited to items that are predominantly products of the owner's and/or employee's own labor.

Zone: A specified portion of the municipality, delineated on the official zoning map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Code.

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Chapter 3: UNIFIED DEVELOPMENT ORDINANCE

I. LAND USE DISTRICTS, ZONES & REQUIREMENTS:

1. Village (VL) District

Purpose: to provide an area for additional growth within the Town of Surry, while maintaining the traditional character of the existing village; to encourage a variety of single and two family housing and light commercial uses that are compatible with the scale and intensity of uses found in this area; to promote pedestrian travel and street life by encouraging houses, shops, workplaces and public places in close proximity; to support ways which equitably and efficiently serve pedestrians, cyclists and drivers; to minimize visual and functional conflicts between residential and non-residential uses within and abutting the District; and to promote a pattern of development which permits an efficient delivery of municipal services.

Permitted Uses and permit authority are shown on Table 1, Land Use Table (Section II).

Permitted Uses Subject to Site Plan Review (Section IV below):

(1) Commercial uses limited to:

(a) Retail, professional, or personal services shops
(b) Craft shops making articles for retail sale on the premises
(c) Flower and vegetable stands growing or making articles for retail sale on the permitted commercial uses
(d) Mixed use structure containing dwelling units
(e) Bed and breakfast inns
(f) Nursery Schools and daycare centers
(g) Restaurants
(h) Convenience stores with or without gasoline service pumps
(i) Telecommunications facilities and towers attached to an existing structure
(j) Commercial animal breeding or care if carried out as a home occupation

The above uses may attract no more than 200 vehicle trips per day and no more than 50 vehicle trips in one hour.

(2) Public Facilities
(3) Churches

Prohibited Uses:

(1) Industrial uses, wholesale, manufacturing

(2) Uses which attract high volumes of vehicular traffic (any access with more than 200 vehicle trips per day but less than peak hour volume of 50 vehicle trips or greater)

(3) Commercial animal breeding or care unless carried out within the home as a home occupation

(4) Shopping centers

(5) Convenience stores with or without gasoline service pumps are exempt from (2) above and are permitted subject to Site Plan Review

(6) Telecommunications facilities and towers unless attached to an existing structure

Dimensional Requirements per Principal Structure or Dwelling Unit and any other structure as defined in the Definitions (Chapter 2)

(1) Minimum lot size: 40,000 square feet
(2) Minimum road frontage if adjacent to a road: 100 feet.
(3) Minimum yard setback requirements: front (portion of the lot which abuts a road) - 60', side - 15', rear - 25'
(4) Maximum building height: 35 feet
(5) Maximum lot non-vegetated coverage: 20%
(6) Lots and uses proposed in the shoreland zone area shall comply with the shoreland areas dimensional requirements.

Other:

Provided soil conditions are suitable for the proposed use as determined by a qualified soils scientist, an additional 20% lot coverage bonus and lot size reduction may be granted by the Planning Board when provision is made for public access to open space or other special features of the site, when landscape plantings (shade trees and other plant materials in accordance with section IV, Site Plan Review Standards - subsection 16 (Landscaping) are provided along street frontage occupied by the proposed use in the Village District, and when building designs are in keeping with the predominant architectural features of a traditional village. For Village district projects, adequate parking and vegetative buffers are required. Parking must be provided in accordance with applicable standards for new commercial uses.

Horticultural or agricultural uses are limited to 60% lot coverage.

Cluster developments are encouraged on the best soil types for any given lot within this District, in accordance with the provisions of Section IV, Site Plan Review Standards below.

Multi-family dwelling unit designs shall include specific specifications regarding adequate off-street parking, vegetative buffering from abutting properties, and adequate provisions for water supply and sewerage disposal. These dwellings may be created from existing buildings.

2. Roadside Commercial (RC) District

Purpose: to provide an area within the community which is conveniently located with respect to transportation and municipal services, and where other conditions are favorable to the development of business; and at the same time, carefully planned to avoid traffic congestion and other problems from over development along roadways and to prevent undesirable conflicts with residential uses. To provide space for more intensive commercial uses that are not compatible in the Village area and that require large areas of land, high levels of traffic, and/or access to major roadways.

Permitted Uses and permit authority are shown on Table 1, Land Use Table (Section II).

Prohibited Uses:

(1) Heavy industry: processing, manufacturing, compounding, treatment assembly or other
(2) Junkyards, salvage operations, automobile graveyards;
(3) Storage of explosives, hazardous wastes and/or poisonous gases or known toxic materials, in amounts beyond immediate needs; (immediate needs - small quantities of substances used in day to day operations)
(4) Bulk oil and fuel storage tanks, except those allowed as part of the operation of a permitted use;
(5) Animal and fish processing, packaging/storage operations.
(6) Trucking distribution terminal
(7) Industrial Uses
(8) Residential single family, detached dwelling units at a density of more than one dwelling unit per five acres.

Dimensional Requirements per Principal Structure or Dwelling Unit and any other structure as defined in the Definitions section (Chapter 2):

(1) Minimum Lot size: 1 acre
(2) Minimum road frontage if adjacent to a road: 200 feet.
(3) Minimum Setbacks: front yard - 60', side yard - 10', rear yard - 10'
(4) Maximum Building Height: 35 feet
(5) Maximum Lot coverage: 50%

Other:

(1) The Town recognizes that regulating the maximum number of curb cuts relative to the length of available highway frontage limits the number of conflict areas and provides turning drivers more time and distance to execute their maneuvers. The result is not only a reduction in the frequency of conflicts, but also the severity of conflicts is decreased because deceleration requirements are lessened. Therefore, the number of new curb cuts per mile of highway in this district is generally limited to one per lot of record at the time of enactment of this Code.

Additional curb cuts may be allowed, but no more than one additional per mile, and only upon Planning Board review under the provisions of Section V (Performance Standards for Subdivisions) – subsection 4 (Traffic).

(2) Parking areas shall be designed and landscaped, in accordance with Section IV (Site Plan Review Standards) - subsection 16 (Landscaping), and so as to fit harmoniously within the landscape. In meeting this requirement, applicants are encouraged to build small areas devoted to parking, which are located to the side or rear of proposed structures in relation to abutting roads and are separated by appropriate landscaping to avoid building large parking areas along the highway.

(3) Signs. See Section IV, Site Plan Review Standards -subsection D, Summary – sub-subsection 5 (Signs).

3. Residential Growth (RG) District

Purpose: to provide an area within the Town of Surry for moderate density residential uses.

Permitted Uses and permit authority are shown on Table 1, Land Use Table, (Section II).

Permitted Uses Subject to Site Plan Review:

(1) Multi-family dwellings (limited to 4 units)
(2) Day care centers
(3) Neighborhood convenience stores

Dimensional Requirements per Principal Structure or Dwelling Unit and any other structure as defined in the Definitions section (Chapter 2):

(1) Minimum lot size: one acre
(2) Minimum road frontage if adjacent to a road: 150 feet.
(3) Minimum setbacks: front yard - 60', side yard - 15', rear yard - 15'
(4) Maximum building height: 35 feet
(5) Maximum coverage by structure: 25%
(6) Residential Growth District roads and/or driveways that are dead ends will be allowed up to 1,500 feet in length.

Other:

(1) If a project in this District is a cluster subdivision the minimum lot size and minimum lot area per dwelling unit may be reduced by twenty-five percent (25%) if public access is provided to areas designated by the Town as having open space or natural resource value.

(2) Cluster development is encouraged on the best soil types within this District, in accordance with Section IV, Site Plan Review Standards.

(3) Multi-family dwelling unit designs shall include specific specifications regarding adequate off-street parking, vegetative buffering from abutting properties, and adequate provisions for water supply and sewerage disposal. These dwellings may be created from existing buildings.

4. Rural (RU) District

Purpose: To allow limited development while protecting natural resources and the character of rural areas.

Permitted Uses and permit authority are shown on Table 1, Land Use Table, this section.

Dimensional Requirements per Principal Structure or Dwelling Unit and any other structure as defined in the Definitions section (Chapter 2):

(1) Minimum lot size: 87,120 sq feet of net development areas as determined in Section III, Performance Standards – General - subsection 4.
(2) Minimum road frontage if adjacent to a road: 200 feet.
(3) Minimum setbacks:
    1. Front yard - 60 feet
    2. Side yards - 10 feet
    3. Rear yard - 10 feet
(4) Maximum building height: 35 feet
(5) Maximum lot coverage: 20%
(6) Rural District roads and/or driveways that are dead ends will be allowed up to 1,500 feet in length.

5. Roadside Residential (RR) District

Purpose: to accommodate residential development. The current uses allowed in the Rural District in the Land Use Table will be allowed in this district. Minimum lot size is 40,000 square feet. Roadside Residential District roads and/or driveways that are dead ends will be allowed up to 1,500 feet in length.

Permitted Uses and permit authority are shown on Table 1, Land Use Table (Section II).

Dimensional Requirements per Principal Structure or Dwelling Unit and any other structure as defined in the Definitions section (Chapter 2):

(1) Minimum lot size: 40,000 sq feet of net development areas as determined in Section III, Performance Standards – General - subsection 4.
(2) Minimum road frontage if adjacent to a road: 150 feet.
(3) Minimum setbacks:
    1. Front yard - 60 feet
    2. Side yards - 10 feet
    3. Rear yard - 10 feet
(4) Maximum building height: 35 feet
(5) Maximum lot coverage: 20%
(6) Roadside Residential roads and/or driveways that are dead ends will be allowed up to 1,500 feet in length.

6. Stream Protection (SP) Zone -See current Town of Surry Official Zoning Map.

Purpose: to provide a minimal protective buffer area of 75 feet in order to control water quality of the streams and/or their receiving water bodies or wetlands, and to enhance the recreational and economic value of these areas.

Refer to Chapter 4 for further clarification.

Permitted Uses and permit authority are shown on Table 1, Land Use Table (Section II).

Prohibited Uses: See the Land Use Table

7. Resource Protection (RP) Zone -See current Town of Surry Official Zoning Map.

Purpose: to further the maintenance of safe and healthful conditions and the general welfare; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; control building sites, placement of structures and land uses; and conserve shore cover, visual as well as actual points of access to inland waters, and natural beauty.

Permitted Uses and permit authority are shown on Table 1, Land Use Table (Section II).

Prohibited Uses: See the Land Use Table.

8. Limited Residential (LR) Zone – See current Town of Surry Official Zoning Map.

The Limited Residential Zone includes shoreland areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection Zone, or Stream Protection Zone, and which are used less intensively than those in the other Land Use Districts.

Permitted Uses and permit authority are shown on Table 1, Land Use Table (Section II).

9. Commercial Fisheries / Maritime Activities (CF/MA) Zone – See current Town of Surry Official Zoning Map.

The Commercial Fisheries/Maritime Activities Zone includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Land Use Table and other areas which are suitable for functionally water- dependent uses, taking into consideration such factors as:

(1) Shelter from prevailing winds and waves;

(2) Slope of the land within 250 feet, horizontal distance, of the shoreline;

(3) Depth of the water within 150 feet, horizontal distance, of the shoreline;

(4) Available support facilities including utilities and transportation facilities;

(5) Compatibility with adjacent upland uses.

Marina Uses – In order to assure adequate opportunities for the development of commercial marinas, these uses will continue to be allowed in shoreland areas not designated Resource Protection or Stream Protection. To minimize conflicts with abutting residential uses, adequate off street parking and vegetative buffers, as determined through the Site Plan Review process, will be required. In addition, marina uses will be required to meet noise, light, and related nuisance standards. All shoreland zones and standards remain in effect for these areas.

II. LAND USE TABLES

A. Land Use Table 1:

Key to Land Use Table 1

All land uses activities, as indicated in Table 1, Land Use Table, shall conform with all of the ***applicable*** land use standards in this Code and any other applicable state or federal laws and regulations. The district designation for a particular site shall be determined from the Official Zoning Map.

Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)
No - Prohibited
PB - Allowed with permit issued by the Planning Board.
CEO - Allowed with permit issued by the Code Enforcement Officer
LPI - Allowed with permit issued by the Local Plumbing Inspector

Land Use Districts:

VL 1. Village
RC 2. Roadside Commercial
RG 3. Residential Growth
RU 4. Rural
RR 5. Roadside Residential

Shoreland Zones:

SP Stream Protection
RP Resource Protection
LR Limited Residential District
CFMA Commercial Fisheries / Maritime Activities

TABLE 1. LAND USE TABLE

LAND USES (See ENDNOTE 1 Below)	LAND USE DISTRICTS					SHORELAND ZONES (See ENDNOTE 2 Below)			
	VL	RC	RG	RU	RR	SP	RP	LR	CFMA
PRINCIPAL USES AND STRUCTURES:									
1. COMMERCIAL	PB [15]	PB [13]	NO [16]	NO	PB [19]	NO	NO [10]	NO [10]	PB [5]
2. DEMOLITION of Principal Structures	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
3. FACILITIES – (small non-residential) for educational, scientific, or nature interpretation purposes	CEO	CEO	CEO	CEO	CEO	PB [4]	PB	CEO	PB [5]
4. GOVERNMENTAL and INSTITUTIONAL Facilities and Uses	PB [15]	PB [13]	NO	NO	CEO	NO	NO	PB	PB [5]
5. INDUSTRIAL	NO	PB [13]	NO	NO	NO	NO	NO	NO	PB [5]
6. RESIDENTIAL - One and two family residential, including driveways	CEO	CEO	CEO	CEO	CEO	PB [4]	PB [9]	PB	NO
7. RESIDENTIAL - Multi-unit residential	PB	PB [13]	PB	NO	NO	NO	NO	NO	NO
OTHER SPECIFIC USES AND STRUCTURES:									
8. Accessory structures and uses that are subordinate to principal uses	CEO	CEO	CEO	CEO	CEO	PB [4]	PB [4]	CEO	CEO
9. Accessory Dwelling Units	CEO	CEO	CEO	CEO	CEO	NO	NO	PB	PB
10. Agriculture	YES	YES	YES	YES	CEO	PB	PB	PB	PB
11. Aquaculture (excluding uses covered in 39. below)	PB	N/A	PB	PB	PB	PB	PB	PB	PB
12. Automobile Junkyards, Salvage Operations and Graveyards (except hobbyists - see footnote [20])	NO	NO	NO	NO	NO	NO	NO	NO	NO
13. Automobile Service and/or Repair Facilities	PB	PB [13]	NO	NO	PB	NO	NO	NO	NO
14. Automobile/Recreational Vehicle Sales Lots	PB	PB [13]	NO	NO	PB	NO [10]	NO [10]	NO [10]	NO [10]
15. Bed and Breakfast Inns up to 7 guest rooms	CEO	CEO	CEO	CEO	CEO	NO	NO	CEO	NO
16. Bed and Breakfast Inns above 7 guest rooms	PB	PB [13]	PB	PB	PB	NO	NO	PB	NO
17. Campgrounds	NO	PB [13]	NO	PB [13]	PB [13]	NO	NO	PB [13]	NO
18. Cemeteries	PB	PB [13]	PB	PB [13]	PB [13]	NO	NO	NO	NO
19. Churches	PB [13]	PB [13]	PB [13]	PB [13]	PB [13]	NO	NO	PB [13]	NO
20. Clearing or removal of vegetation for ***approved construction*** other than timber harvesting	YES	YES	YES	YES	YES	CEO [1]	CEO [1]	YES	YES
21. Clearing of vegetation	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
22. Conference Centers	PB [13]	PB [13]	PB [13]	NO	PB [13]	NO	NO	NO	NO
23. Community Living Arrangements	PB	PB [13]	PB	PB	PB	NO	NO	PB	NO
24. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI	NO	NO	LPI	NO
25. Day Care Facilities	PB	PB [13]	PB	PB	PB	NO	NO	PB	NO
26. Emergency Operations	YES	YES	YES	YES	YES	YES	YES	YES	YES

LAND USES (See ENDNOTE 1 Below)	LAND USE DISTRICTS					SHORELAND ZONES (See ENDNOTE 2 Below)			
	VL	RC	RG	RU	RR	SP	RP	LR	CFMA
27. Essential Services									
27-a. – Roadside Distribution Lines (34.5 kV and lower)	YES [2]	YES [2]	YES [2]	YES [2]	YES [2]	CEO [6]	CEO [6]	YES [2]	YES [2]
27-b. – Non-roadside or cross country distribution lines involving ten poles or less in the Shoreland Zones						PB [6]	PB [6]	PB	PB
27-c. – Non-roadside cross country distribution lines involving eleven or more poles in the Shoreland Zones						PB [6]	PB [6]	PB	PB
27-d.– Other Essential Services	PB	PB [13]	PB	PB	PB	PB [6]	PB [6]	PB	PB
28. Filling and Earth moving <10 cubic yards	YES	YES	YES	YES	YES	CEO	CEO	YES	YES
29. Filling and Earth moving >10 cubic yards	CEO	CEO	CEO	CEO	CEO	PB	PB	CEO	CEO
30. Fire Prevention Activities	YES	YES	YES	YES	YES	YES	YES	YES	YES
31. Forest Management Activities including Timber Harvesting (See Footnote [24])	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
32. Fraternal Order and Service Clubs	PB	PB [13]	PB	PB	PB [13]	NO	NO	PB	NO
33. Funeral Parlors	PB	PB [13]	PB	NO	PB [13]	NO	NO	NO	NO
34. Home Occupations	CEO	CEO	CEO	CEO	CEO	PB	PB	PB	CEO
35. Hospitals and Medical Clinics	PB [13]	PB [13]	PB [13]	PB [13]	PB [13]	NO	NO	PB [13]	NO
36. Hotels and Motels	PB [13]	PB [13]	PB [13]	NO	PB [13]	NO	NO	NO	NO
37. Individual, Private Campsites	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
38. Kennels and Stables - Commercial	PB [21]	PB [13,21]	CEO [21]	CEO [21]	CEO [21]	PB [13,21]	NO [21]	PB [13,21]	NO [21]
39. Land Based Fish Farms or Hatcheries and Aquaculture Activities (see footnote [22])	PB [13,22]	PB [13,22]	NO	PB [13,22]	PB [13,22]	PB [13,22]	NO	PB [13,22]	PB [13,22]
40. Land Management Roads (See Footnote [24])	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
41. Land Subdivisions – Major	PB	PB	PB	PB	PB	NO	NO	PB	NO
42. Land Subdivisions – Minor	PB	PB	PB	PB	PB	NO	NO	PB	NO
43. Laundry and/or Dry Cleaning	PB	PB [13]	NO [3]	NO [3]	NO [3]	NO [3]	NO [3]	NO [3]	NO [3]
44. Lots not otherwise subject to Planning Board review through Subdivision or Site Plan Review	CEO	CEO	CEO	CEO	CEO	PB	PB	PB	PB
45. Marijuana Businesses									
45-a. – Adult Use Marijuana Dispensaries	NO	NO	NO	NO	NO	NO	NO	NO	NO
45-b. – Home-Based Medical Marijuana Caregivers	CEO [12]	CEO [12]	CEO [12]	CEO [12]	CEO [12]	NO	NO	CEO [12]	NO
45-c. – Medical Marijuana Dispensaries	NO	NO	NO	NO	NO	NO	NO	NO	NO
45-d. – Marijuana Testing Facilities	NO	NO	NO	NO	NO	NO	NO	NO	NO
45-e. – Marijuana Cultivation Facilities	NO	NO	NO	NO	NO	NO	NO	NO	NO
45-f. – Marijuana Manufacturing Facilities	NO	NO	NO	NO	NO	NO	NO	NO	NO
46. Marinas	PB	N/A	NO	PB	PB	NO	NO	PB [13]	PB [13]
47. Mineral Exploration [14]	YES [2]	YES [2]	YES [2]	YES [2]	YES [2]	NO	NO	YES [2]	YES [2]

LAND USES (See ENDNOTE 1 Below)	LAND USE DISTRICTS					SHORELAND ZONES (See ENDNOTE 2 Below)			
	VL	RC	RG	RU	RR	SP	RP	LR	CFMA
48. Mineral Extraction including sand & gravel extraction [14]	PB [13]	PB [13]	PB [13]	PB [13]	PB [13]	NO	NO	PB [13]	PB [13]
49. Mobile Home / Manufactured Home Parks	NO	NO	PB [13]	NO	NO	NO	NO	NO	NO
50. Mobile Home / Manufactured Park Subdivisions	NO	NO	PB [13]	NO	NO	NO	NO	NO	NO
51. Motorized vehicular traffic on existing roads and trails, and snowmobiling with permission of land-owner	YES	YES	YES	YES	YES	YES	YES	YES	YES
52. Museums	PB [13]	PB [13]	PB	NO	NO	NO	NO	PB	PB
53. Nursing Homes and Congregate Housing	PB	PB [13]	PB	PB	PB	NO	NO	PB	NO
54. Parking Facilities	PB	PB [13]	PB	PB	NO	NO	NO [7]	PB	PB [5]
55-a. Piers, Docks, Wharfs, Bridges, and other Structures; Uses extending over or below the normal high water line or within a wetland - TEMPORARY	CEO	N/A	N/A	CEO	CEO	CEO [11]	CEO [11]	CEO [11]	CEO [11]
55-b. Piers, Docks, Wharfs, Bridges, and other Structures; Uses extending over or below the normal high water line or within a wetland - PERMANENT	PB	N/A	N/A	PB	PB	PB	PB	PB	PB [5]
56. Private Sewage Disposal Systems for allowed uses	LPI	LPI	LPI	LPI	LPI	LPI	LPI [18]	LPI	LPI
57. Recreational areas involving minimal structural development – Public and Private	CEO	CEO	NO	PB [13]	PB [13]	PB	PB	PB	CEO [5]
58. Recreational uses not requiring structures, such as Hunting, fishing, and hiking (Non-intensive uses)	YES	YES	YES	YES	YES	YES	YES	YES	YES
59. Research and Development Facilities	PB	PB [13]	PB	NO	NO	NO	NO	PB	PB
60. Restaurants	PB [13]	PB [13]	NO	NO	NO	NO	NO	NO [17]	NO
61. Road, Roadway and Driveway Construction	CEO	CEO	CEO	CEO	CEO	PB	NO [8]	PB	PB [5]
62. Schools – Public and Private	PB	PB [13]	PB	NO	NO	NO	NO	PB	NO
63. Service drops, as defined, to allowed uses	YES	YES	YES	YES	YES	YES	YES	YES	YES
64. Signs	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
65. Soil and Water Conservation practices	YES	YES	YES	YES	YES	YES	YES	YES	YES
66. Structural Subdivisions	PB	PB [13]	PB	PB	NO	NO	NO	PB	NO
67. Summer Camps	PB	PB [13]	PB [13]	PB [13]	PB [13]	NO	NO	PB [13]	PB [13]
68. Surveying and Resource Analysis	YES	YES	YES	YES	YES	YES	YES	YES	YES
69. Telecommunications Facilities & Towers (footnote [23])	NO [23]	PB [13]	PB	PB	PB [13]	NO [23]	NO [23]	NO	PB
70. Timber Harvesting – (see footnote [24])	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
71. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
72. Uses similar to uses requiring a PB approval	PB	PB	PB	PB	PB	PB	PB	PB	PB
73. Wildlife Management Practices	YES	YES	YES	YES	YES	YES	YES	YES	YES
74. Workshops and Studios – Contractors, Craftsmen & Artists (see Definition- Chapter 2)	YES	YES	YES	PB	YES	NO	NO	PB	NO

LANDUSE TABLE FOOTNOTES & ENDNOTES

[1] In Stream Protection (SP) and Resource Protection (RP) - not allowed within 75 feet horizontal distance, of the normal high water line of rivers, streams and great ponds except to remove safety hazards.

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

[3] A home based laundry business, not having more than 2 employees would be allowed in any District or Zone. Laundramats and Dry Cleaners are not allowed except in Roadside Commercial (RC) and Village (VL) Districts.

[4] Provided that a variance from the Setback requirement is obtained from the Board of Appeals. Note: Acessory Dwelling Units are prohibited in Stream Protection (SP) and Resource Protection (RP) zones.

[5] Functionally water-dependent uses and uses accessory to such water dependent uses only.

[6] The installation of Essential Services, other than road-side distribution lines is not allowed in a Resource Protection (RP) or Stream Protection (SP) Zone, except to provide services to a permitted use within said Zone or District, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located as to minimize any adverse impacts on surrounding uses and resources, including visual appeals.

[7] Except when area is zoned for Resource Protection (RP) due to Flood Plain criteria, in which case a permit is required from the Planning Board.

[8] Except to provide access to permitted uses within the District or Zone, or where no reasonable alternative route or location is available outside the Resource Protection (RP) area, in which case a permit is required from the Planning Board.

> Chapter 4, Shoreland Zoning Ordiance, Section 8, subsection H, Roads and Driveways: “(4) New roads and driveways are prohibited in a Resource Protection Zone except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the Zone. A road or driveway may also be approved by the Planning Board in a Resource Protection Zone, upon a finding that no reasonable alternative route or location is available outside the Zone. When a road or driveway is permitted in a Resource Protection Zone the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.”

[9] Single family residential structures may be allowed by Special Exception only according to the provisions of Chapter 1, General Provisions, Purposes & Administration, Section III (General Administration) - subsection 8. Two-family residential structures are prohibited.

[10] Except for Commercial uses otherwise listed in this Land Use Table such as Marinas and Campgrounds that are allowed in the respective zone or district.

[11] For temporary bridges and other crossings not involving earthwork, no permit is required.

[12] There is to be no cultivation of Marijuana within 150 feet of any Protected Natural Resources.

[13] Subject to Site Plan Review. See specific prohibited commercial and individual uses for this Zone or District in Chapter 3, Unified Development Ordinance, Section I (Land Use Districts, Zones and Requirements).

[14] Refer to Chapter 4, Shoreland Zoning Ordinance, Section 8 (Land Use Standards) - subsection M, Mineral Exploration and Extraction.

[15] See specific permitted and prohibited Commercial, Governmental and Institutional uses for this Zone or District in Chapter 3, Unified Development Ordinance, Section I (Land Use Districts, Zones and Requirements).

[16] Day Care Centers and Neighborhood Convenience Stores are permitted subject to Site Plan Review.

[17] Except that Restaurants shall be permitted where the Limited Residential (LR) Zone overlays within the Village (VL) District with approval by the Planning Board subject to Site Plan Review.

[18] Private Sewage Disposal Systems permitted only with allowed single-family dwellings.

[19] Commercial Uses are prohibited in the Roadside Residential (RR) District except for those specifically detailed in Land Use Table 1. with CEO or Planning Board Approval. The following additional Commercial Uses only shall also be permitted in this District subject to Site Plan Review: Offices, Convenience Stores (without the sale of gasoline), and Nurseries and Greenhouses.

[20] Except an area used by automobile hobbyist to store, organize, restore, or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods, or parts of these vehicles shall be permitted as defined by M.R.S.A. Title 30-A, Part 2, Subpart 6, Chapter 183 section 3752 1.A. (2).

[21] Except that non-Commercial Kennels with up to 6 animals and Stables with up to 3 equines shall be permitted in these Land Use Districts as Accessory Uses or Structures

[22] Except this Land Use category is intended to permit lobstering and fishing gear for individual use without Planning Board approval in all Land Use Districts and Shoreland Zones.

[23] See Chapter 3, Unified Development Ordinance – Section VII (Special Permit Standards for Telecommunications Facilities & Towers) – subsection 2, Exemptions and Disallowances. Telecommunication and towers are prohibited within the Village, Resource Protection and Stream Protection Districts unless attached to an existing structure.

[24] Maine Forest Service will be responsible for enforcement of the rules for all Timber Harvesting and related activities.

ENDNOTE 1: For any proposed activity or use not specifically listed in the Land Use Table, the CEO will determine the permissibility and the permitting authority for such an activity or use, using the existing table for guidance.

ENDNOTE 2: A Person performing any of the following activities in the Shoreland Zone shall require a permit from the Department of Environmental Protection pursuant to Title 38 M.R.S.A., Section 480-C, if the activity occurs in, on, over or adjacent to any freshwater, coastal wetland, great pond, river, stream, or brook and operates in such a manner that material or soil may be washed into them:

A. Dredging, bulldozing, removing, or displacing soil, sand, vegetation, or other materials;
B. Draining or otherwise dewatering;
C. Filling, including adding sand or other materials to a sand dune; or
D. Any construction or alteration of any permanent structure.

NOTE: See also Chapter 1, General Provisions, Purposes & Administration, Section III (General Administration) - subsection 6 (Permit Application) – sub-subsection G.

B. Land Use Table 2: UDO Dimensional Requirements

Table 2. UDO DIMENSIONAL REQUIREMENTS

Town of Surry. Maine

	Land Use Districts					Shoreland Zones			
	VL	RC	RG	RU	RR	SP	RP	LR	CFMA
Minimum Lot: **AREA** (sq. feet)	40,000	43,560	43,560	87,120	40,000	87,120	87,120	87,120	87,120
Minimum Lot: **FRONTAGE** (feet)	100	200	150	200	150	200	200	200	200
Minimum Setback: **FRONT / ROAD** (feet)	60	60	60	60	60	60	60	60	60
Minimum Setback: **SIDE** (feet)	15	10	15	10	10	< Refer to Underlying District >			
Minimum Setback: **REAR** (feet)	25	10	15	10	10	< Refer to Underlying District >			
Maximum Building: **HEIGHT** (feet)	35	35	35	35	35	35	35	35	35
Maximum Lot: **COVERAGE** (%)	20	50	25	20	20	< Refer to Underlying District >			70
Maximum Road: **LENGTH** (feet)			1,500	1,500	1,500	< Refer to Underlying District >			
Minimum Setback: **HIGH WATER** (feet)						75	250	*100/75	N/A
Residential - **TIDAL and NON-TIDAL:**									
Minimum **SHORE FRONTAGE** (feet) Per Dwelling Unit						200	200	200	200
Non-Residential Uses - **TIDAL:**									
Minimum **SHORE FRONTAGE** (feet) Per Principal Structure						200	200	200	200
Non-Residential Uses - **NON-TIDAL:**									
Minimum **SHORE FRONTAGE** (feet) Per Principal Structure						300	300	300	300

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*NOTE: All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from he normal high water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

III. PERFORMANCE STANDARDS - GENERAL

1. Access to Property

Public or Private Road Access - Each property proposed for development shall be provided with vehicular access to the property by abutting public or private ways or roads. Private vehicular rights-of-way not associated with subdivisions shall be protected by permanent easements and be at least 33 feet wide.

2. Driveways

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

B. Driveways for Single and Two-Family Dwellings - Driveways, roads, rights-of- way, or other means of access from single and two-family dwellings to public or private ways or roads shall not have an average slope in excess of eight percent (8%) within fifty (50) feet of the point of intersection. The angle of intersection between the access road and the way shall not be less than sixty degrees (60), nor exceed one hundred twenty degrees (120). Travel ways shall have a minimum width of twelve (12) feet.

C. Driveways for Other Uses - The following criteria shall be followed for driveways to any use other than single and two-family dwellings:

(1) No access drive or driveway or other means of ingress and egress shall be located in any residential district to provide access to uses other than

(a) those permitted in such residential district, and

(b) uses which legally existed prior to the effective date of the Code.

(2) The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated to be attracted daily onto the land development for which a site plan is prepared. Provisions shall be made for convenient and safe emergency vehicle access to all buildings and structures at all times. Travel ways shall have a minimum width of twelve (12) feet.

D. Sight Distances - Any exit driveway or driveway lane shall be so designed in profile and grading and so located as to provide the following minimum sight distance measured in each direction of egress and access. The measurements shall be from the driver's seat of a vehicle standing on that portion of the exit or entrance driveway with the front of the vehicle

being a minimum of ten (10) feet behind the curb line or edge of the existing shoulder, with the height of the eye three and fifty hundredths (3.5) feet to the top of an object four and twenty-five hundredths (4.25) feet above the pavement.

Allowable Speed (miles per hour)	Required Sight Distance (feet)
25	250
30	300
40	400
45	450
50	500
55	550

E. Driveway Entrance Near Intersecting Roads. Where a site occupies a corner of two (2) intersecting roads, no driveway entrance or exit shall be located within fifty (50) feet of the point of tangency of the existing or proposed curb radius of that site.

F. Driveway Setback From Side Property Lines. No part of any driveway shall be located within ten (10) feet of a side property line. However, the appropriate authority may permit a driveway serving two (2) or more adjacent sites to be located on or within ten (10) feet of a side property line between the adjacent sites.

G. Two-Way Driveways. Where two (2) or more two-way driveways connect a single site to any one (1) road, a minimum clear distance of one hundred (100) feet measured along the right-of-way line shall separate the closest edges of any two (2) such driveways. If one driveway is two-way and one is a one-way driveway, the minimum distance shall be seventy-five (75) feet.

H. Angles. Two-way operation. Driveways used for two-way operation shall intersect the road at an angle of as near ninety degrees (90) as site conditions will permit and in no case less than sixty degrees (60) or more than 120 degrees.

I. Driveway Culverts: If the permitting authority determines that a culvert is necessary for the driveway entrance, he or she shall state on the permit the necessary size (diameter and length) and type of (Material and gauge) culvert for the entrance in question. The landowner shall at the landowner's expense provide and install the initial culvert, to the satisfaction of the permitting authority. The municipality shall be responsible for the maintenance, repair and replacement of the culvert thereafter only on driveways intersecting public roads

J. Driveway Culvert Standards: Driveway entrance culverts shall be no less than 15 inches in diameter nor less than 30 feet in length. They shall be made of galvanized steel, aluminized steel or any other material acceptable to the Maine Department of Transportation. The culverts shall be installed to the satisfaction of the permitting authority, in accordance with generally accepted installation standards in the Maine Department of Transportation recommendations. The permitting authority may also require that the driveway surface be crowned or otherwise shaped to direct the flow of run off toward the ditch and away from the travel way of the public road.

3. Explosive Materials

No flammable or explosive liquids, solids or gases shall be stored in bulk (more than 500 gallons) above ground unless they are located at least 75 feet from any lot line, or 40 feet for underground storage, and all materials shall be stored in a manner and location which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

4. Net Development Acreage Calculation for New Lots

The net acreage shall be used to determine lot size for lots created on or after June 9, 1992, and shall be calculated by taking the total area of the lot and subtracting, in order, the following:

A. Portions of the lot which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the lot, as determined by the Planning Board.

B. Portions of the lot shown to be in a floodway or a coastal high hazard zone as designated on the Flood Insurance Rate Map prepared by the Federal Insurance Administration.

C. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:

(1) Slopes greater than 20%

(2) Hydric soils as defined in this Code

(3) 50% of the poorly drained soils unless the applicant can demonstrate specific engineering techniques to overcome the limitations to the satisfaction of the Planning Board.

D. Portions of the lot subject to rights of way.

E. Portions of the lot located in the resource protection zone.

F. Portions of the lot covered by surface waters.

G. Portions of the lot utilized for storm water management facilities.

H. Portions of the lot which contain prime farmland as defined.

5. Sanitary Provisions

A. When not serviced by a public sewerage system, the approval of building permit applications shall be subject to presentation of a completed Maine Department of Human Services Bureau of Health Engineering site evaluation form (HHE-200) which evidences adequate soil conditions for subsurface wastewater disposal.

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

6. Storage of Materials

All materials stored outdoors shall be stored in such a manner as to prevent the breeding and harboring of insects, rats or other vermin. This shall be accomplished by enclosures in containers, raising materials above ground, separation of material, prevention of stagnant water, extermination procedures or other means.

7. Water Quality Protection

No materials of any kind shall be permanently or temporarily placed or deposited directly into or in the flood plains of any river or stream, lake, pond or tidal waters or on the ice thereof where such material may fall or otherwise find its way into said water courses or tidal waters, nor shall such material be placed or deposited directly in pits, wells or on the ground surface except in conformity with applicable local, state, and federal laws.

8. Home Occupations

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

B. A home occupation shall be carried on by permanent residents of the dwelling unit, with not more than two employees who are not residents of the dwelling unit.

C. One non-illuminated sign, no larger than eight square feet may be erected on the premises.

D. The sale of products shall be limited to those which are crafted, assembled, or substantially altered on the premises; to catalog items ordered off the premises by customers; and to items which are accessory and incidental to a service which is provided on the premises.

Garage sales and similar temporary activities conducted no more than twice per year shall not be considered a Home Occupation.

9. Signs

A. For residential uses only the following signs shall be permitted:

(1) Signs are permitted and may be used to convey the inhabitants' names, the property name, and safety and caution messages. Such signs shall not be placed on the roof of the building and shall be no larger than six square feet.

(2) Rental vacancies may be advertised with a non-illuminated sign no larger than eight square feet. Such sign shall be erected only during such times as the rental property is vacant.

(3) The sale of real estate may be advertised by non-illuminated temporary signs, no larger than eight square feet in area. Each broker or person advertising the sale shall be permitted only one sign on any premises. All such signs shall be removed within two (2) days of closing.

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

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

B. Limitations on types and location of signs

(1) No sign shall be illuminated with flashing, moving, or animated-type lights.

(2) There shall be no moving signs or signs with moving parts.

(3) No sign shall be located off the site of the lot on which the related services are located, except for directional signs.

C. The above regulations shall not apply to the following:

(1) Flags and insignia of any government.

(2) Legal notices, identification, information, or directional signs erected or required by governmental bodies.

(3) Signs directed and guiding traffic and parking on private property, but bearing no advertising matter or commercial identification.

(4) Signs bearing religious messages and signs showing the time and place of services or meeting of religious or civic groups, provided the size and place limitations contained in this Code are met.

D. Temporary Signs

Street banners shall be no larger than fifty (50) square feet in area. No temporary sign, other than a street banner, shall be larger than ten (10) square feet in area. Permits for hanging street banners across the public way shall be issued only upon assumption of complete liability in writing by the person, firm or corporation hanging the banner for any damage resulting from the placement of said banner. Such liability shall be acknowledged upon the application for the permit.

E. Calculation of the sign area

The area limitations for the size of the sign relates to one of two sides of the signboard both sides of which may have on it the sign message. For example, a sign limited to ten (10) square feet may have two sides with the result that the sign message covers an area of twenty (20) square feet would be visible at one time.

F. All signs shall be properly maintained and kept. Any sign now or hereafter existing which no longer advertises a bona fide business conducted, product sold, or activity or campaign being conducted shall be taken down and removed by the owner, agent, or person having the beneficial use of the building structure, or lot upon which such sign may be found within (10) days after written notification from the Code Enforcement Officer and, upon failure to comply with such notice within the time specified in such order, the Code Enforcement Officer is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the building, structure, or lot to which such sign is attached.

10. Manufactured Home / Mobile Housing Standards

The Code Enforcement Officer shall not issue a building permit until and unless the following standards have been met:

A. All manufactured and mobile housing lots shall be provided with a pad or foundation of suitable construction as to prevent heaving, shifting or settling due to frost action.

B. Manufactured and Mobile Housing units, upon certification that they are of post June 15, 1976 construction or otherwise meeting HUD and Maine Manufactured Housing Act standards shall be permitted on single family lots in the Town of Surry.

C. Older manufactured and mobile homes and trailers which fail to meet the safety standards established by HUD, Maine State Manufactured Housing Act and the design criteria contained within the Building Code, Section VI, shall be considered non-conforming structures and may continue and may be maintained, repaired, improved and expanded.

D. Recreational vehicles shall in no case be used as permanent manufactured / mobile homes, and any travel trailer in use shall be stationed only in an authorized campground, or, when not in use, stored on the premises of the owner.

11. Solar Access

No new land use may restrict or effectively prohibit solar access to any existing structure on the same lot or on abutting properties. For the purpose of this subsection, solar access is a property owner's right to have sunlight shine on his/her property and structures.

12. Demolition of Principal Structures

After a principal structure is demolished, all structural materials shall be properly disposed of within three (3) months of such demolition. The structure owner or owner's agent shall then notify the Code Enforcement Officer of the removal and the CEO shall inspect the premises. The CEO, upon reasonable suspicion that hazardous materials remain, may require the property owner to obtain an appropriate engineer's report confirming that no such materials remain on the site.

13. In-Law Apartment

Intent: to allow in-law apartments to be constructed as part of a single family dwelling or accessory structure as an accessory use to the dwelling.

An apartment meeting the following standards shall be considered to be part of a single family dwelling and shall not be considered to be a dwelling unit in terms of standards delineated below. Apartments not meeting these requirements shall be considered to be separate dwelling units.

1. The initial use of the apartment is for care of in-laws. The apartment can continue to be utilized by the property owner after the care of the in-law has ceased provided all other requirements of this section are met.

2. The apartment shall be accessory to the use of the premises as a single family dwelling and only one apartment shall be created accessory to the single family dwelling.

3. The apartment shall be created within or attached to a single family dwelling or accessory structure.

4. The creation of the apartment shall not alter the single-family character of the property.

5. Provisions for one additional parking space shall be made, if necessary.

6. The habitable area of the apartment shall not exceed 650 square feet, shall not contain more than one bedroom, and shall not have an occupancy that exceeds two persons.

7. One of the units must be occupied by the property owner.

14. Accessory Dwelling Unit

Intent: to allow accessory dwelling units in all zones unless prohibited by DEP Resource Protection Zoning. Accessory dwelling units may not be constructed within the Shoreland setback.

An accessory dwelling unit may be attached (including within an existing building), or adjacent to the primary dwelling unit. An accessory dwelling unit may not exceed 800 square feet. Only one accessory dwelling unit is permitted per primary dwelling unit. At least one of the dwelling units on a parcel must be owner occupied at the time of the creation of the accessory dwelling unit.

Accessory dwelling units require adequate off-street parking and sewerage disposal in accordance with all applicable guidelines and regulations.

IV. SITE PLAN REVIEW STANDARDS

The purpose of the site plan standards is to regulate certain residential and commercial developments, which can have a significant impact on the public facilities and natural resources of the Community, by requiring plans to be submitted to and reviewed by the planning board. The Town finds that regulation of such development by these standards is necessary because such uses can have a potentially significant impact on the community unless carefully engineered and properly designed.

A. Land Use Application Policy for Site Plan Review

The Surry Unified Development Code provides a reasonable means to protect the public health, safety and welfare. It is the policy of the Town of Surry that these land use regulations shall be applied equally and consistently to all applications for land use permits. This policy requires that each application must be reviewed for conformance with only those provisions of the Code that apply to the type of project proposed.

The following Procedure is a guide for properly processing land use applications.

B. Procedure

A. The CEO (meaning the Code Enforcement Officer and any Assistant CEO) receives and dates all permit applications. The CEO then makes initial decisions as to the completeness of the application, the type of use actually being proposed, specific performance standards that must be satisfied, and whether or not the application needs Planning Board approval.

The CEO shall process permit applications using the following steps:

1. Consult the Chapter 3, UDO - Section I (Land Use Districts & Requirements) to determine if the use is permitted in the District located.

2. If the applied for use is neither specifically allowed nor prohibited in the District, the stated "purpose" of the District shall be consulted. If the use reasonably fits the "purpose" of the District it is considered an allowed use. The Comprehensive Plan may be consulted to provide further meaning to the District "purpose".

3. The CEO then consults dimensional requirements and any other restrictions in the appropriate District applicable to the applied for use.

4. If there are no restrictions preventing the use, the need for a permit and the permitting authority is then determined by consulting the Land Use Table (Chapter 3, UDO – Section II). If the applied for use is not specifically listed in the table, the CEO shall review the various uses that are listed and from that review determine where the applied for use best fits.

5. When Planning Board approval is indicated, the CEO arranges for the application to be placed on the Planning Board agenda.

6. The permitting authority then consults Chapter 3, UDO-Section III Performance Standards - General, to determine whether or not the application is subject to any standards and/or restrictions imposed in this Section.
7. At his/her discretion, the CEO may opt to consult with the Planning Board regarding a specific land use application. The CEO normally serves as advisor to the Planning Board.

8. When an application is found to be in conformance with all requirements in Sections II and III, and no "Special Circumstances" (below) apply, if the Planning Board is the permitting authority, it authorizes the CEO to issue the appropriate permit. Otherwise the CEO issues the permit.

C. Special Circumstances

In addition to the requirements in A, above, for applied for land uses that fit any of the following categories, the permitting authority shall take the following actions:

For land areas within 250 feet horizontal distance of water ways as defined in Chapter 4, Shoreland Zoning, the requirements and restrictions in that Chapter 4 shall be applied. For any construction or other development located in a floodplain management area, the provisions of Chapter 5, shall be followed. For all subdivision applications as well as any substantial residential, commercial or industrial development that can have a significant impact on public facilities and natural resources of the community unless carefully engineered and properly designed, as determined by the CEO, the standards contained in Section IV Site Plan Review Standards, shall apply.

For all applications in this category, the permitting authority shall be the Planning Board.

The Planning Board is the permitting authority for all applications for telecommunications facilities and towers. These applications are received by the CEO, who forwards them to the Planning Board. The standards required in Section VII, Special Permit Standards for Telecommunications Facilities and Towers are applied. The Planning Board is the permitting authority for all applications for small wind energy systems. The applications are received by the CEO, who forwards them to the Planning Board. The standards required in Section VIII, Standards for Small Wind Energy Systems, are applied.

D. Summary

The restrictions of a Zoning Code run counter to the common law, which allowed a person to do virtually whatever he or she wanted with his or her land. The UDO must be strictly interpreted, but where ambiguity or exemptions appear to be in favor of a property owner, the CEO and/or the Planning Board should interpret them in the owner's favor. *Forest City, Inc. v. Payson,* 239 *A.2d* 167 *(ME 1968).* This Policy does not modify or in any way supersede any of the provisions of the Surry Code of Ordinances.

1. Buffer Strips

The purpose of buffer strips is to separate and partially obstruct the view of one or more land uses or properties from one another. In addition, buffer strips can be used to minimize the noise of different land uses.

No commercial use may be erected or any use permitted unless a buffer strip at least thirty (30) feet wide is provided and maintained between any adjoining residential district or use and the non-residential structure or use.

A. Natural Features. The side and rear yards abutting residential districts shall maintain the district boundary in its natural state to provide a buffer of at least the setback distance.

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

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

2. Cluster Development of Principal Structures or Dwelling Units

A. Purposes. The purpose of these provisions are: (a) to provide for efficient use of land and the permanent preservation of open space and recreation areas; (b) to provide for protection of environmentally sensitive resources, open fields, trees, natural topography, rare natural features; (c) to minimize soil erosion and phosphorus loading; (d) to promote an environment in harmony with surrounding development (e) to provide for orderly development in the rural areas of the community; and (f) to allow for new concepts of housing development.

Notwithstanding provisions of this and other Codes relating to dimensional requirements, the Planning Board, in reviewing developments, may modify said provisions related to dimensional requirements up and approving proposed residential to 50 percent to permit innovative approaches to housing and environmental design in accordance with the following standards. The Town of Surry strongly encourages cluster developments larger than 5 units and commercial uses to be clustered development wherever possible.

B. Application Procedure. Where a developer elects or is required to cluster, a written application shall be submitted to the Planning Board. The number of lots in the cluster development may exceed the number of lots in the standard subdivision, if located in the Town's growth areas as designated in the comprehensive plan (Village and Residential Growth) where density bonuses are allowed.

The application for cluster development shall describe the natural features which will be preserved or enhanced by the cluster approach and the impact on the community. Natural features include, but are not limited to moderate-to-high yield aquifers, lake watersheds and important natural or historic sites as identified in the comprehensive plan and cleared fields of ten or more acres. Examples of impacts are municipal cost for roads, school busing, solid waste removal, utility efficiencies, recreational opportunities, protection of flood water storage areas, and environmental impacts on sensitive and/or ecologically valuable lands, water bodies, and scenic views.

C. Basic Requirements for Cluster Developments.

(1) Cluster developments shall comply with the performance standards of this Code except as otherwise noted. The use of land shall not differ from uses permitted in the zone in which the plan is located.

(2) Cluster developments shall consist of a minimum of 3 or more dwelling units or principal structures. They shall meet all requirements for all other applicable municipal Codes and all pertinent State laws and regulations.

(3) The developer shall illustrate the placement of buildings and the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of this Code.

(4) In the residential growth districts (Village & Residential), there shall be a density bonus of 20% for cluster developments.

(5) The total area of open space within the development shall be a minimum of the total lot size area reduction granted in the total development.

(6) Every building lot that is located on reduced overall area below the amount normally required should be within 1,000 feet walking distance of such land.

(7) Distance between buildings shall not be less than 20 feet.

(8) In rural districts, no individual lots shall have front yards on a road which existed prior to the time of development. There shall be a setback of 60 feet from the centerline of the road and 25 feet from interior roads that are constructed as part of cluster development. In areas that are currently forested the 50-foot setback from the main public access road shall remain forested.

(9) In no case shall shore frontage and setback be reduced below the minimums normally required by the municipality's Shoreland Zone Area Standards.

(10) Open space: A cluster development shall comply with the following open space provisions (see also Section V (Performance Standards for Subdivisions) - subsection 17):

(a) Where a cluster development abuts a body of water, a usable portion of the land along the water, as well as reasonable access to it, shall be a part of the open space land. This open space land shall have a minimum depth of 100 feet;

(b) Whenever deemed possible by the planning board, at least a portion of the open space shall be located adjacent to the existing public road(s) serving the development so as to preserve a rural appearance from such roads

(c) The common space shall be usable for low-intensity recreation, agriculture, or other passive outdoor living purposes and for preserving the natural features of the site. Such uses shall not include rights-of- way, parking areas, tennis courts, swimming pools, other areas of impervious surface, or similar recreation development, which shall be shown separately on the site plan. The use of any open space may be further limited or controlled at the time of final subdivision approval where necessary to protect adjacent properties; and,

(d) Land dedicated as common space shall comply with the net calculation requirements for development in Section III (Performance Standards – General) - subsection 4 (Net Development Acreage Calculation for New Lots) of this Chapter.

D. Preservation and Maintenance of Open Space and Facilities

(1) There shall be no further subdivision of open space. Open space shall be used only for agriculture, non-commercial recreation, forestry or conservation. However, easements for public utilities, but no structures, may be permitted in the open space area

(2) The open space(s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that:

(a) the open space shall not be used for future building lots; and

(b) a part or all of the open space may be dedicated for acceptance by the municipality or a suitable land trust.

(3) If any or all of the open space is to be reserved as common open space for use by the residents, the by-laws of the proposed neighborhood association shall specify maintenance responsibilities and shall be submitted to the Planning Board prior to approval. The developer or sub-divider shall maintain control of such open space(s) and be responsible for their maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board of Appeals upon request of the neighborhood association or the developer or sub-divider.

(4) Open space land may be sold or leased to a third party for agriculture or forestry purposes, provided that development rights are held by the municipality, a conservation organization, or other public or semi-public entity. The legal instruments for conveying such land and retaining development rights shall first be submitted to and approved by the Planning Board.

3. Extractive Activities

A. Any extractive industry which requires a permit from the Maine Department of Environment Protection under the Site Location of Development Act shall obtain written approval from the Department of Environmental Protection in addition to approval by the Planning Board under the site plan review procedures of this Code. Site plan approval by the Planning Board shall be conditioned upon State approval.

B. The Planning Board may require a performance guarantee sufficient to cover the cost of rehabilitation of the site at the conclusion of operations.

C. An undisturbed buffer strip of not less than fifty (50) feet shall be maintained between the location of any extraction of materials and all property lines.

D. Upon cessation of the extraction of materials or upon the expiration of the Planning Board approval, the site shall be rehabilitated in accordance with a plan approved and endorsed by the County Soil Conservation Service and approved by the Planning Board.

4. Industrial or Commercial Facilities and Related Uses

A. All business, service, repair, manufacturing, storage, processing, or display on property abutting or facing a residential use or property shall be conducted wholly within an enclosed building unless screened from the residential area.

B. Loading docks, and other openings for a passage of materials into or out of structures shall be prohibited on sides of the structure adjacent to or across a street from a residential use or property.

C. All other yards abutting or across a street from a residential use or property shall be continuously maintained in lawn or other landscaping unless screened from the residential use.

D. Access points from a public road to industrial operations shall be so located as to minimize traffic congestion and to avoid directing traffic onto local access streets of a primarily residential character.

E. All materials including wastes shall be stored, and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.

5. Signs

For Industrial, Commercial, Educational, Institutional and Religious uses only the following signs shall be permitted:

A. Signs shall relate to the premises on which they are located and shall only identify the occupant of such premises or advertise the service available within the premises. there shall be no temporary promotion signs, banners, streamers, or placards erected, suspended, posted or affixed in any manner outdoors for a cumulative total period of more than ninety (90) days in one calendar year and no such sign shall be illuminated or exceed ten (10) square feet.

B. On each premises there is permitted one sign affixed to the exterior of a building for each occupancy under common ownership operation or control therein. Signs shall not be placed on the roof of a building.

C. Free-standing signs are limited in number to one per building, except that, where one occupant occupies more than one building per lot or a combination of lots mutually adjoining and in common ownership, only one free-standing sign shall be permitted. The top edge of any such free-standing sign shall not be higher than sixteen (16) feet vertical measure above the average ground level from the base of the sign. for traffic safety, where vision may be obscured entering a public street, the whole of the sign board or display elements of any free-standing sign shall be either below three feet in height or above seven feet in height above the street grade. A free-standing sign may be located within the front yard space, but shall not be closer than ten feet to the street right-of-way, and be no closer than twelve feet to either of the lot side lines. A free-standing sign may be located no closer than ten feet of the street right-of-way.

D. No sign or combinations of signs on a common support system shall have a signboard area (or display area, if no signboard) exceeding thirty-two (32) square feet on any one side of two sides.

E. On each premise where one sign is permitted attached to the building for each occupancy.

(1) If attached to the structure by way of a frame or bracket, which overhangs a pedestrian walkway or public sidewalk, it shall not extend beyond five feet of the structure face to which attached and have a vertical height clearance between the sign bottom and/or average grade at the base of the sign which shall not be less than ten feet.

(2) If the proposed sign is to be attached to the structure surface without the ease of overhanging frames or brackets, the "wall sign" shall not extend or project more than twelve (12) inches from the structure surface. Cut out letters should not project more than six inches from the building wall.

(3) No sign shall be permitted on the roof of any building.

(4) Signs posted within a window shall not cover more than 20% of the window area.

(5) Attached signs shall not exceed five square feet in area without a variance from the Board of Appeals.

F. Where shopping centers are permitted, each store or shop shall be considered a separate building or structure in calculating allowable sign surface area, and one additional detached sign shall be allowed to direct the public to the shopping center and identify use or services rendered on the premises but not describing goods by brand or trade names and having a total area not to exceed 100 square feet.

G. The area of signs may be increased by a factor of .30 if the signage is:

(1) Landscaped with low maintenance plants, or

(2) Constructed of wood, or other natural appearing materials, or

(3) If the colors of the signage are limited to neutral or subdued colors or earth tones, or

(4) If the signage is integrated into or otherwise visually related to a building and is composed of materials compatible with and similar to the materials of the building.

6. Environmental Standards

The site plan shall be designed in accordance with applicable standards designed to protect the environment.

A. Site Preparation

Appropriate fill shall be used in order to facilitate the result intended.

B. Conservation, Erosion and Sediment Control

The following measures shall be included where applicable as part of any site plan review and approval.

(1) Stripping of vegetation, re-grading or other development shall be done in such a way as to minimize erosion.

(2) Development shall preserve salient natural features, keep cut-fill operations to a minimum and ensure conformity with the topography so as to create the least erosion potential and so as to adequately handle surface water runoff.

(3) The disturbed area and the duration of exposure of the disturbed area shall be kept to a practical minimum.

(4) Disturbed soils shall be stabilized as quickly as practicable.

(5) Temporary vegetation or mulching shall be used to protect exposed critical areas during development

(6) The permanent (final) vegetation and mechanical erosion control measure shall be installed as soon as practical on the site.

(7) Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use debris basins, sediment basins, silt traps or other acceptable methods.

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

(9) Any activity on a stream, watercourse or swale or upon a floodway or right- of-way shall comply with the State's Natural Resources Protection Act, Title38 M.R.S.A. Sections 480A-480S. Any such activity shall also be conducted in such a manner so as to maintain as nearly as possible the present state of the stream, watercourse, swale, floodway or right-of-way for the duration of the activity and shall be returned to its original or equal condition after such activity is completed.

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

C. Site Conditions

(1) During construction, the site shall be maintained and left each day in a safe and sanitary manner. The site area shall be regularly sprayed to control dust from construction activity.

(2) Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris, and excess or scrap building materials shall be removed or otherwise properly disposed of immediately.

(3) Changes in elevation. No change shall be made in the elevation or contour of any lot or site by the removal of earth to another lot or site other than as shown on an approved site plan. Minimal changes in elevations or contours necessitated by field conditions may be made only after approval by the code enforcement officer.

7. Surface Water Drainage

Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream conditions, or the public storm drainage system and shall be held to a zero percent or less off-site increase in quantity after development. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a twenty-five (25) year storm frequency. Emphasis shall be placed on the protection of floodplains and wetlands; preservation of stream corridors; establishment of drainage rights-of-way and the adequacy of the existing system; and the need for improvements, both on site and off site, to adequately control the rate, volume and velocity of storm drainage. Maintenance responsibilities shall be reviewed to determine their adequacy.

8. Groundwater Protection

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

9. Water Supply

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

10. Sewage Disposal

A sanitary sewer system shall be installed at the expense of the developer, or, if in the opinion of the Planning Board, service by a sanitary sewer system is not feasible, the Board may allow individual underground waste disposal systems to be used.

A. Upstream sewage flows shall be accommodated by an adequately sized system through the proposed development for existing conditions and potential development in the upstream area or areas tributary to the proposed development.

B. All individual on-site systems shall be designed by a licensed soil evaluator in full compliance with the Maine State Plumbing code, as amended. Upon the recommendation of the Local Plumbing Inspector, the Planning Board may require the location on the individual lots of reserve areas for replacement.

11. Utilities

Any utility installations above ground shall be located so as not to be unsightly or hazardous to the public and shall be landscaped or otherwise buffered so as to screen the components from public view.

12. Advertising Features

The size, location, texture and lighting of all exterior signs and outdoor advertising structures or features shall not detract from the layout of the property and the design of proposed buildings and structures and the surrounding properties, and shall not constitute hazards to vehicles and pedestrians.

13. Special Features

Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures, shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

14. Exterior Lighting

All exterior lighting shall be designed to encourage energy efficiency, to ensure safe movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways. All lighting must encourage dark skies. Adverse impact is to be judged in terms of hazards to people and vehicular traffic, and potential damage to the value of adjacent properties.

15. Emergency Vehicle Access

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

16. Landscaping

Landscaping shall be designed and installed to define, soften, or screen the appearance of off-street parking areas from the public right-of-way and abutting properties, to enhance the physical design of the buildings(s) and site, and to minimize the encroachment of the proposed use on neighboring land uses. Particular attention shall be paid to the use of planting to break up parking areas.

17. Waste Disposal

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

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

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

18. Off-Street Parking and Loading Regulations

A. For every use, activity, or structure permitted by this Code and for all buildings or structures erected in accordance therewith, there shall be provided sufficient space for access and off-street standing, parking, circulation, unloading, and loading of motor vehicles that may be expected to transport its occupants, whether as patrons, residents, customer, employees, guests, or otherwise, to an establishment, activity, or place of residence at any time under normal conditions for any purpose. When a use is expanded, accessory off-street parking and loading shall be provided in accordance with the regulations herein for the area or capacity of such expansion in regulations herein for the area or capacity of such expansion in combination with the previously existing uses, structure, or activity.

B. General Provisions

(1) The term "floor area" or "gross leasable floor area" as employed in this Article shall mean the total interior floor area of a building or structure measured at the inside face of the exterior walls, but excluding stairwells, elevator shafts, lobbies, and bathrooms located for common public usage of the total building rather than for tenant or internal usage, and space occupied by mechanical equipment or space related to the operation and maintenance of the building.

(2) Repair, Service, or Sales Use of Parking Facilities

It shall be unlawful to use any required off-street parking or loading facilities for motor vehicle repair work, service, display, or sales of any kind, except as expressly permitted elsewhere in this section.

(3) Use of Required Parking as Commercial or Public Lot

No area designated as a required parking area in connection with any designated building or use shall be operated as a commercial or public parking lot providing parking spaces for

the general public or for the occupants, tenants, customers, clients, or residents of any other use or activity for a fee or other compensation.

(4) Location of Parking or Loading Space

All required off-street parking or loading spaces shall be provided on the same parcel of land occupied by the use or building to which it is associated with.

(5) Joint Parking Facilities

Off-street parking facilities for different buildings, structures, or uses, or for mixed uses, may be provided and used collectively or jointly in any district in which separate off-street parking facilities for each constituent use would be permitted, subject to the following provisions:

(a) A legally sufficient written agreement assuring the perpetual joint usage of said common parking for the combination of uses or buildings is properly drawn and executed by the parties concerned, approved as to form and execution by the Planning Board and Town Attorney, and filed with and made part of the application for a Land Use Permit.

(b) Parking spaces required for a theater or other place of evening entertainment, for a church, for multi-family dwelling units, may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments, and similar uses not normally open, used, or operated during evening hours if specifically approved by the Planning Board; provided, however, that written agreement assuring the retention for such purpose should be properly drawn and executed by the parties concerned, approved as to form and execution by the Planning Board and should be filed and made part of the application for a Building Permit.

(6) Number of Parking Spaces Required

The number of parking spaces indicated in the following table "Parking Requirements Table" shall be provided. Each parking space shall measure at least 162 square feet and shall have access for vehicles to a public street.

PARKING REQUIREMENTS TABLE

RESIDENTIAL	
With 1 or 2 bedrooms	1 ½ per dwelling unit
With 3 or more bedrooms	2 per dwelling unit
Elderly housing	1 ½ per dwelling unit
Congregate housing	1 ½ per dwelling unit
Boarding/Lodging	1 per room plus 2 for owner
In-law apartment/Accessory Dwelling Unit	1 minimum per each or as required
TRANSIENT ACCOMDATIONS	
Hotels/Motels /Tourist Courts	1 per room plus 1 per 4 employees
Bed & Breakfasts	1 per room plus 2 per owner
COMMERCIAL	
Retail stores & Service businesses	5 per 1,000 sq. ft.
Restaurants, eating & drinking establishments	1 per 4 seats plus 1 per shift employee
Drive-in businesses (serving food/other)	Minimum 15 spaces
Roadside farm stands	4 spaces
Flea Market	2 per table
Automobile repair/gasoline stations	1 per 350 sq. ft. with min. of 6 spaces
Barber/Beauty shop	2 per chair plus 1 per employee
Motor vehicle sales, ATV & Boats	2 per employee
INDUSTRY/WHOLESALE	
Industrial businesses	1 per company vehicle plus 1 per 2 employees
Warehouses/Wholesale	1 per company vehicle plus 1 per 2 employees
MEDICAL	
Medical offices	3 per exam room plus 1 per employee
Hospitals/nursing homes	1 per 4 beds plus 1 per employee
COMMUNITY FACILITIES	
Primary schools	2 per classroom
Secondary schools	1 per 4 pupils plus 1 per classroom
Post-Secondary schools	1 per 3 pupils plus 1 per employee
Childcare facilities	1 per 4 children
Libraries, Museums, Art Galleries	1 per 200 sq. ft.
Theaters/Auditoriums/Public Assembly	1 per 3 seats
Churches	1 per 3 seats

The Planning Board may require that certain areas be designated for R.V, campers and other outsized passenger vehicles. These spaces cannot be substituted for regular or passenger car spaces; they must be separate parking and must be signed.

(7) Loading Requirements

In connection with every building or group of buildings which is to be occupied by industrial, office, laboratory or commercial uses, or by uses involving distribution of material or merchandise by vehicles, there shall be provided and maintained off street loading berths in accordance with the requirements set forth below.

Loading facilities shall be located entirely on the same lot as the building or use to be served so that trucks, trailers, and containers for loading or storage shall not be located upon any public right-of-way.

Each loading berth shall be at least ten feet (10') wide, fifty-five feet (55') long, and fourteen feet (14') high, and no loading berth may occupy any part of any required front, side or rear setback.

The following minimum off street loading berths shall be provided and maintained in the case of new construction, alterations or changes of use which would increase the loading demand according to the standards set forth below, or any increase in the area used which increases such loading demand. In the event of such construction, alterations, change or increase, the entire premises or use, and not just that portion constructed, altered, changed or increased, shall become subject to the following requirements:

Health Institutions:

In addition to ambulance spaces, 1 berth for the first 10,000 to 30,000 square feet of gross floor space plus 1 additional berth for each additional 30,000 square feet of gross floor space of portion thereof;

Hotels and Offices:

1 berth if over 10,000 square feet of gross floor area;

Retail, Commercial, Planned Commercial and Industrial Groups, Wholesaling, Manufacturing and Industrial Uses:

1 berth if between 5,000 and 15,000 square feet of gross floor area; 2 berths if between 30,000 and 50,000; 4 berths if between 50,000 and 75,000; plus 1 additional berth for each additional 30,000 square feet of gross floor area;

Schools:

1 berth if over 15,000 square feet of gross floor area;

Undertakers and Funeral Homes:

1 berth plus 1 additional berth for each 5,000 square feet of gross floor space or portion thereof in excess of 5,000 square feet of gross floor area.

V. PERFORMANCE STANDARDS FOR SUBDIVISIONS

The performance standards in this article are intended to clarify and expand upon the criteria for approval found within the Subdivision Statute (30-A M.R.S.A., 4404). In reviewing a proposed subdivision, the Planning Board shall review the application for conformance with the following performance standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

1. Pollution

The proposed subdivision shall not discharge wastewater to any water body without a license from the Maine Department of Environmental Protection.

2. Sufficient Water

A. Water Supply.

(1) Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.

(2) Lot design shall permit placement of wells, subsurface wastewater disposal areas, and reserve sites for subsurface water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules.

(3) If a central water supply system is provided by the developer, the location and protection of the source, the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).

(4) Due to the increased chance of contamination from surface water, dug wells shall be prohibited on one acre lots. On lots of one acre, the developer shall prohibit dug wells by deed restrictions and a note on the plan.

(5) Dug wells shall not be constructed within 100 feet of the traveled way of any street, if located downhill from the street, or within 50 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the effected lots.

B. Water Quality

Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the

secondary drinking water standards in the Maine Rules Relating to drinking water, that fact shall be disclosed in a note on the plan to be recorded in the registry of deeds.

3. Erosion

A. The proposed subdivision shall prevent soil erosion from entering water bodies, freshwater wetlands, and adjacent properties.

B. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and cleanup stages.

C. Topsoil shall be considered part of the subdivision and shall not be removed from the site.

4. Traffic

A. In general, provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:

(1) Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision;

(2) Avoid traffic congestion on any street; and

(3) Provide safe and convenient circulation on public streets and within the subdivision.

B. More specifically, access and circulation shall also conform to the following standards.

(1) Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycle ways and traffic controls within existing public streets.

(2) Where topographic and other site conditions allow, provision shall be made for street connections to adjoining lots of similar existing or potential use within areas of the municipality designated as growth areas in the comprehensive plan; or in non-residential subdivisions when such access will:

(a) Facilitate fire protection services as approved by the Fire Chief; or

(b) Enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a public street.

(3) Street Names, Signs and Lighting. Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the Municipality, and shall be subject to the approval of the Board. No street name shall be

the common given name of a person. The developer shall reimburse the Municipality for the costs of installing street name, traffic safety and control signs. Street lighting shall be installed as approved by the Board.

(4) Cleanup.

Following street construction, the developer or contractor shall conduct a thorough cleanup of stumps and other debris from the entire street 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, limed, fertilized, and seeded.

5. Sewage Disposal

A. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

B. The Site Evaluator shall certify, in writing, that all test pits which meet the requirements for a new system represent an area large enough to install a disposal area on soils which meet the Disposal Rules.

C. On lots in which the limiting factor has been identified as being within 15 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.

6. Impact on Municipality's Ability to Dispose of Solid Waste

If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years.

7. Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline

A. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.

B. Except in areas of the municipality designated by the comprehensive plan as growth areas, the subdivision shall be designed to minimize the visibility of buildings from existing public roads.

C. Scenic areas as identified in the Town's Comprehensive Plan are an important part of its character and need to be preserved. It is the policy of the town in conformance with the comprehensive plan to encourage the preservation and utilization of these areas through proper land use planning and site design principles. The Subdivision Plan shall require structures to impede as little as reasonably practical, scenic views from public roadways or from existing structures and the natural environment.

D. The Board may require that the application include a landscape plan that will show the preservation of any existing trees larger than 24" inches diameter at a height of 5 feet above the ground, the replacement of trees and vegetation, and graded contours.

E. Unless located in areas designated as a growth area in the comprehensive plan, a subdivision in which the land cover type at the time of application is forested shall maintain a wooded buffer strip no less than fifty feet in width along all existing public roads. The buffer may be broken only for driveways and streets.

F. Unless located in areas designated as a growth area in the comprehensive plan, building location shall be restricted from open fields, and shall be located within forested portions of the parcel proposed for subdivision. When the subdivision contains no forest or insufficient forested portions to include all buildings, the subdivision shall be designed to minimize the appearance of structures when viewed from existing public streets or roads.

G. When a proposed subdivision street traverses open fields the plans shall include the planting of street trees. Street trees shall include a mix of shade trees. Trees shall be planted no more than fifty feet apart.

8. Retention of Common Areas and Natural or Historic Features

A. If any portion of the subdivision is located within an area designated as a critical natural area by the comprehensive plan or the Department of Economic and Community Development's Natural Heritage Program, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.

B. If any portion of the subdivision is designated a site of historic or prehistoric archaeological importance by the comprehensive plan or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the application submissions.

C. The subdivision shall reserve sufficient undeveloped land to provide for the recreational needs of the occupants. For the purpose of this section, undeveloped land is contiguous areas of sustained slope of 20% or greater or hydric soils when such areas are 10% or more of the total land to be developed. Any prime farmland as defined shall also be reserved as common area.

D. Land reserved for open space purposes shall be of character, configuration and location suitable for the particular use intended.

9. Preservation of Significant Wildlife Habitat

If any portion of a proposed subdivision lies within:

A. 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife as:

(1) Habitat for species appearing on the official state or federal lists of endangered or threatened species;

(2) High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;

(3) Shorebird nesting, feeding and staging areas and seabird nesting islands;

(4) Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, or

B. 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor, or

C. Other important habitat areas identified in the local comprehensive Plan including coastal wildlife concentration areas, the applicant shall demonstrate that there shall be no adverse impacts on the habitat and the species it supports. A report prepared by a wildlife biologist, selected or approved by the Board shall be submitted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.

Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or right-of-ways, or should be included in the open space, with provisions made for continued public access.

10. Conformance with Zoning and Other Land Use Provisions

All lots shall meet the minimum dimensional requirements for the zoning district in which they are located or as an alternative meet the cluster development provisions as contained in Section IV (Site Plan Review Standards) – subsection D (Summary)- sub-subsection 2. The proposed subdivision shall meet all applicable performance standards or design criteria as contained in this Code.

11. Financial and Technical Capacity

A. Financial Capacity.

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.

B. Technical Ability.

(1) The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.

(2) In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

12. Impact on Water Quality or Shoreline

A. Phosphorus export.

Any subdivision within the watershed of a great pond shall make provisions to limit the post development phosphorus export consistent with the standards contained in the following table, dependent on the lake in whose watershed the subdivision is located. (See Table below)

SHORELINE WATER QUALITY TABLE

SHORELINE WATER QUALITY TABLE				
Lake	**Water Quality Category**	**Protection Level**	**Protected Watershed Development (% acres)**	**Allowable Phosphorus Export/lbs. per acre per year**
Toddy Pond	Moderate/Stable	Medium	25% 599	0.077
Upper Patten Pond	Moderate/Sensitive	High	14% 137	0.052
Lower Patten Pond	Moderate/Stable	High	20% 403	0.082

If the proposed development is greater than 25% of the projected area of watershed development, the allowable phosphorus export per acre must be adjusted using Appendix F, of the DEP manual Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, revised May, 1990.

The Board shall keep an accurate record of permits issued by watershed and shall notify the comprehensive planning committee of the actual development rates at five year intervals, as the comprehensive plan is revised. The above table shall be amended as required by amendments to the comprehensive plan, reflecting changes in expected development rates.

B. Phosphorous Export for Simplified Review

(1) When a proposed subdivision is within the direct watershed of a great pond, and qualifies for the simplified review procedure, buffers strips shall be provided in accordance with following tables. Buffer strips shall be provided on the downhill side of all lots, as measured from the downhill side lot line(s) along all tributaries to great ponds and along the great pond. The minimum required width of buffer strips is designated in the table(s) below and depend on the watershed in which the proposed subdivision is located, the size

of the lot, the hydrologic soil group, and whether deed restrictions are proposed to limit the area which may be cleared on each lot.

(2) Simplified Phosphorus Review.

Applicability. The simplified review may be used for a

(a) Proposed subdivision of three or four lots with less than 200 feet of new or upgraded street with a maximum cumulative driveway length not exceed 450 feet for a three lot subdivision or 600 feet for a four lot subdivision;

(b) Proposed subdivision of three or four lots with no new or upgraded street with a maximum cumulative driveway length not to exceed 850 feet for three lot subdivisions or 1,000 feet for four lot subdivisions; or a proposed three or four lot subdivision which creates lots which could be further divided such that five or more lots may result shall be subject to the standard review procedures unless there are deed restrictions prohibiting future divisions of the lots.

SEE TABLES FOLLOWING PAGES

Buffer Standards Table
Lake Watershed: LOWER PATTEN POND

Lake Watershed: LOWER PATTEN POND			
Phosphorus Allocation = 0.08 - 0.09 lbs/acre			
		Buffer Width (ft)	
Lot Size	**HSG**	**Clearing Restricted to 12,500 FT^2**	**No Clearing Restrictions**
1 Acre	A	50	75
	B	120	140
	C	NA	NA
	D	NA	NA
2 Acres	A	25	25
	B	25	75
	C	25	130
	D	125	NA
3 Acres	A	25	25
	B	25	25
	C	25	25
	D	25	100
HSG is defined as the Hydrologic Soil Group All lots over 3 acres should keep a minimum 25 ft buffer.			

Buffer Standards Table

Lake Watershed: UPPER PATTEN POND

Lake Watershed: UPPER PATTEN POND			
Phosphorus Allocation = 0.05 - 0.06 lbs/acre			
		Buffer Width (ft)	
Lot Size	**HSG**	**Clearing Restricted to 12,500 FT^2**	**No Clearing Restrictions**
1 Acre	A	100	110
	B	150	200
	C	NA	NA
	D	NA	NA
2 Acres	A	30	45
	B	90	125
	C	150	NA
	D	NA	NA
3 Acres	A	25	25
	B	25	80
	C	25	150
	D	125	NA
4 Acres	A	25	25
	B	25	25
	C	25	60
	D	25	225
5 Acres	A	25	25
	B	25	25
	C	25	25
	D	25	25
HSG is defined as the Hydrologic Soil Group All lots over 5 acres should keep a minimum 25 ft buffer.			

Buffer Standards Table
Lake Watershed: TODDY POND

Lake Watershed: TODDY POND			
Phosphorus Allocation = 0.07 - 0.08 lbs/acre			
		Buffer Width (ft)	
Lot Size	**HSG**	**Clearing Restricted to 12,500 FT^2**	**No Clearing Restrictions**
1 Acre	A	75	85
	B	130	150
	C	NA	NA
	D	NA	NA
2 Acres	A	25	25
	B	25	55
	C	55	190
	D	200	NA
3 Acres	A	25	25
	B	25	25
	C	25	50
	D	25	200
HSG is defined as the Hydrologic Soil Group			
All lots over 3 acres should keep a minimum 25 ft buffer.			

(3) Standard Review.

This section shall apply to proposed subdivisions which do not qualify for the simplified review. Phosphorous export from a proposed development shall be calculated according to the procedures in Phosphorus Control in

Lake Watersheds: A Technical Guide for Evaluating New Development, published by the Maine D.E.P., revised May, 1990. When a proposed subdivision creates lots which are more than twice the required minimum lot size and there are no deed restrictions proposed to prohibit future divisions, the developer shall either calculate phosphorus loading based on the maximum feasible number of lots, and shall design controls adequate to limit the resulting phosphorus loading, or shall reserve a portion of the permitted phosphorus export for future divisions.

(4) Maintenance and Use Restrictions for Phosphorus Control Measures.

Provisions for monitoring, inspections, and maintenance of phosphorus control measures shall be included in the application.

(a) Vegetative Buffer Strips.

Individual lot owners shall be required to maintain buffer areas on their individual lots in accordance with the following standards, to be specified in recorded deed restrictions and as notes on the plan. Where a vegetative buffer strip is to be owned in common by property owners in the subdivision, documentation establishing the lot owners association shall include the following standards.

1) Wooded Buffers.

Maintenance provisions for wooded buffers shall provide for either of the following two options.

[a] No Disturbance.

Maintenance and use provisions for wooded buffer strips which are located on hydrologic soil group D soils and within 250 feet of the great pond or a tributary, or which are located on slopes over 20% shall include the following.

[1] Buffers shall be inspected annually for evidence of erosion or concentrated flows through or around the buffer. All eroded areas must be seeded and mulched. A shallow stone trench must be installed as a level spreader to distribute flows evenly in any area showing concentrated flows.

[2] All existing undergrowth (vegetation less than four feet high), forest floor duff layer, and leaf litter must remain undisturbed and intact, except

that one winding walking path, no wider than six feet, is allowed through the buffer. This path shall not be a straight line to the great pond or tributary and shall remain stabilized.

[3] Pruning of live tree branches that do not exceed twelve feet above the ground level is permitted provided that at least the top two thirds of the tree canopy is maintained.

[4] No cutting is allowed of trees except for normal maintenance of dead, windblown or damaged trees.

[5] Buffers shall not be used for all-terrain vehicle or vehicular traffic.

[b] Limited Disturbance.

Maintenance and use provisions for other buffer strips may include the following:

[1] There shall be no cleared openings and an evenly distributed stand of trees and other vegetation shall be maintained.

[2] Activity within the buffer shall be conducted so as to minimize disturbance of existing forest floor, leaf litter and vegetation less than four feet in height. Where the existing ground cover is disturbed and results in exposed mineral soil, that area shall be immediately stabilized to avoid soil erosion.

[3] Removal of vegetation less than four feet in height is limited to that necessary to create a winding foot path no wider than six feet. This path shall not be a straight line to the great pond or a tributary. The path must remain stabilized.

[4] Pruning of live tree branches that do not exceed 12 feet in height above the ground level is permitted provided that at least the top two thirds of the tree canopy is maintained.

[5] Where the removal of storm damaged, diseased, unsafe, or dead trees results in a cleared opening being created, those openings shall be replanted with native trees at least three feet in height unless existing new tree growth is present.

[6] Buffers shall not be used for all terrain vehicle or vehicular traffic.

2) Non wooded Buffers.

[a] Non wooded buffers may be allowed to revert or to be planted to forest, in which case the standards above shall apply.

[b] A buffer must maintain a dense, complete and vigorous cover of "non lawn" vegetation which shall be mowed no more than once a year. Vegetation may include grass, other herbaceous species, shrubs and trees

[c] Activity within the buffer shall be conducted so as to prevent damage to vegetation and exposure of mineral soil. Burning of vegetation shall be prohibited.

[d] Buffers shall not be used for all terrain vehicles or other vehicular traffic.

(b) Infiltration Systems.

Individual lot owners shall be responsible for maintenance of individual infiltration systems according to the standards specified in Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, published by the Maine D.E.P., revised May, 1990. Requirements for maintenance shall be included in deed restrictions and as notes upon the plan. As an alternative to maintenance by individual lot owners, the applicant may designate some other entity to be contracted to take the responsibility, and shall include the above referenced maintenance provisions in any contractual agreement. Where infiltration systems serve more than one lot, a lot owners association shall be established and the above referenced maintenance provisions shall be referenced in the documentation establishing the association.

(c) Wet Ponds.

A lot owners association shall be established to maintain wet ponds, unless the municipality or some other public entity agrees to assume inspection and maintenance duties. Documentation establishing the association or establishing an agreement with a public entity shall include the maintenance standards specified in the manual Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, published by the Maine D.E.P., revised May, 1990.

13. Impact on Ground Water Quality or Quantity

A. Ground Water Quality.

(1) When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:

(a) A map showing the basic Soil Conservation Service medium intensity soil survey soils types.

(b) The depth to the water table at representative points throughout the subdivision.

(c) Drainage conditions throughout the subdivision.

(d) Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.

(e) An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, at the subdivision boundaries and at a distance of 1000 feet from potential contamination sources, whichever is a shorter distance.

(f) A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.

(2) Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

(3) No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.

(4) If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.

(5) If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

(6) Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.

B. Ground Water Quantity.

(1) Ground water withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.

(2) A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation.

14. Flood Plain Management

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency (see also Chapter 5).

A. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.

B. Adequate drainage shall be provided so as to reduce exposure to flood hazards.

C. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan

15. Identification of Freshwater Wetlands

Freshwater wetlands shall be identified in accordance with the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, published by the Federal Interagency Committee for Wetland Delineation, January, 1989.

16. Storm Water Management

A. Adequate provision shall be made for disposal of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, underdrains, and storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains, except where retention basins are designed or ground water recharge is desirable.

B. Where a subdivision is traversed by a stream, river, or surface water drainageway, or where the Board feels that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage right-of-ways with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. Wherever the storm drainage system is not within the right- of-way of a public street, perpetual easements shall be provided to the municipality allowing maintenance and improvement of the system.

C. Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the subdivision. The applicant shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.

D. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials which reduce water velocity.

E. Drainage easements for existing water-courses or proposed drainage ways shall be provided at least thirty feet wide, conforming substantially with the lines of existing natural drainage.

F. The minimum pipe size for any storm drainage pipe shall be fifteen inches for driveway entrances and eighteen inches for cross culverts. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than 3 inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to size inches above the top of the pipe.

G. Catch basins shall be installed where necessary and located at the curb line.

H. Storm Drainage Construction Standards.

Materials:

(a) Storm drainage pipes shall conform to the requirements of MDOT materials specifications Section 706 for non-metallic pipe and Section 707 for metallic pipe. Plastic (polyethylene) pipes shall not be installed except in closed systems such as street under drains. Bituminous coated steel pipes shall not be used.

(b) Where the storm drainage pipe is to be covered by ten feet or more of fill material, pipe material with a fifty-year life shall be used. These materials include concrete pipe, polymer coated galvanized corrugated steel pipe, polyvinylchloride (PVC) pipe, and corrugated aluminum alloy pipe.

(c) Where storm drainage pipe may come into contact with salt water, corrugated aluminum alloy pipes shall be used.

I. Pipe Gauges.

Metallic storm drainage pipe shall meet the following thickness requirements depending on pipe diameter. If materials other than those specified below are used, their use shall meet all applicable MDOT standards. Only materials specifically approved by the MDOT for drainage pipes may be used:

Inside Diameter	Material ALCCMP Aluminum/Zinc Coated CMP Corrugated Aluminum Alloy	Aluminum Coated CMP Polymer Coated CMP
15" to 24"	14 ga.	16 ga
30" to 36"	12 ga.	14 ga.
42" to 54"	10 ga.	12 ga.
60" to 72"	8 ga.	10 ga.

J. Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the Road Commissioner.

K. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400 foot intervals.

L. Upon completion, each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until final acceptance.

17. Reservation or Dedication and Maintenance of Open Areas or Common Area Facilities and Services (for cluster developments, see also requirements of Section IV (Site Plan Review Standards) – subsection D (Summary) – sub-subsection 2)

A. All open areas common land, facilities and property shall be owned by:

(1) The owners of the lots by means of a lot owners association; or

(2) A legal entity which has as its principal purpose the conservation or preservation of land in essentially its natural condition;

B. Further subdivision of the common areas or open areas and its use for other than non commercial recreation, agriculture or conservation purposes, except for easements for underground utilities, shall be prohibited. When open space is to be owned by an entity other than a homeowner's association, there may be a conservation easement deeded to the municipality prohibiting future development, provided such easement is accepted by the legislative body.

C. The common land or space shall be shown on the Final Plan with appropriate notations on the plan to indicate that:

It shall not be used for future building lots.

D. The final plan application shall include the following:

(1) Covenants for mandatory membership in the lot owners association (or other legal entity established for this purpose) setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.

(2) Draft articles of incorporation of the proposed lot owners association (or other legal entity established for this purpose) as a not-for-profit corporation; and

(3) Draft by-laws of the proposed lot owners association (or other legal entity established for this purpose) specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.

E. All common areas shall be made accessible to the residents of the subdivision by means of frontage on an existing or proposed public road or where the above option isn't practical, a deeded right of way for foot access purposes

18. Lots

A. Wherever possible, side lot lines shall be perpendicular to the street.

B. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division.
deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the Subdivision Statute, the standards of these regulations and conditions placed on the original approval.

C. If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.

D. The ratio of lot length to width shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.

E. In areas served by a postal carrier, lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers.

19. Monuments

A. Stone or pre-cast concrete monuments or iron stakes, shall be set adjacent to all street intersections and points of road curvature, but no further than 750 feet apart along street lines without curves or intersections.

B. One stone or pre-cast concrete monument shall be set at a corner or angle point within the subdivision. Iron stakes shall be set at all other corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135□ or less.

C. Stone or concrete monuments shall be a minimum of four inches square at the top and four feet in length, and set in the ground at final grade level. After they are set, drill holes, ½ inch deep shall locate the point or points described above.

D. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable permanent markers, as required by the Maine Board of Registration of Land Surveyors.

20. Manufactured / Mobile Home Parks and Manufactured / Mobile Home Subdivisions

Except as stipulated in this subsection below, mobile home parks and mobile home subdivisions shall comply with all state laws and this Code, and shall meet the submission requirements for subdivisions, as well as the development standards for subdivisions contained in this section.

A. Lot Size, Width, and Density

Lots in a mobile home park or subdivision shall meet the following lot size, width, and density requirements.

(1) Lots served by individual subsurface sewage disposal system

Minimum lot area 20,000 sq. ft.
Minimum lot width 80 feet

(2) Lots served by a central subsurface wastewater disposal system

Minimum lot area 12,000 sq. ft.
Minimum lot width 65 feet

(3) The overall density of a mobile home park subdivision served by a central subsurface sewage disposal system shall be no greater than one unit per 20,000 square feet of total park area. Square footage discounted from net acreage development may be counted toward total park area.

(4) Lots shall meet the lot area, lot width, setback, and shore frontage requirements for that district or use. Mobile home parks are not permitted in the shoreland zone.

(5) The overall density of the mobile home park or subdivision shall be the combined area of its mobile home lots plus:

(a) The area for road rights-of-way;

(b) The area required for buffer strips, if any;

(c) The area within the municipality's shoreland zone area setback for principal and accessory structures.

B. Lot Setbacks

Mobile homes in a mobile home park or subdivision but adjacent to a public road shall be set back from the road a distance equal to the setback requirements for other residential developments.

(1) The following lot setbacks shall apply to all homes and accessory buildings: Front

setback: 20 feet
Side setback: 20 feet
Rear setback: 10 feet

If these requirements conflict with the requirements of the Shoreland Zone, the stricter standards shall apply. If a lot is on a public road, the setback shall conform with the residential setback requirements applicable to residential dwelling units.

(2) The Planning Board may allow lot side yard setbacks to be reduced to 5 feet provided a distance of 20 feet is maintained between units for the purpose of providing more usable yard space on one side of the home.

(3) Distance Between Homes

A minimum 20 foot separation shall be maintained between all mobile homes in all directions.

C. Lot Coverage

All buildings on the lot, including accessory buildings and structures, but excluding open decks and parking spaces, shall not cover more than 50% of the lot area.

D. Ownership

Where a developer elects to create a mobile home park where all land is under one ownership, the park plan shall show lots and the development shall demonstrate that the development standards described herein are met.

E. Road Standards

(1) Privately owned roads within the mobile home park or subdivision shall be designed and built according to the road standards developed by the Manufactured Housing Board.

(2) Privately owned roads within the mobile home park or subdivision shall have a minimum right-of-way of 23 feet.

(3) Roads within mobile home parks or subdivisions which are to be offered for acceptance to the town shall meet the minimum road standards of this Code.

F. Buffer Strips

(1) A 50 ft. wide buffer strip shall be provided along all property boundaries that:

(a) Abut residential land which has a gross density of less than half of that proposed in the park, or

(b) Abut residential land that is zoned at a density of less than half of that proposed in the park.

Further, no structures, streets or utilities may be placed in the buffer strip except that they may cross a buffer strip to provide services to the park. Lots may extend into the buffer strip.

(2) Within 25 feet of any property line and within the buffer strip, visual screening and/or landscaping shall be provided. The visual screening may consist of fences, berms, landscaping (such as shrubs and trees) and/or natural existing vegetation. This screening shall effectively screen at least 80% of the homes from view from the adjacent property and shall be maintained throughout the life of the project.

21. Road Design and Construction Standards

A. General Requirements

(1) The Board shall not approve any subdivision plan unless proposed roads are designed in accordance with any local Code or the specifications contained in these regulations. approval of the Final Plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.

(2) Developers shall submit to the Board, as part of the Final Plan, detailed construction drawings showing a plan view, profile, and cross-sections as deemed necessary by the Board, of the proposed roads and existing roads within 300 feet of any proposed

intersections. The plan view shall be at a scale of one inch equals no more than fifty feet. The vertical scale of the profile shall be one inch equals no more than five feet. The plans shall include the following information:

(a) Date, scale, and north point, indicating, magnetic or true.

(b) Intersections of the proposed street with existing streets.

(c) Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.

(d) Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.

(e) Complete curve data shall be indicated for all horizontal and vertical curves.

(f) Turning radii at all intersections.

(g) Centerline gradients.

(h) Size, type and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.

(3) Upon receipt of plans for a proposed road the Board shall forward one copy to the Board of Selectmen, the Road Commissioner, and the Municipal Code Enforcement Officer for review and comment.

(4) Where the developer proposes improvements within existing town ways or state roads, the proposed design and construction details shall be approved in writing by the Road Commissioner or the Maine Department of Transportation, as appropriate. All costs of engineering and improvements to be the responsibility of the developer.

(5) Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan. "All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town, until they meet the existing municipal street design and construction standards and are accepted by the legislative body of the Town."

(6) These design guidelines shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice and will meet the performance standards of this Code.

22. Road Layout

A. Proposed roads shall conform to such Comprehensive Plan or policy statement as may have been adopted, in whole or in part, prior to submission of a Preliminary Plan. All roads shall be so designed that, in the opinion of the Board, they will provide safe vehicular travel while discouraging movement of through traffic.

B. The arrangement, character, extent, width, grade and location of all roads shall be considered in their relation to existing or planned roads, to topographical conditions, to public convenience and safety, and their relation to use of the land which they are intended to serve. Road grades shall conform as closely as possible to the original topography.

C. The centerline of the roadway shall be the centerline of the right-of-way.

D. In the case of dead-end streets, where needed or desirable, the Board may require the reservation of a twenty (20) foot wide easement in the line of the road to provide continuation of pedestrian traffic or utilities to the next road.

E. Reserve strips controlling access to roads shall not be approved except where their control is definitely placed within Town jurisdiction under conditions approved by the Board.

F. Sidewalks shall be installed within all subdivisions within areas designated as growth areas in the comprehensive plan. Where sidewalks exist adjacent to a proposed subdivision outside of growth areas, sidewalks shall be installed connecting to existing sidewalks. Where installed, sidewalks shall meet these minimum requirements.

(1) Location.

Sidewalks shall be located a minimum of five feet from the curb facing or edge of shoulder if the street is not curbed.

(2) Bituminous Sidewalks.

(a) The "subbase" aggregate course shall be no less than twelve inches thick after compaction.

(b) The hot bituminous pavement surface course shall be MDOT plant Mix Grade D constructed in two lifts, each no less than one inch after compaction.

(3) Portland Cement Concrete Sidewalks.

(a) The "subbase" aggregate shall be no less than twelve inches thick after compaction.

(b) The Portland Cement concrete shall be reinforced with six inch square, number 10 wire mesh and shall be no less than four inches thick.

G. In those areas designated for commercial or recreational use, the developer shall provide sufficient road right-of-way and road width to assure the free flow of through traffic without interference by parked automobiles. The designated road width and parking area(s) shall be approved by the Board. Adequate off-street loading space, suitably surfaced, shall be provided in connection with lots designed for commercial use.

H. Where a subdivision borders an existing narrow road (below standards set herein) or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the developer shall be required to show areas for widening or realignment marked "Reserved for Road Realignment (or Widening) Proposed." It shall be mandatory to indicate such reservation on the Plan when a proposed widening or realignment is shown on the Official Map. Land reserved for such purposes may not be considered in satisfying setback of lot or area requirements.

I. Subdivisions containing fifteen (15) lots or more shall have at least two road connections with existing public roads; or planned public roads shown on the Official Map, if such exists.

J. Entrances onto existing or proposed roads may be limited by the Planning Board to a frequency of one (1) per thousand (1000) feet of road frontage.

K. Grade of all roads shall conform in general to the terrain, and shall not be less than one- half (½) of one percent nor more than six (6) percent for all roads, but in no case more than three (3) percent within fifty (50) feet of any intersection.

L. All changes in grade shall be connected by vertical curves of such length and radius as meet with the approval of the Board so that clear visibility shall be provided for a distance of 200 feet.

M. Sight Distances.

Accesses shall be designed in profile and grading and located to provide the required sight distance measured in each direction. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curbline or edge of shoulder, with the height of the eye 3-1/2 feet, to the top of an object 4-1/4 feet above the pavement. A minimum sight distance of ten feet for each mile per hour of posted speed limit shall be maintained or provided.

N. Intersections of roads shall be at angles as close to ninety (90) degrees as possible and in no case shall two (2) roads intersect at an angle smaller than sixty (60) degrees. Where one road approaches another between 60-90 degrees, the former road should be curved approaching the intersection.

O. Accesses

(1) Skew Angle

Accesses shall be either one-way or two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.

(2) Curb Radius

Curb radii will vary depending if the access has one-way or two-way operation. On a two-way access the curb radii shall be between 25 feet and 40 feet, with a preferred radius of 30 feet. On one way accesses, the curb radii shall be 30 feet for right turns into and out of the site, with a 5 foot radius on the opposite curb.

(3) Width

On a two-way access the width shall be between 26 and 28 feet, with a preferred width of 28 feet, however where truck traffic is anticipated, the width may be 30 feet. On a one-way access the width shall be between 16 feet and 20, with a preferred width of 16 feet.

(4) Curb-Cut Width.

On a two-way access the curb-cut width shall be between 74 feet and 110 feet with a preferred width of 86 feet. On a one-way access the curb-cut width shall be between 46 feet and 70 feet with a preferred width of 51 feet.

P. Cross-road intersections (four cornered) shall be avoided insofar as possible, except as shown on the official town map or at other key traffic intersections. A distance of at least two hundred (200) feet shall be maintained between center lines of off-set intersecting roads.

Q. Road lines at intersections shall be cut back to provide for curb radii of not less than 25 feet for 90 degree intersections and 30 feet for intersections less than 90 degrees.

R. Road intersections and curves shall be so designed as to permit adequate visibility for both pedestrian and vehicular traffic. That portion of any corner lot which is necessary to allow 25 foot sight lines between intersecting roads shall be cleared of all growth (except isolated trees) and obstructions above the level three feet higher than the center line of the road. If directed, ground shall be excavated to achieve visibility.

S. A dead-end road or cul-de-sac shall be provided with a suitable turn-around at the closed end that is built in accordance with the requirements of Section V (Performance Standards for Subdivisions)– subsection 24 (Road Design Specifications).

T. Dead End Streets In addition to the design standards, dead-end roads shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii: Property line: 80 ft.; outer edge of pavement: 50 ft.; inner edge of pavement: 30 ft. Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac. The Board may require the reservation of a twenty foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street.

The Board may also require the reservation of a 66 foot easement in line with the street to provide continuation of the road where future subdivision is possible.

U. All roads shall be provided with adequate drainage facilities to assure the removal of storm water to prevent flooding of the pavement and erosion of adjacent surfaces.

V. Shoulder slopes shall not be steeper than 3 to 1 ratio, (3 feet horizontal and 1 foot vertical), graded, loamed (6 inches compacted) and seeded as required. Back slopes shall not be steeper than 2 to 1 ratio, except in ledge cuts when the slope may not exceed 1½ to 1 ratio. They shall meet the same standards in regards to loam and seeding.

W. Bridges planned and designed for construction within the subdivision shall conform to structural and safety standards of MDOT and such design and location shall be approved by the Board. No subdivision road shall enter onto an existent road within 250 feet of an existent bridge.

X. Beam type guard rail meeting MDOT standards shall be installed in all fill areas of 10 feet or more. Shoulders shall be constructed three (3) feet wider in those areas to accommodate the railing.

Y. Curbs shall be installed within all subdivisions within areas designated as growth areas in the comprehensive plan. Granite curbing shall be installed on a thoroughly compacted gravel base of six inches minimum thickness. Bituminous curbing shall be installed on the base course of the pavement. The specified traveled way width above shall be measured between the curbs.

23. Road Design Definitions

Right of Way: all lands or other property interest provided or acquired for the development and operation of a road, which could include drainage and slope easements.

Base: that portion of the roadway constructed of special material on the subgrade and supporting the surface and pavement.

Roadbed: that portion of the roadway between the outside edges of the finished shoulders.

Roadside: a general term denoting the area adjoining the outer edge of the roadway.

Roadway: that portion of the highway within the limits of construction.

Shoulders: that portion of the roadway lying immediately outside the edge of the pavement.

Sub-grade: that portion of the roadway upon which the base and shoulders are constructed.

Surfacing: that portion of the roadway constructed on the base course to facilitate fine grading and produce good rideability.

Surface treatment: any bituminous treatment applied on the surface course, such as a tarred surface pavement applied at a rate of one gallon per square yard with at least 1 ½ inches of penetration.

24. Road Design Specifications

A. All roads within the subdivision shall be constructed according to design specifications below. The applicant's engineer will certify to the C.E.O. that the road has been completed in accordance with the design. The engineer will be a registered professional, licensed to practice engineering in the State of Maine.

B . Modifications to these specifications will be considered by the Planning Board upon written request by the applicant. Special circumstances, including but not limited to, elevation changes in the natural topography that overly complicates or prevents proper drainage, extensive ledge outcroppings requiring excessive blasting, destruction of trees with a diameter of 24" or larger at five feet above the ground, disturbance of wildlife habitat or excessive encroachment on wetland areas, streams, vernal pools, ponds or marsh areas, may require the proposed road to exceed 1000 feet in length or other specification changes in order to preserve the natural beauty historic sites, wildlife habitats, or other natural characteristics of the land. In the event that the road exceeds 1000 feet due to minimizing the impacts to the natural characteristics of the land, the applicant shall locate and specify the impediments to the road on the site plan and provide a written explanation of the steps taken to keep the road length as close to 1000 feet as possible. Under no circumstances shall the road exceed 1200 feet in length.

C. Road frontage shall be as stated in each zoning district.

Minimum width of right of way:	66'
Minimum width of pavement:	20'
Minimum width of each shoulder:	6'
Minimum grade:	.5%
Maximum grade:	6%[1]
Maximum grade at intersection:	3% within 50' at intersections
Minimum angle of intersection:	60 degrees[2]
Minimum tangent length between reverse curves:	200'
Road Base (minimum):	24"
Base (bank gravel):	18"
Gravel Surface Course (screened gravel):	6' shoulder width
Bituminous Paving: where required	3"[3]
Road crown (minimum)	1/4" /1 ft
Sidewalks/walkways (minimum where required):	4'
Base course (gravel):	12"
Dead-end or cul-de-sac right of way minimum width:	66'
Length, not more than:	1000'[4]
Radii of turn-around at enclosed end of:	
Property line (minimum):	80'
Pavement (minimum):	65'

Property line radii at intersection (minimum)	10'
Curb radii at intersections:	
90 degree intersections	25'
Less than 90 degree intersections	30'

[1] May be exceeded to 8% for 100 feet or less

[2] Shall be as close to 90 degrees as feasible but no less than the listed angle

[3] See section on pavement

[4] Roadway length may be modified by the planning board by up to 20 percent. Other zoning standards on length may apply in certain zones.

25. Roadway Construction

A. Before any clearing has started on the right of way, the center line and side lines of the new road shall be staked or flagged at fifty foot intervals.

B. Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, sidewalks, drainage ways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area. Clearing shall include the entire width of the right of way, and outside the right of way in areas heavily shaded by growth of soft wood trees on the southerly side of the road.

C. All organic materials or other deleterious material shall be removed to a depth of two feet below the sub-grade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the sub-grade of the roadway. On soils which have been identified by the Municipal Engineer as not suitable for roadways, either the subsoil shall be removed from the road site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below, or a MDOT approved stabilization geotextile may be used.

D. Excavation shall consist of removing and satisfactorily disposing of all material encountered within the limits of the work. Suitable material taken from the excavation may be used in the fill areas. Suitable material shall be free from all stumps, roots, bushes, grass, turf or other objectionable material that should be removed and disposed of in waste areas prior to excavation. Suitable waste material may be used in the toe of the slope as described later.

E. Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than one foot vertical to one and one half feet horizontal is permitted.

F. The sub-grade shall be maintained in such condition that the excavation will be well drained at all times, and shall be compacted, shaped and maintained to a tolerance of two (2) inches above or below the required grade and cross-section before the application of the gravel base.

G. In fill areas of five (5) feet or more in depth, measured from the sub-grade to old ground, stumps will be allowed to remain but shall be cut as close to the ground as practicable; but in no case will the stumps exceed a height of six (6) inches above the surrounding ground.

H. In fill areas of five (5) feet or less, measured from subgrade to old ground, all stumps, bushes and objectionable material shall be removed and disposed of in waste areas prior to placing of the fill.

I. Suitable waste material with all large stumps removed may be used in the toe of slopes in fill areas. The toe of the slope area shall be defined as that area below the subgrade and outside of a 2 to 1 slope from the shoulder break. Suitable waste material shall not include trees and brush cleared from the right of way.

J. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

K. The road base shall consist of a foundation course of hard durable particles of granular material, the type and source to be approved by the Planning Board prior to being used on the project. All base material shall be placed in two layers, with the top layer not exceeding a compacted depth of nine (9) inches. No stone exceeding 6" shall be used, and any stone exceeding the maximum dimension shall be removed from each layer prior to addition of the next course. Each layer shall be placed uniformly over the full width of the sub-grade. The base shall be thoroughly compacted, shaped, and maintained to a tolerance of one (1) inch above or below the required grade before application of any surface course.

L. Shoulder sections shall not be constructed in a separate operation form that of the gravel base. The shoulder slope shall be constructed and compacted with the gravel base installation.

M. Backfill shall be accomplished with use of suitable material to fill all spaces excavated and not occupied by drainage or other structures, and areas shall be filled up to elevation of the surrounding terrain.

N. The base level of ditching shall be a minimum of thirty (30) inches below final grade level.

O. Gravel surface course shall consist of a wearing course or leveling course of screened or crushed aggregate. This material should be uniformly graded with 100 percent passing the 1½ inch screen. If selected bank run material meeting the above requirements can be obtained, screening or crushing will not be required. When required, this course shall be treated with bituminous material of the type specified. The gravel surface course shall be a depth of six (6) inches. The gravel surface course is for the fine grading operation to obtain the desired grade and good rideability. The quality of this material must allow for possible penetration of bituminous material. Prior to application of any bituminous material, the gravel surface course shall be bladed and loosened to a depth of one (1) inch with a power grader in order to allow uniform penetration of the bituminous material.

P. Pavement Joints

Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.

Q. Pavements.

Pavements shall meet MDOT specifications for base and surface cover mix:

(1) Minimum standards for the base layer of pavement shall be the M.D.O.T. specifications for plant mix grade B with an aggregate size no more than 1 inch maximum and a liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is 35□F or higher and the surface to paved is not frozen or unreasonably wet.

(2) Minimum standards for the surface layer of pavement shall be the M.D.O.T. specifications for plant mix grade C or D with an aggregate size no more than 3/4 inch maximum and

liquid asphalt content between 5.8% and 7.0% by weight depending on aggregate characteristics. The pavement may be placed between May 15 and October 15, provided the air temperature in the shade at the paving location is 50□F or higher.

Hot Bituminous Pavement Total
Thickness 3" Surface Course
1 1/4" Base Course 1 3/4"
All thickness is after compaction

26. Culverts

A. Structural excavation shall consist of excavating, removing and satisfactorily disposing of all material encountered within the limits of the work as required for the construction of all drainage structures. All suitable material removed may be used for backfilling or within fill areas. In case the foundation material is soft or otherwise unsatisfactory, it may be necessary to excavate to a greater depth and backfill with granular material to establish a firm and suitable foundation for the drainage structure. If the foundation is solid rock, the trench should be excavated to a depth of six (6) inches below the flow line and backfilled with a granular material to insure a cushion between the culvert and rock foundation.

B. The foundation should be carefully shaped so that the culvert will have full support for the entire length. Shimming beneath the culvert with dirt, stones, wood, etc., to meet the designed grade will not be permitted.

C. The trench should be excavated to a width of twelve (12) inches beyond each side of the culvert to allow for proper backfill and compaction. The backfill material should be placed in layers, and each layer thoroughly compacted by means of hand tamps or vibratory compactors

if available. The first layer should not exceed one-half the diameter of the pipe, with the following layers not on all sides at the same time to prevent displacement of the structure. When the backfill reaches a sufficient depth, compaction may be obtained by running heavy equipment or trucks back and forth over the trench. A minimum depth of fifteen (15) inches of backfill shall be placed and compacted over the top of any culvert before using heavy equipment for compaction. All trenching and excavation work will conform to OSHA standards.

D. Backfill material should be of the same nature as that removed from the trench; i.e., granular material should only be used when the material adjacent to the trench is granular. Caution should be taken so that no large stones come in contact with the culvert during backfilling.

E. Culvert pipes shall extend from toe of slope to toe of slope, the pipes to be bedded in a foundation of uniform density that is compacted and carefully shaped at the required grade to fit the lower part of the pipe exterior for at least ten (10) percent of its overall height. Gravel or sand shall not be placed under the pipe unless the natural foundation material is unstable and cannot be readily compacted. If the addition of foundation material is required, it should be of uniform thickness.

F. Laying of pipe will begin at the outlet; it shall be laid carefully in the prepared bed with the outside laps of circumferential joints pointing up-grade. The longitudinal laps parallel to the centerline of the pipe shall be placed on the side of the culvert with the outside laps pointing down. The ends of section shall be fully and closely joined and true to the grade given. Each section of joint and pipe shall be securely attached to the adjoining section of joint of pipe with connecting bands. The bands shall be tightly drawn so that a rigid joint will be formed.

G. In fills with five (5) feet or more in depth over the top of the pipe, all pipe culverts forty-eight (48) inches in diameter and larger shall be elongated along the vertical diameter approximately three (3) percent by means of timber struts. Struts shall be left in place until the fill is thoroughly compacted.

H. The strutting may be accomplished by use of a longitudinal timber at the bottom as a sill, and one at the top of the pipe as a cap, with timber posts between the longitudinal members. The size of timbers to be used for strutting depends upon the size of pipe and amount of fill over the pipe. The minimum length of longitudinal timbers shall be twelve (12) feet of either four (4) inches by six (6) inches or four (4) inches by four (4) inches minimum stock. Vertical struts should be of the same material as the longitudinal timbers with a maximum spacing of six (6) feet. Wire or rod strutting may also be used.

I. New corrugated metal pipe, or another material specifically approved for such use by the Maine Department of Transportation, with a minimum diameter of fifteen (15) inches shall be used under the roadway. Driveway culverts shall have a minimum length of thirty (30) feet and minimum diameter of fifteen (15) inches or larger, depending upon local conditions, with a minimum cover of eighteen (18) inches.

27. Catch Basins, Manholes and Under-drains

A. Catch basins and manholes shall be constructed of Portland Cement concrete blocks pre-cast concrete sections, or parts of both, placed on a prepared eight (8) inch concrete base or prepared earth foundation for the pre-cast bases. Blocks shall be machine-made solid segments not less than eight (8) inches in width.

B. Cement concrete blocks shall be laid on the prepared concrete base by a mason and in a workmanlike manner. The blocks shall be wet with water before laying. All joints shall be completely filled with mortar. No joint shall be greater than one half (½) inch in thickness. Joints shall be neatly tooled on the inside of the structure. Mortar shall be composed on one (1) part Portland Cement and two (2) parts of sand.

C. Pre-cast Portland Cement concrete catch basins or manholes shall conform to dimensions and specifications described in MDOT standards. Concrete blocks or their equivalent shall be used for the layers involved around the inlet and outlet pipes and may be used for the remaining upper section of the structure. Type "E" catch basins are pre-assembled from either 24 inch or 30 inch ALCCMP and constructed on a six (6) inch concrete base. They shall conform to the dimensions as described in the current MDOT Standards.

D. Under-drain lines shall be installed wherever underground water is encountered in the sub-grade or wherever necessary to avoid entrapment of water within the roadbed.

E. Under-drain trench excavation shall comply with MDOT Standards, as described in the "Standards Sections State Aid," specifically as to width and depth. A bed of the required granular material six (6) inches in depth shall be placed in the bottom of the trench. On this prepared bed six (6) inch perforated corrugated metal or PVC pipe shall be laid true to line and grade, with the perforations on the bottom side of the pipe. After these pipes have been firmly bedded and all joints securely connected, granular material shall be filled around the pipe. As soon as an adequate height is reached, the material should be compacted. Granular material for under-drain shall consist of uniformly graded clean sharp sand or fine gravel with 100 percent passing a two (2) inch screen. Screening will not be required but any stones over two (2) inches in diameter shall be removed during the process of backfilling.

28. Embankments

A. Embankment construction may include suitable materials obtained from excavation or borrow sources, and placed in accordance with the required line and grade. Trees and bushes are not considered suitable material for this purpose.

B. Starting layers shall be placed in the deepest portion of the fill. Each layer shall be distributed uniformly over the full width of the fill, except that when it is impractical to construct layers over the full width, partial-width layers may be authorized. If partial- width layers are found to be necessary, care will be taken to have uniform material for the full width of the embankment; i.e., one-half of a fill should not be constructed of ledge with the other half constructed of clay or stone.

C. The material shall be deposited and spread in layers not more than twelve (12) inches in depth. Haul trucks and leveling equipment should be used to obtain compaction prior to placing of the next layer. Equipment of adequate size to handle the volume of material shall be required.

D. All embankments shall be crowned at all stages of construction so as to permit ready runoff of rainwater. No depression or ruts will be permitted on the upper surface of the embankment. Any ruts or depressions that may develop shall be completely removed prior to the placing of the gravel base. All soft and unstable material and portions of the sub-grade which cannot be compacted readily shall be removed and disposed of. These areas shall be brought to grade with satisfactory material and re-compacted.

E. Frozen material shall not be placed in the embankment. The embankment shall not be placed upon frozen material, except that the construction of embankments may be allowed when the depth of the fill plus the depth of the frozen ground beneath does not exceed five (5) feet.

F. The construction of embankments may continue during cold weather if all frozen material in the top of the embankment is moved to the outside of the slopes before placing additional material. All material added must be free from frost.

G. When filling in layers of specified thickness is not feasible, such as filling in water, the embankment may be constructed in one layer to the minimum elevation at which the compacting equipment can be operated. The embankment, when placed in water, shall be constructed to such minimum elevation with granular material (or rock) suitable for use under the conditions encountered. The use of MDOT approved stabilization geo- textile material is encouraged in wet clay or muck areas.

H. In the construction of ledge fills, each layer shall not exceed three (3) feet in depth. The top of each layer shall be choked with small rock fragments, each excavation or borrow, that there will be no infiltration of the earth embankment placed on the surface of the rock embankment. In no case shall the rock embankment be placed within one (1) foot of the sub-grade.

29. Loaming and Seeding

A. Loam shall be of an approved quality top soil and shall be free from gravel, roots, clods, stones or other material which would tend to form air pockets in the soil. The use of sour loam or muck will not be permitted. Prior to stripping the loam, all briars, stumps or roots shall be removed by grubbing or other satisfactory means. All slopes and other areas where loam is to be placed shall be trimmed and shaped to the required sub-grade of the area. Before placing the loam, the prepared areas shall be scarified or loosened to a depth of at least two (2) inches.

B. Loam shall be spread on the prepared areas to a uniform depth of two (2) inches. After spreading, all existing lumps or clods shall be broken up and all rocks over two (2) inches in diameter and roots, litter and foreign matter shall be raked up and disposed of.

C. Seed shall be applied while the loam is in a friable condition. A 10-10-10 grade of commercial fertilizer shall be applied at a rate of twenty-five (25) pounds per one thousand (1000) square feet of area. The fertilizer shall be thoroughly raked or otherwise mixed satisfactorily with the soil to a depth of not less than one (1) inch.

D. Grass seed of the required mixture and quality shall be sown by a mechanical seeder or other method which will sow a uniform quantity as required over the whole area to be seeded. The mechanical seeder shall be capable of being operated to avoid growth of grass in rows. The application of the seed shall be in the amount of three (3) pounds per one thousand (1000) square feet.

30. Lands Subject to Liquidation Harvesting

The applicant must prove to the planning board that timber on the parcel to be subdivided has not been harvested in violation of the rules adopted pursuant to Title 12, section 8869, subsection 14 unless the application is exempt from this provision under the Department of Conservation's Maine Forest Service rules . If a violation of the rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the planning board must determine before granting approval to the subdivision that five years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the property.

VI. BUILDING CODES

1. Purpose

The purpose of this code is to provide minimum standards for the protection of life, limb, health, property, environment and for the safety and welfare of the consumer, general public and the owners and occupants of residential one and two family structures regulated by this code.

2. Scope

The provisions of this code apply to the construction, prefabrication, alteration, use, and occupancy of detached one- or two-family dwellings and one-family townhouses not more than three stories in height, and their accessory structures. A detached accessory structure, of 100 square feet or less not intended for human habitation, shall not require a permit, provided that applicable development standards of this Code are met.

A. Posting of Permit

A copy of the permit shall be provided to the applicant by the Code Enforcement Officer, and shall bear his signature. It shall be posted within sight of the nearest road in a conspicuous place, during the prosecution of the work and until the completion of the same.

B. Revocation

If there is any evidence of any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based, the Code Enforcement Officer, upon written notice and opportunity for hearing, may then revoke the permit or approval issued under the provisions of this code. Any reapplication after a permit has been revoked will require Planning Board approval.

3. Workmanship and Materials

All practices followed in the construction of buildings shall conform to the accepted standards of good workmanship. All materials, equipment, appliances and systems used in the construction of buildings shall be suitable for the proposed use and shall conform to accepted standards of use and related building codes.

4. Design

Any construction plans submitted as part of an application for multi-family residential structure, commercial or industrial use shall bear an architect's seal certifying compliance with any applicable state law regulating the construction design of such structures.

Amendments.

Nothing in this section shall prohibit the filing of amendments to an application or to a plan or other record accompanying same, at any time before the completion of the work for which the permit was sought. Such amendments, after approval by the Code Enforcement Officer shall be filed with and be deemed a part of the original application.

5. Foundations

The foundation and its structural elements shall be capable of accommodating all superimposed live, dead and other loads and all lateral loads in accordance with accepted foundation design practices.

All lots shall be provided with adequate drainage that will not cause erosion and shall be graded so as to drain surface water away from foundation walls.

6. Wall, Floor, and Roof Construction

The wall, floor and roof construction shall be capable of accommodating all loads imposed and transmitting the resulting loads to its supporting structural elements in accordance with accepted construction practices and codes.

7. Exterior Finish

All building exterior walls shall be finished with a covering of clapboards, wood siding, plywood, wood, shingles, masonry, brick, stone or other approved material. Tarred paper and/or felt, or similar substances shall not be used unless completely hidden from view by the finished exterior wall covering.

8. Roof Covering

The roof shall be covered according to accepted construction practices and codes.

9. Electrical Installations

All buildings shall have a safe and adequate electrical service. All wiring shall meet the standards of the current edition of the National Electrical Code.

No person shall make any electrical installation unless he shall have an electrician's license. However, nothing herein shall be construed to prohibit the owner from making an electrical installation on his own property. A licensed electrician must inspect all self installations prior to the structure being occupied.

10. Chimneys

Every dwelling requiring a chimney shall have a chimney constructed of brick, masonry units, or of reinforced concrete or other approved manufactured chimney material. Smoke pipes shall not be permitted. Chimneys in all dwelling houses shall be lined with approved fire clay or tile flue liners and be erected according to accepted practices and codes.

11. Plumbing

Except as may be otherwise provided by Code, the plumbing, waste, vent and drainage systems of buildings or structures shall be designed and installed in accordance with the requirements of the current State Plumbing Code.

12. Heat Appliances and Equipment, and Fuel Supply Systems

All appliances, equipment and fuel supply systems shall be of a quality to meet the intent of this code and the material used and practice followed in the construction, erection, and installation of appliances and equipment shall conform to the generally accepted standards, and fire codes.

13. Means of Egress

All buildings shall be provided with exit facilities in accordance with the requirements of the Life Safety Code adopted by the State Fire Marshall's office. No building shall be altered so as to reduce the number or capacity of exits to less required for new buildings.

14. Smoke Detectors

In accordance with the State of Maine Public Law (Chapter 162LD 550, item 1, 124th Maine State Legislature), "An Act to Protect Maine Residents from Home Fires and Carbon Monoxide", at least one smoke detector, which may be photoelectric, ionization, or a combination of both, must be installed in each area within, or giving access to, bedrooms. These smoke detectors may be powered by the electrical service in the dwelling, by battery, or by a combination of both. After October 21, 2009, smoke detectors installed in a multifamily building or a newly constructed single family dwelling unit must be of the photoelectric-only type and must be powered by both the electrical service in the building or dwelling and by battery power. A copy of this law is available at the Town of Surry Municipal Office.

VII. SPECIAL PERMIT STANDARDS FOR TELECOMMUNICATIONS FACILITIES AND TOWERS

1. Consistency with Federal Law

These regulations are intended to be consistent with the Telecommunications Act of 1996, in that, among other things: a) they do not prohibit, or have the effect of prohibiting, the provision of personal wireless services; b) they are not intended to be used to unreasonably discriminate among providers of functionally equivalent services; c) they do not regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the FCC's regulations concerning such emissions.

2. Exemptions and Disallowances

The following wireless telecommunications facilities are exempt from the within "Special Permit for Telecommunications Facilities & Towers": police, fire, ambulance and other emergency dispatch; amateur (HAM) radio; citizens band radio; any existing commercial radio tower; and existing radio dispatch services for local businesses. Also exempt from this regulation are antennas used solely for residential household television and radio reception, and satellite dishes measuring 2 meters or less in diameter. No personal wireless service facility shall be considered exempt from this article for any reason, whether or not said facility is proposed to share a tower or other structure with such exempt uses. Teleports are not allowed in Surry. Neither towers nor telecommunication facilities shall be built on speculation in Surry.

3. Required Permit, Review and Findings

A. Special Permits: No new tower or telecommunications facility shall be constructed, and no major modification shall be made to an existing tower or telecommunications facility, without first obtaining a special use permit from the Planning Board. The Planning Board shall grant such a permit only in accordance with this regulation and, to the extent they are consistent with this section and other sections of Surry's Code of Ordinances.

B. Findings by the Planning Board: For each application, the Planning Board shall answer these questions, among others, preferably in this order:

(1) Are users of personal wireless services in Surry already being provided with adequate coverage and adequate capacity, either by the applicant or other licensed carriers? If the answer is affirmative, then generally the Planning Board may deny the application without addressing additional questions. However, if adequate coverage and adequate capacity exists only through other licensed carriers, then the Planning Board should consider whether those carriers serve a substantial percentage of local users and whether the applicant proposes a technology that is superior or far more accepted than that which the other carriers offer.

(2) Will the proposed personal wireless facility provide at least 50% of its coverage within Surry? If not, and if the Planning Board determines that options for providing such coverage exist in the community that would receive such primary coverage, then it may deny the application without addressing additional questions.

(3) Could the applicant provide adequate coverage and adequate capacity to users by using existing towers or telecommunications facilities, or by using new or existing repeaters, either within or outside Surry? If such options exist, then the Planning Board may deny the application, without addressing additional questions, to the extent the applicant does not make use of them.

(4) Has the applicant made a reasonable effort to provide adequate coverage and adequate capacity to such users with the least number of towers and antennas that are technically and economically feasible, such as by co-locating facilities or using repeaters?

(5) Has the applicant made a reasonable effort to locate new towers adjacent to existing towers?

(6) Has the applicant agreed to rent or lease available space on any proposed tower under the terms of fair market lease, with reasonable conditions, and without discrimination, to other telecommunications providers?

(7) Could the proposed tower or personal wireless facilities use available municipal lands or structures, with municipal consent, consistent with the purposes of this Code?

(8) Will the proposed towers and personal wireless facilities otherwise be the least intrusive solution and, more particularly, will they minimize these potential impacts, among others?

(a) Visual/Aesthetic: Unless adequate coverage and adequate capacity cannot otherwise be achieved, towers shall be sited off ridge lines, and at such locations where their visual impact is least detrimental to highly rated scenic areas such as, but not limited to, those sites designated as scenic in the Surry Comprehensive Plan. In determining whether or not a tower will have an undue adverse visual impact on the scenic or natural beauty of a ridge or hillside, the Planning Board shall consider, among other things:

[1] The period of time, and the frequency of viewing, during which the proposed tower would be seen by the traveling public on a public highway;

[2] The degree to which the tower is screened by topographic features;

[3] Background features in the line of sight to the proposed tower that obscure the facility or make it more conspicuous;

[4] The distance of the proposed tower from the viewing vantage point and the proportion of the facility that is visible above the skyline;

[5] The number of vehicles traveling on a public highway or waterway at or near the critical vantage point; and

[6] The sensitivity or unique value of the particular view affected by the proposed development.

(b) Devaluation of property: The facility site shall be in as low population density areas as possible so as to minimize devaluation of property.

(c) Safety hazards: In cases of structural failure, ice accumulation and discharge, and attractive nuisance.

(d) Electromagnetic radiation: In case there are options for the facility site.

(9) Will the proposed personal wireless facilities (and, if they are to be co-located, the combination of the proposed and existing facilities) comply with limits adopted by the FCC for human exposure to radio frequency electromagnetic fields?

C. Independent Consultants: As necessary, the Planning Board shall hire one or more independent consultants at the applicant's expense to evaluate the special permit application, including evaluations of the existence of adequate coverage and adequate capacity and compliance with the testing protocol. Such consultants shall be qualified professionals with an appropriate combination of training, record of service, and/or certification in one or more relevant fields, such as: a) telecommunications/radio- frequency engineering; b) structural engineering; or c) assessment of electromagnetic fields. Copies of their findings shall be made available to the applicant not less than fifteen (15) working days prior to any meeting at which the Planning Board plans to consider such findings, and the applicant may respond thereto, in writing, ten working days before the public hearing.

D. Documentation of Denial: Any denial of an application hereunder need not be accompanied by formal findings of fact and conclusions of law, but the denial shall be in writing, describe the reasons for the denial and include a sufficient explanation of those reasons to allow a reviewing court to evaluate the evidence in the record supporting those reasons. The denial shall also be supported by substantial evidence contained in the written record (minutes) of the Planning Board's proceedings leading up to the denial.

4. General Application Requirements

A. Applicant. The application shall identify the applicant's full legal name, street address, telephone number and email address. If the applicant is not a natural person, the application shall describe the applicant's legal form (e.g., corporation, partnership, limited liability company), principal place of business, place of incorporation or registration, and date of formation, and shall include a current, original certificate of the applicant's good standing in Maine and, if its principal place of business is outside Maine, the state of its principal place of business.

B. Co-Applicants: Every application shall include, either as applicant or co-applicant, (A) an FCC-licensed provider of the proposed personal wireless services, (B) the owner and lessees of the applicable towers and telecommunication facilities, both existing or proposed, and (C) the owner and lessees of the land on which such towers and telecommunications facilities exist or will exist. The application shall identify and describe each co-applicant in the manner of section 1.4.1, and, as applicable, shall include current, original certificates of each co-applicant's good standing in Maine and, if their principal places of business are outside Maine, such states.

C. Contacts. The application shall identify the name, street address, telephone number and email address of the natural person upon whom all communications to the applicant and co-applicants shall be made. Papers served on such person at such address shall be deemed service on the applicant and co-applicants, and such parties shall so acknowledge in the application. If different, the application shall identify the name, street address, telephone number and email address of a different natural person who may be contacted 24-hours a day in emergencies.

D. Signatures/Copies: The applicant shall submit an original and ten (10) copies of the application. The original application shall include the original, witnessed and notarized signatures of the applicant and co-applicants and all documentation required under these regulations.

E. Consent to Inspection. The application shall set forth the consent of the applicant and each co-applicant to reasonable inspections by the Planning Board and its consultants of the applicable towers and telecommunication facilities and the land on which such towers and facilities exist or will exist.

F. Agreement of Responsibility. The application shall include an express statement in a form satisfactory to the Planning Board by the applicant and each co-applicant acknowledging and agreeing to responsibility for removing towers and/or telecommunication facilities as provided in Section VII (Telecommunication Facilities and Towers) - subsection 12 (Duty to Remove).

G. Abutting Landowners. The application shall identify the names and addresses of the record owners of all abutting properties.

5. General Site Requirements

A. Dedications for Emergency Services: The Planning Board may require as a condition of approval of the special permit that space be dedicate on the tower or at the facility site for Surry's municipal emergency services. Any such dedications and/or improvements to municipal emergency services will be negotiated prior to approval of the special permit.

B. Access Roads and Underground Utilities: Where new telecommunications towers and facilities require construction of, or improvements to access roads, to the extent practicable, roads shall follow the contour of the land and be constructed or improved within existing forest fringe areas, and not in open fields. Utility or service lines shall be buried underground. The Planning Board shall request input from the chiefs (or their designees) of fire, police, and other emergency services regarding the adequacy of emergency access for the

planned drive or roadway to the site. The Planning Board may waive the underground requirement at its discretion.

C. Landscaping/Screening. Screening and/or landscaping shall be required at the perimeter of the site. If the tower or facility site is in a wooded area, a natural vegetated buffer strip of undisturbed trees shall be retained for at least 100' in depth, and at least 15' in height at all times around the perimeter, which can be and only minimally disturbed where the access drive is located. If the tower or facility site is not in a wooded area, a vegetated barrier at least 50' deep by 10' high around the perimeter shall be planted by the applicant. It shall be of a type that has the potential to reach a height of at least 15 feet at maturity. Existing vegetation surrounding the site shall be preserved and maintained to the greatest extent possible. All landscaping shall be properly maintained to ensure its good health and viability at the expense of the owner(s). All areas disturbed during project construction shall be replanted with appropriate vegetation that is comparable to what existed prior to construction. Applicant shall obtain a financial surety bond (in an amount to be determined by the Planning Board) to cover the cost of the remediation of any damage to the landscape/screening or vegetation that occurs during the clearing of the site. The Planning Board may require landscaping in excess of any written requirements as is deemed reasonably necessary in order to enhance compatibility with adjacent residential and non residential land uses.

D. Fencing and Signs: The area around the tower and communication equipment shelter(s) shall be completely fenced for security to a height of not less than 8' or more than 12', and gated. Use of razor wire is not permitted. A sign of no greater than two (2) square feet indicating the name of the facility owner(s) and a 24 hour emergency telephone number, either local or toll free, shall be posted adjacent to the entry gate. In addition, No Trespassing or other warning signs, and the federal registration plate (where applicable) shall be posted on the fence or as required to meet federal requirements.

E. Building Design: Communication equipment shelters and accessory buildings at the site shall be designed to be architecturally similar and compatible with each other, and shall be no more than 12' high or 750 square feet in gross building area. The buildings shall be used only for the housing of equipment related to this particular site. Whenever possible, the buildings shall be joined or clustered so as to appear as one building. Buildings and related structures shall use materials and textures that will blend them into the natural setting to minimize the visual impact. Buildings shall be finished or painted in stealth or neutral color tones.

F. Height of Towers: New towers shall not exceed the minimum height necessary to provide adequate coverage for the telecommunications facilities proposed for use on such towers. Applicant may submit a request for additional height to accommodate future sharing, and shall provide design information to justify such additional height. In no event shall towers exceed 150' measured from the grade at the base of the tower before construction to the highest point shown on the facility plan. The Planning Board's consultants will verify adequate coverage and appropriate tower height.

G Tower Finish: New towers shall have a galvanized finish unless otherwise required by the Planning Board. The Planning Board may require towers to be painted or otherwise camouflaged to minimize any adverse visual impact.

H. Tower Type/Camouflaging: Lattice type tower structures are preferred, but where a monopole is required, applicant must demonstrate the future utility of such structure for expansion of service for applicant and other future applicants. The Planning Board reserves the right to require stealth designs (such as towers made to resemble trees, barn silos or other structures) to camouflage towers and telecommunication facilities and blend them into the surrounding environment.

I. Use of Repeaters: Applicants shall detail the number, location, power output, and coverage of any proposed Repeaters in their systems and provide engineering data to justify their use.

J. Separation of Towers: Separation distances between communications towers shall be applicable for and measured between the proposed tower and those towers that are existing and/or have received special permit approval. The separation distances shall be measured by drawing a straight-line between the base of the existing tower and the base of the proposed tower pursuant to the site plan. The separation distance (listed in linear feet) shall be as follows: A. Lattice--5000 linear feet; B. Guyed--5000 linear feet; C. Monopole (over 150' in height) -- 3,500 linear feet; D. Monopole (80'to 150' in height) 2,500 linear feet; E. Monopole (less than 80' in height)--500 linear feet. The separation distances listed above maybe modified by the Planning Board depending on other site criteria in commercial locations.

(1) Commercial Advertising: Commercial advertising shall not be allowed on an antenna, tower, or accessory building or communications equipment shelter.
(2) Lighting: No external lighting is permitted, except for manually operate emergency lights for use only when operating personnel are on site or as otherwise required by federal or state statute or regulation.
(3) Noise: Noise producing equipment shall be sited and/or insulated to guarantee that no increase in noise above ambient levels measured at the property line may occur.
(4) Air Navigation: No tower or telecommunications facility that would be classified as a hazard to air navigation, as defined by the Federal Aviation Administration Regulations (Title 14 CFR) is permitted.
(5) Lot Size/Setback Requirements: Tower setbacks shall be measured from the base of the tower (unless guy wired) to the nearest point along each property line of the parcel on which it is located.

(a) The minimum lot size for any telecommunications tower(s) or facilities shall be 10 acres.
(b) No repeater shall be closer than 200' to a dwelling unit measured at ground level, nor less than 35' above the ground.
(c) Where guy wire supports are used, setbacks will begin at the base of the guy wire anchor (d) to the ground, not at the base of the tower.
(d) No telecommunications facility or tower, including guy wire anchors and protective fencing, if any, shall be located:

[1] Closer than 1,500' horizontally to any structure existing at the time of application which is used as a primary or secondary residence or closer than 1,500' horizontally to the property of any school (both public and private), to any great pond as defined by the State of Maine, to any church; or closer than 1,500' horizontally to any other public building.

Primary or secondary residences are those dwelling units that include toilet facilities, and facilities for food preparation and sleeping.

[2] Closer than 1500 feet horizontally to any boundary line of the property upon which the tower(s) or facilities are located except, this restriction may be reduced to 200' if the applicant has obtained an easement from the owners of all properties located within 1500' of the proposed telecommunications facility or tower; provided, however that such owners, their heirs successors, administrators and assignees are henceforth precluded from locating any structure used for a primary or secondary residence, private or public school, church or other public structures within 1500' of such towers or facility.

[3] Within the habitat of any state listed rare or endangered wildlife or species.

[4] Within 300' horizontally of any Surry, State of Maine, or federally regulated wetlands.

[5] Within 300' of the outer riparian zone measured horizontally from any river, great pond or perennial stream.

[6] Within 1500' of any historic building or property listed, or capable of being listed, on the State or Federal Register of Historic Places.

[7] Within 500' horizontally of any known archaeological site. (The Planning Board may consult the State Archaeologist as to the archaeological significance of any proposed site.)

[8] The fall zones for guy wire towers shall be at least 4 times the tower height; and
for non guyed towers, 2 and one half times the tower height.

[9] In reviewing special permit applications, the Planning Board may allow the fall zones to extend within a neighboring property if it finds that a substantially better design will result from such a reduction, provided the owner of the neighboring property agrees to such extension. Such neighboring property shall not be developed and will be subject to a legally binding agreement, secured by the applicant from the owner(s) of the adjacent property(s), which agreement provides that development during the time the tower is in place shall be prohibited.

[10] In any zone where, per the standards of the Surry Unified Development Code, such uses are not allowed.

6. Additional Application Requirements

A. Adequacy of Existing Coverage/Capacity. The applicant shall demonstrate whether users of personal wireless services in Surry are already receiving adequate coverage and adequate capacity. The applicant shall address not only its own ability to provide such coverage and capacity but also the ability of other providers to provide it. Among other things, the applicant shall identify all existing towers and telecommunications facilities within a 30-mile radius of the proposed site, including towers and facilities outside of Surry, and shall explain in detail, including graphically, the coverage and capacity provided by those towers and facilities. For each such tower and facility that is owned, operated or controlled by the applicant, the applicant shall document, among other things, the exact location (in longitude and latitude, to degrees, minutes and seconds to be nearest tenth of a second), ground elevation, height of the tower or facility, type of antennas, antenna gain, height of antennas on tower(s), output frequency, number of channels, power output and maximum power output per channel.

B. Municipal Recipient of Coverage. The applicant shall demonstrate whether the proposed facility will provide at least 50% of its coverage to users within Surry. If the proposed facility will not provide such coverage, then the applicant shall demonstrate whether it could provide such coverage outside of Surry.

C. Co-Location Alternatives. The applicant shall demonstrate whether adequate coverage and/or adequate capacity can be provided to users in Surry by co-locating applicant's proposed facilities on existing towers or telecommunications facilities inside or outside of Surry. To that end, the applicant shall show all potential adjustments to existing towers and facilities, including changes in antenna type, orientation, gain, and height or power output. The applicant further shall provide radial or tiled coverage plots showing each such tower and facility, as it exists, and with adjustments as above.

D. Repeaters. The applicant shall demonstrate whether adequate coverage and/or adequate capacity can be provided to users in Surry by using repeaters in conjunction with existing towers or telecommunications facilities inside or outside of Surry. The applicant shall provide radial or tiled coverage plots of all repeaters considered for use in conjunction with such towers and facilities.

E. Alternative Technologies. The applicant shall demonstrate that it has investigated all available "state of the art" alternative technologies that might be effectively employed to provide adequate coverage and/or adequate capacity to Surry in lieu of its proposed facility.

F. Indirect Service. Applicant shall demonstrate which portion of a tower or facility and which antennas, if any, are to reduce or eliminate reliance on land lines, or otherwise provide communications capability to the applicant, as opposed to providing direct service to customers. Such provision of indirect service may be considered if reasonable alternatives are not available and the overall effect is consistent with the purposes of these regulations.

G. Future Plans: All applications shall be accompanied by a written five year plan for the utilization of the proposed facilities. This plan should include justification for capacity in excess of immediate needs, as well as plans for any further development within Surry.

H. Future Cooperation. The applicant shall agree to lease available space on any proposed tower at fair market value, with reasonable terms and conditions, and without discrimination, to other telecommunications providers.

I. Least Intrusive Means. The applicant shall demonstrate that the proposed towers and facilities are the least intrusive means of providing adequate coverage and adequate capacity, and that such facilities will minimize potential impacts, including ones identified in this Section VII, subsection 3(B) above. Furthermore, to these ends, the applicant shall complete these tasks:

(1) Comprehensive Plan. The applicant shall demonstrate and assess the impact of the proposed facility on areas recommended for conservation in the Surry Comprehensive Plan, as well as the state plan of conservation and development.

(2) Hazardous Materials. The applicant shall demonstrate the location, type, and amount (including trace elements) of any materials proposed for use within the facility that are considered hazardous by federal, state, or local governments.

(3) Balloon Tests: Within 35 days of submitting an application, the applicant shall arrange to fly or raise upon a temporary mast a three foot diameter brightly colored balloon at the maximum height of the tower and within 50 horizontal feet of the center of the proposed tower. The dates (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be advertised by the applicant at 7 and 14 days in advance of the first test date. Such notice will be printed in a newspaper with a general circulation in Surry such as The Ellsworth American, the Weekly Packet and the Bangor Daily News. The applicant shall inform the Planning Board, the Board of Selectmen, and all owners of property abutting the tower site, in writing, at least 14 days in advance of the actual test, of the dates and times of the test. The balloon shall be flown for at least four consecutive hours between 9:00 AM and 5:00 PM on the dates chosen.

(4) Visual Analysis: The applicant shall demonstrate the visual impact of the proposed tower by, among other things, showing photographs of the balloon test taken from at least 10 different perspectives within Surry.

J. Radio Frequency Emissions. The applicant shall demonstrate that the proposed personal wireless facilities (and, if they are to be co-located, the combination of the proposed and existing facilities) comply with limits adopted by the FCC for human exposure to radio frequency emissions. This shall include the applicant's evaluation of such potential exposure against the guidelines of FCC 96-326 (and any more recent guidelines that the FCC may adopt) and the testing protocol. The applicant shall cooperate in inquiries of the Planning Board, either with the applicant or the FCC, and, as appropriate, prepare environmental assessments and environmental impact statements.

7. Additional Required Documentation

A. Federal Documentation: All documentation submitted or prepared in compliance with FCC or FAA regulations, including assumptions, calculations, measurements, Environmental

Assessments, Environmental Impact Statements, Notices of Construction or Alteration, and Aeronautical Studies.

B. Bonds/Surety: The bonds or other method of financial surety under Section VII (Telecommunications Facilities and Towers) - subsection 9(B) - (Demolition Bond) and subsection 9(C) - (Performance Bonds).

C. Commitment to Available Space: A written, irrevocable commitment, valid for the duration of the existence of the tower, to rent or lease available space for co location on the tower at fair market prices and terms, without discrimination, to other telecommunications providers (applies only to the construction of a new tower or the major modification of an existing tower).

D. Lease of Tower: A copy of the lease/contract with the owner of the existing structure (applies only to a facility to be installed on existing tower).

E. Applications/Plans for Other Facility Sites: Applications and plans the applicant has or has access to for other facility sites within a 10 mile radius of Surry. Applicants shall submit any other plans it has or has access to for existing facility sites within a 30 mile radius of Surry.

F. Site Plans and Maps: Physical plant plans, prepared, stamped and signed by a professional engineer. Survey plans also shall be stamped and signed by a land surveyor who is registered as a land surveyor in Maine. Signal propagation and radio frequency studies, plots and related material shall be prepared, clearly identified and signed by a qualified radio-frequency engineer. Power density calculations shall be in accordance with "worst case" formulas in Bulletin 65. Radial plots shall be in bright colors, showing clear demarcations between signals strengths. Plans shall be on 24" x 36" sheets, on as many sheets as necessary, and at scales which are no smaller (i.e. no less precise) than listed below. Each plan sheet shall have a title block indicating the project title, sheet title, sheet number, date, revision dates, scale(s), and original seal(s) and signature(s) of the professional(s) who prepared the plan.

(1) Location Map: A copy of a portion of the most recent U.S.G.S. Quadrangle Map, at a scale of 1:25:000, and showing the area within at least two miles from the proposed tower site. The tower location and the exact latitude and longitude (degrees, minutes, and seconds to the nearest tenth) shall be clearly designated on the Location Map.

(2) Vicinity Map. Vicinity Map shall be of a scale of 1" = 416' (1:5000) with contour intervals no greater than 10 feet (3 meters) showing the entire vicinity within 2500' radius of the tower site, and including the topography, public and private roads and driveways, buildings and structures, bodies of wafer, wetlands, landscape features, historic and archaeological sites, great ponds and habitats for endangered or threatened species. The property lines of the proposed tower site parcel and of all abutters to the tower site parcel (from assessors' maps or available surveys) shall be clearly designated on the Vicinity Map. Any access easement or right of way needed for access from a public way to the tower and/or facility site, and the names of all abutters or property owners along the access easement or who have deeded rights to the easement shall also be clearly indicated on the Vicinity Map. All residential or

commercial structures, schools, churches, or public buildings within 1750' of the proposed Base of the Tower shall be clearly set out on the map.

(3) Existing Conditions Plan: A recent survey of the area within 500' of the tower site at a scale no smaller than 1" = 40' with topography drawn with a minimum of 2' contour intervals, showing existing utilities, property lines, existing buildings or structures, stone walls or fence lines, wooded areas, existing water wells and springs, individual trees with diameters greater than 12" within a 200' radius from the base of the proposed tower (labeled with their current heights). The boundaries of any wetlands, floodplains and watercourses, and of any bodies of water included in the Shoreland Zoning district within 500' from the tower or any related facilities or access ways, or appurtenances shall be clearly designated. No more than two years prior to the date an application is made to the Planning Board, the aforementioned survey shall have been completed, on the ground, by a land surveyor who was registered as a land surveyor in the State of Maine at the time the survey was made. The survey must have been completed, on the ground, by a land surveyor registered in Maine within two years prior to the application date.

(4) Proposed Site Plan: The Proposed facility site layout, grading and utilities at the same scale or larger than the Existing Conditions Plan (above) shall include the following:

(a) Proposed tower location and any appurtenances, including supports and guy wires, if any, and any accessory building (communication equipment shelter or other). Property boundaries and setback distances to the base(s) of the tower and to the nearest corners of each of the appurtenant structures to those boundaries, and dimensions of all proposed improvements shall be indicated. Where protective fencing is proposed, setback distances from the edge of the fencing shall be indicated.

(b) Indicate proposed spot elevations at the base of the proposed tower and at the base of any guy wires, and the corners of all appurtenant structures.

(c) Proposed utilities, including distance from source of power, sizes of service available and required, locations of any proposed utility or communication lines, and exact locations of the underground route. Detailed plans for emergency power generation shall include:

[1] Demonstration of percent of electrical demand being proposed in event of loss of commercial power Type of fuel, storage method and expected means and frequency of fuel delivery to site for power generation.

[2] Amount of generator time based on historic power reliability for the area of the facility, proposed frequency and duration of tests, and description of muffler system and methods for noise abatement;

(d) Feasibility of wind and/or solar power in conjunction with storage batteries. Limits of areas where vegetation is to be cleared or altered and justification for any such clearing or alteration.

(e) Any proposed direct or indirect wetlands alteration.

(f) Detailed plans for drainage of surface and/or sub surface water; plans to control erosion and sedimentation both during construction and as a permanent measure.

(g) Plans indicating locations and specifics of proposed screening, landscaping, ground cover, fencing, etc.; any exterior lighting or signs.

(h) Plans of proposed access driveway or roadway and parking area at the tower site shall include grading, drainage, travel width and include a cross section of the access drive indicating the width, depth of gravel, paving and/or surface materials.

(i) Plans showing any changes to be made to an existing facility's landscaping, screening, fencing, lighting, drainage, wetlands, grading, driveways or roadways, parking or other infrastructure as a result of a proposed modification of the facility.

(j) Maintenance plans and schedules for the proposed facility's landscaping, screening, fencing, lighting, drainage, wetlands, grading, driveways or roadways, parking or other infrastructure.

(5) Proposed Tower and Appurtenances Plan:

(a) Plans, elevations, sections and details at appropriate scales but no smaller than 1=10'.

(b) Two cross sections through proposed towers drawn at right angles to each other, and showing the ground profile to at least 100 feet beyond the limit of clearing, and showing any guy wires or supports. Dimensions of the proposed height of the tower above average grade at tower base. Show all proposed antennas, including their location on the tower.

(c) Details of proposed tower foundation, including cross sections and details. Show all ground attachments, specifications for anchor bolts and other anchoring hardware.

(d) Details of proposed exterior finish of the tower.

(e) Indication of the relative height of the tower to the tops of surrounding trees as they presently exist, and the height to which they are expected to grow in ten years.

(f) Illustration of the modular structure of the proposed tower indicating the heights of sections which could be removed or added in the future to adapt to changing communications conditions or demands.

(g) A professional structural engineer's written description of the proposed tower structure and its capacity to support additional antennas or other communications

facilities at different heights and the ability of the tower to be shortened if future communications facilities no longer require original height.

(h) A description of available space on the tower, providing illustrations and examples of the type and number of telecommunications facilities which could be mounted on the structure.

(6) Proposed Communications Equipment Shelter Plan:

(a) Floor plans, elevations, and cross sections at a scale no smaller than ¼" = 1 foot of any proposed appurtenant structure.

(b) Representative elevation views, indicating the roof, facades, doors and other exterior appearance and materials.

(7) Proposed Equipment Plan:

(a) Plans, elevations, sections and details at appropriate scale, but no smaller than 1" = 10'.

(b) Number of antennas and repeaters, as well as the exact locations of antennas and of all repeaters (if any) located on a map as well as by degrees, minutes and seconds to the nearest tenth of latitude and longitude.

(c) Mounting locations on tower or structure, including height above ground.

(d) A recent survey of the facility site at a scale no smaller than 1" = 40' showing horizontal and radial distances of antenna(s) to nearest point on property line, and to the nearest dwelling unit.

(e) Antenna(s) types, manufacturer(s), model number(s).

(f) For each antenna, the antenna gain, and antenna radiation pattern.

(g) Number of channels per antenna, projected and maximum.
(h) Power input to the antenna(s).

(i) Power output, in normal use and at maximum output for each antenna and all antennas as an aggregate.

(j) Output frequency of the transmitter(s).

(k) For modification of an existing facility with multiple emitters, the results of an intermodulation study to predict the interaction of the additional equipment with existing equipment.

(8) Visibility Maps/Sight Lines:

(a) A minimum of eight (8) view lines in a zero (0) to two (2) mile radius from the site, shown beginning at True North and continuing clock wise at forty- five degree intervals.

(b) Applicant shall utilize the U.S.G.S. Quadrangle map, at a scale of 1" = 400'; with vertical scale of 1" = 40'. Trees shall be shown at existing heights and at projected heights in ten years.

(c) A map of Surry on which any visibility of the proposed tower from a public way (including all existing public rights of way), shall be indicated.

8. Required Monitoring

A. Structural Inspection: Tower owner(s) shall pay for a licensed structural engineer, chosen and hired by the Planning Board, to conduct inspections of the tower's structural integrity and safety. Guyed towers shall be inspected every three years. Monopoles and non guyed lattice towers shall be inspected every five years. A report of the inspection results shall be prepared by the independent consultant and submitted to the Board of Selectmen, the Planning Board, the Code Enforcement Officer, and the Administrative Assistant. Any major modification of an existing facility that includes changes to the tower, dimensions or antenna numbers or type shall require a new structural inspection.

B. Remedying Unsafe Structures: Should the inspection of any tower reveal any structural defect(s) which, in the opinion of the structural engineer, renders that tower unsafe, then the following actions must be taken: Within 10 business days of notification of the unsafe structure, the owner(s) of the tower shall submit to the Board of Selectmen, Planning Board, the Code Enforcement Officer, and

the Administrative Assistant a plan to remedy the structural defect(s) and then shall remedy such defects to the satisfaction of the structural engineer as soon as reasonably possible. Failure to adhere to such deadlines shall be a Zoning Violation subject to fines. Such fines shall be payable by the owner(s) of the tower until compliance is achieved.

9. Fee Schedule and Bonding

A. Application Fees: Upon submission of a signed application that meets all of the criteria herein described, including all supporting documents and maps, an application fee shall be submitted to Surry in the amount of $3500.00.

B. Demolition Bond: As a condition of approval of a special permit, the applicant shall provide a separate demolition bond in an amount determined and approved by the Planning Board under Section VII (Telecommunications Facilities and Towers) - subsection 12 (Duty of Remove).

C. Performance Bonds: The Planning Board may require additional performance bonds, payable at the time of application, to protect sites during construction (such as landscaping bonds under

Section VII (Telecommunications Facilities and Towers) - subsection 5(C). and ensure payment of consultants under Section VII (Telecommunications Facilities and Towers) - subsection 9(D).

D. Independent Consultants Fees: The applicant shall pay for the Planning Board's consultants. This payment shall be in addition to the application fee and a condition to the issuance of the permit. At the time of application and from time to time thereafter, the Board may require the applicant to deposit in a separate escrow fund an amount sufficient to cover these anticipated costs. If a permit shall issue before the applicant has paid these costs, such failure to pay shall constitute a violation of the permit and automatically suspend the permit until full payment is made. Surry may sue the applicant to recover these costs, together with interest, attorney fees and courts costs.

10. Insurance and Indemnification

A. Insurance: Surry shall not authorize a tower site or facility by any telecommunications service provider until, and unless, the town receives written assurance that such operators (and those acting on its behalf) have adequate insurance as determined by the Planning Board. At a minimum, the following insurance requirements shall be satisfied:

(1) A telecommunications facility operator shall not commence construction or operation of the facility without obtaining all insurance required under this section and approval of such insurance by the Planning Board, nor shall a telecommunications facility operator allow any contractor or subcontractor to commence work on its contract until all similar such insurance required of the same has been obtained and approved by the Planning Board. The required insurance must be obtained and maintained for the entire period the telecommunications facility is in existence. If the operator, its contractors or subcontractors do not have the required insurance, the town will order such entities to cease operation of the facility until such insurance is obtained and approved by the Planning Board,

(2) Certificate(s) of insurance verifying such insurance shall be filed with the Planning Board at the time of application. For entities that are entering the market, the certificate(s) shall be filed prior to the commencement of construction and once a year thereafter, and as provided below in the event of a lapse of coverage. Such certificate(s) should provide the name, address and phone number of the insurance carrier; and identify an agent to contact, including agent's phone number, in case of inquiries.

(3) The certificate(s) of insurance shall contain a provision that, afforded under such policies, the town shall be given at least thirty (30) days written notice of the intention to cancel and the date on which it is intended to cancel the policy(s) before said policy(s) can be canceled. The policy shall not be canceled until at least thirty (30) days prior written notice has been given to the town. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Maine.

(4) Where applicable, in the event that the insurance certificate(s) provided indicates that the insurance will terminate or lapse during the term of the lease/contract agreement, then, in that event, the telecommunications facility(s) operator shall furnish a renewed certificate of insurance as proof that equal and like coverage shall remain in effect for the balance of

the lease/contract term, at least thirty (30) days prior to the expiration of the date of such insurance.

(5) A telecommunications facility operator and its contractors or subcontractors engaged in work on the operator's behalf, shall maintain minimum insurance in the amounts determined by the Planning Board to cover liability, bodily injury, and property damage. The insurance shall cover, but not be limited to, the following exposures: premises, operations, and certain contracts. Such coverage shall be written on an occurrence basis and shall also be required under any lease agreement between the town and the telecommunications facility operator.

B. Indemnification: Surry shall not approve or otherwise authorize tower siting by a telecommunications service provider until, and unless, the town obtains, in writing, an adequate indemnification from such provider. This indemnification must, at a minimum:

(1) Release, indemnify and hold harmless Surry from, and against, any and all liability and responsibility in or arising out of the construction, operation, maintenance, or repair of the telecommunications facility. Each telecommunications facility operator must further agree, in writing, that it will not sue or seek any monies or damages from Surry in connection with the any approved facilities.

(2) Indemnify and hold harmless Surry, its elected and appointed officers, agents, servants, and employees, from and against any and all claims, demands, or causes of action whatsoever kind of nature, and the resulting losses, costs, expenses, reasonable attorney's fees, liabilities, damages, orders, judgments or decrees, sustained by the town or any third party arising out of, or by any reason of, or resulting from, or out of each telecommunications facility(s) operator's, agent's, employee's, or servant's negligent acts, errors, or omissions.

(3) Provide that the covenants and representations relating to the indemnification provision shall survive the term of any agreement and continue in full force and effect as to the responsibility of the party to indemnify.

11. Abandonment

Any tower or telecommunications facility that ceases to perform its normal functions on a continuous basis for six (6) consecutive months shall be deemed abandoned. The determination of abandonment shall be made by Surry's Code Enforcement Officer, who shall have the right to request documentation and/or affidavits from the responsible parties regarding tower usage. Failure for any reason by the responsible parties to respond within twenty (20) days to such a request shall constitute prima facie evidence that the tower and/or telecommunications facility has been abandoned.

12. Duty to Remove

The responsible parties shall be jointly and severally liable for removing any abandoned tower or telecommunications facility and for rehabilitating the site all within ninety (90) days of being served with notice of a determination of abandonment. The applicant shall submit with its application a surety bond payable to Surry in a form reasonably acceptable to the Planning Board to cover Surry's

cost of such removal and rehabilitation should the responsible parties fail to remove and rehabilitate in a timely and satisfactory way. Surry may sue the responsible parties for any such costs not covered by such bond, together with interest, attorneys' fees and court costs.

13. Future Non-Conforming Uses

If from time to time the Planning Board finds that the technologies pertaining to towers and/or telecommunications facilities have changed such that personal wireless services can be readily provided without towers (such as satellite systems) or by substantially less intrusive means, or in that the service providers in the county and/or their customers, are making frequent uses of the new technologies (above 30% for customer use, or above 30% of business revenue base per service provider), in the installation of new communication systems, or in the expansion of existing systems (whether such installation or expansion are occurring in Surry or elsewhere), the Planning Board may declare to be Non-Conforming Uses all communications towers then existing in Surry. The Planning Board shall declare such towers/facilities to be non-conforming uses in any Code which amends these regulations to make such towers/facilities non- permitted uses altogether in residential and commercial areas. The Planning Board will then determine if the new technologies are appropriate uses for the preexisting sites. If it determines that the upgrading of the facilities are appropriate uses, the Planning Board may determine that the new technologies are permitted uses, or special exceptions requiring special permits. The Planning Board may then set such time limits as are reasonably and legally permissible for the service providers and tower owners/operators to remove non conforming towers and replace them with the new technologies. This paragraph shall be effective only if, and to the extent not prohibited or preempted, by state or federal law.

14. Permit Expiration

Any special permit granted pursuant to these regulations shall expire five (5) years from the date of approval. Such permit may be renewed for a new five (5) year period on applications to the Planning Board, in a form prescribed by the Planning Board, submitted not later than ninety (90) days before the existing permit's expiration date. Upon such a renewal application, the applicant shall affirmatively demonstrate that all conditions for the approval of the original permit remain satisfied or why the permit should otherwise be approved.

15. Severability Clause

The invalidity of any section or provision of this regulation shall not invalidate any other section or provision hereof.

VIII. Standards for Small Wind Energy Systems

1. Title

This Ordinance shall be known and cited as "Standards for Small Wind Energy Systems" of the Town of Surry, Maine (hereinafter referred to as the "Ordinance").

2. Authority

The Surry Planning Board (hereinafter referred to the "Board") is vested with the authority to review and approve, conditionally approve or reject any application for small wind energy systems.

3. Purpose and Intent

The purpose of this Ordinance is to facilitate the permitting and installation of small wind energy systems and to preserve and protect public safety without significantly increasing the cost or decreasing the efficiency of a small wind energy system.

4. Applicability

The requirements of this Ordinance shall apply to all free standing small wind energy systems proposed, modified, or constructed after April 25, 2011. General Code requirements shall not apply to small wind energy systems mounted as an accessory on the wall or roof of a structure or to ornamental architectural windmills.

5. Severability

If any section, clause or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of this Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

6. Conflict

Where this Ordinance is in conflict with other Town of Surry Ordinance, this Ordinance shall prevail.

7. Definitions

A. Applicant. The person, firm, corporation, company, Limited Liability Company or other entity which applies for approval under this Ordinance.

B. Meteorlogical Tower. A structure designed to support the gathering of wind resource data. This includes the tower, equipment booms, base plate, anchors, guy wires, and weather instrumentation.

C. Setback. The horizontal distance measured from the center of a tower base to a second specified point.

D. Site. The parcel(s) of land where a small wind energy system is to be placed. The site can be publicly or privately owned and may include several adjacent lots. Where the site is comprised of several adjacent lots, the combined lots shall be considered one for the purposed of applying setback requirements.

E. Small Wind Energy System. A wind energy system which consists of one wind turbine, a tower, footings, electrical infrastructure and any other associated equipment or structures with a capacity of one hundred kilowatts (100kW) or less, intended to produce electrical power primarily for the benefit of the applicant.

F. System Height. The vertical distance measured from a point on the ground at the mean finished grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the small wind energy system tower to the highest point of the wind turbine blade when the tip is at its full vertical position.

G. Tower. Tower means a monopole, lattice or guyed structure that supports a wind turbine.

H. Wind energy system. Wind energy system means a wind powered generator and all associated equipment, including foundation, base, tower, nacelle, turbine, vane, wire, inverter, batteries, or other components necessary to fully utilize the wind energy.

I. Windmill. A low speed wind turbine that principally captures wind energy by drag, i.e., the traditional multi-bladed farm windmill or Dutch windmill.

J. Licensed Professional Engineer. A Professional Engineer who is licensed by a governmental entity having jurisdiction in either the United States or Canada and who has the authority to sign and seal or "stamp" engineering documents (reports, drawings and calculations) for a study, estimate, design or analysis, thus taking legal responsibility for it.

8. Building Permit Applications

Small wind energy system building permit applications (original and 6 copies) shall be submitted to the Code Enforcement Officer and shall include the following:

A. Name, address, telephone number of the applicant.

B. Address of the proposed small wind energy system's location, including tax map and lot numbers. If the site includes properties not owned by the applicant, the applicant shall provide

the Board with proof that the applicant holds rights for use of that property through long term lease or other conveyance and that the owner(s) of such property are aware of and agree in writing to the construction of the proposed small wind energy system.

C. A description of the project, including the manufacturer and model, the maximum rated capacity of the small wind energy system, tower type, the system height and whether or not it will be connected to the electric utility lines.

D. Standard drawings or blue prints of the wind turbine tower and footings and an analysis of the tower and footings certified by a licensed professional engineer. This analysis may be supplied by the manufacturer. Wet stamps shall not be required.

E. A site plan of the property drawn to scale no smaller than 1" = 30' showing the following: compass orientation, the proposed location of the small wind energy system, property lines and physical dimensions of the property, location and precise dimensions of existing structure(s) on the property, and the location of major structures on abutting properties within two (2) times the system height from the proposed tower location..

F. Written evidence that the electrical utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electrical generator, unless the applicant does not plan, and so states, to connect the system to the electrical utility lines.

G. A list of property abutters with full names and addresses. Notice to abutters will be prepared by the Town of Surry Code Enforcement Officer and mailed to property owners within seven (7) days of receipt of the application to allow sufficient time for any responses to be included with the application at the next Planning Board meeting.

9. Standards

A. Zoning Districts. Small wind energy systems and meteorological towers are permitted as a principal or accessory use in all zoning districts. A different existing use or an existing structure on the same lot shall not preclude the installation of a small wind energy system or meteorological tower. A small wind energy system or meteorological tower installed in accordance with the provisions of this Ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

B. Setbacks. Small wind energy systems certified by a licensed professional engineer shall be setback a minimum horizontal distance fifty percent (50%) of the system height from property lines (with a minimum of ten [10] feet). Setbacks for small wind energy systems not certified by a licensed professional engineer shall be one-hundred ten percent (110%) of the system height from the property lines. These distances may be reduced to the setback requirement of other structures in the same zone with the written consent of the owner of the abutting property.

C. At the time of application, each small wind energy system shall be set back from the nearest abutting inhabited structure by a distance not less than one-hundred fifty percent (150%)

of the system height. This distance may be reduced with the written consent of the owner of the abutting property.

D. Anchor points for guy wires for a tower shall be located within the site and are not otherwise constrained by setback requirements. The point of attachment for guy wires shall be enclosed by a fence or sheathed in bright orange or yellow covering to eight (8) feet above ground.

E. Height. The system height of a small wind energy system shall not exceed thirty-five (35) feet to the tip of the blade at its highest point. The allowed height shall be reduced if necessary to comply with Federal Aviation Administration requirements.

F. Ground Clearance. The blade tip of any rotor shall, at its lowest point, have a ground clearance of not less than twenty (20) feet.

G. Small wind energy systems shall be principally used to produce power for the benefit of the applicant. This standard does not preclude utility line connections for net metering or other small energy system grid tie-in plans that the Maine Public Utilities Commission may adopt.

H. The maximum power output for each small wind energy system shall be one hundred kilowatts (100kW).

I. The small wind energy system's tower, turbine, and blades shall be a non-reflective neutral color unless otherwise required by the Federal Aviation Administration.

J. Exterior lighting on any tower or turbine associated with the small wind energy system shall not be allowed except that which is required by the Federal Aviation Administration.

K. Except during short-term events including outages and severe wind storms, the audible noise due to wind turbine operations shall not create a nuisance condition. This can be determined by assessment of sound pressure levels, defined as an excess of 55 dB-A during daylight hours (7 AM to 7 PM) and 45 dB-A at night (7 PM to 7 AM).

L. Small wind energy systems larger than one kilowatt (1kW) shall be equipped with automatic over speed controls to limit the turbine speed to within design limits and brakes to lock or minimize rotation.

M. A small wind energy system that is not in use shall be braked or locked so as to prevent uncontrolled rotation.

N. All small wind energy systems shall be maintained in safe condition. Systems that are structurally unsafe must be repaired or dismantled within notice of thirty (30) days by the Code Enforcement Officer. The Town of Surry shall have the authority to pursue legal action if necessary.

10. Meteorological Towers

Meteorological towers shall require the same application procedures and applicable standards as small wind energy systems. They shall ordinarily be permitted for a period of two (2) years unless that period is extended by the Board.

11. Waivers or Modifications

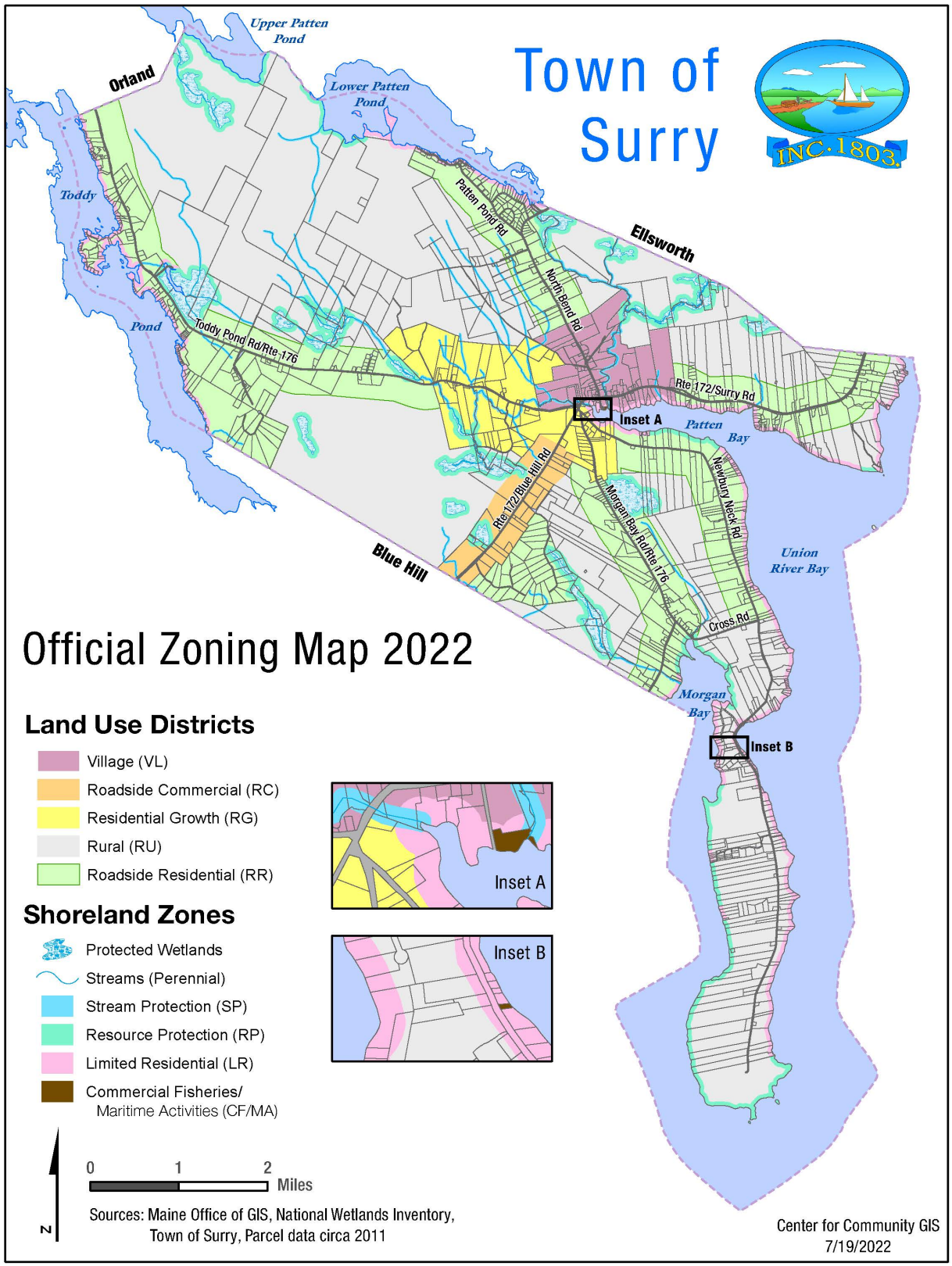
The Board may grant a waiver or modification from the strict application of the provisions of this Code if, in the opinion of the Board, the grant of the waiver or modification will not produce an adverse effect on the general safety and welfare of the town. The Board may consider as reasonable factors in evaluating the request: the impact of the waiver or modification on the neighborhood, the benefit to the applicant, feasible alternatives, and the scope of the request. A request for variances to this Code shall be reviewed by the Town of Surry Board of Appeals.

Adopted: April 25, 2011

APPENDIX A

Town of Surry Official Zoning Map and Legal Descriptions

Approved: _____


Town of Surry
INC·1803
Official Zoning Map 2022
Land Use Districts
Village (VL)
Roadside Commercial (RC)
Residential Growth (RG)
Rural (RU)
Roadside Residential (RR)
Shoreland Zones
Protected Wetlands
Streams (Perennial)
Stream Protection (SP)
Resource Protection (RP)
Limited Residential (LR)
Commercial Fisheries/
Maritime Activities (CF/MA)
Inset A
Inset B
0 1 2
Miles
N
Sources: Maine Office of GIS, National Wetlands Inventory,
Town of Surry, Parcel data circa 2011
Center for Community GIS
7/19/2022
Upper Patten Pond
Lower Patten Pond
Orland
Toddy
Pond
Toddy Pond Rd/Rte 176
Patten Pond Rd
North Bend Rd
Ellsworth
Rte 172/Surry Rd
Patten Bay
Rte 172/Blue Hill Rd
Blue Hill
Morgan Bay Rd/Rte 176
Newbury Neck Rd
Union River Bay
Cross Rd
Morgan Bay

Legal Descriptions: Land Use Districts and Shoreland Zones

Notes Regarding the Legal Descriptions of Land Use Districts:

- The Land Use District descriptions below are based on the Town of Surry Tax Maps as amended on April 1, 2021.

- Wherever a road right-of-way separates the described District from another District, the road centerline shall be the boundary between such adjacent Districts, unless otherwise defined.

- As defined in Chapter 4, the Shoreland Zoning Ordinance, wherever Shoreland Zones overlay Land Use District descriptions, the Shoreland Zoning Ordinance regulations will apply instead.

1. Land Use Districts – VILLAGE DISTRICT

Beginning on Map 39 at the intersection of the easterly boundary of Lot 9 and Surry Road (Route 172); thence running southerly to the shoreline of Patten Bay; thence following the shoreline westerly to the head of the bay to the point where the southerly lot line of Map 31 Lot 6 intersects with the shore line of Patten Bay; thence following said lot line to the intersection with Blue Hill Road (Route 172); thence following the Toddy Pond Road westerly to a point determined by the imaginary extension of the westerly boundary of Map 12 Lots 6A and 6B southerly in a straight line to form an intersection with the Toddy Pond Road; thence northerly following the extension along the westerly boundary of Map 12 Lot 8 to the northwesterly corner of Map 12 Lot 8; thence easterly along the northerly boundary of Map 12 Lot 8 until the line intersects with Map 12 Lot 9; thence northerly following the westerly boundary line of Map 12 Lot 9 to the northwesterly corner of Map 12 Lot 9; thence easterly along the northern boundary of Map 12 Lot 9 to the Murphy Road; thence following the easterly boundary of said road northerly to the point of intersection of the northerly boundary of Map 33 Lot 11; thence easterly following the northerly boundary of Map 33 Lot 11 across North Bend Road; to the northwesterly corner of Map 33 Lot 9;thence following the northerly boundaries of Map 33 Lot 9 and Map 32 Lot 77 to Patten Stream; thence following Patten Stream south to the northernmost point of Map 32 Lot 55; thence following the northeast lot lines of Map 32 Lot 55 southeasterly to the northwest corner of Map 39 Lot 1B; thence easterly across the northerly boundary of Map 39 Lot 1B to the intersection with Map 39 Lot 4A; thence following the west and north boundaries of Map 39 Lot 4A to the northwest corner of Map 39 Lot 10; thence following the westerly boundary of Map 39 Lot 10 southerly to its intersection with Playhouse Road (Old Route 172); thence across the old highway following the easterly lot line of Map 39 Lot 8; thence across Surry Road (Route 172) connecting the intersection of Map 39 Lot 9's intersection with Surry Road (Route 172) the beginning point.

Notwithstanding the above description of the Village Land Use District, any land area within 125' of Patten Stream in the area bound by this description, is included in the Resource Protection District.

2. Land Use Districts -- ROADSIDE COMMERCIAL DISTRICT

Beginning at the intersection of the westerly boundary of Map 9 and Route 172 (Town line of Blue Hill and Surry); thence northwesterly along said line to a point formed by southerly extension of a line along the west side of Lots 11, 1A and 2 of Map 13; thence northeasterly along said line to the southwest corner of Map 13 Lot 11; thence northerly along the westerly boundary of Map 13 Lots 11, 1A and 2, continuing along an extension of the same line to the northwesterly corner of Map 12, Lot 2; thence southeasterly across Route 172 to the southwest corner of Map 31, Lot 2; thence along the southerly line of said Lot and extended through a portion of Map 31 Lot 3, to a point formed by a northerly extension of the easterly lines of Map 31 Lots 1A, 1B and 1C through Map 31, Lot 24; thence along said line in a southerly direction to the southeast corner of Map 31 Lot 1A; thence southwesterly across Map 14 Lot 8 to the northeasterly corner of Map 14 Lot 5-15; thence along the easterly boundary (in a southerly direction) of Map 14, Lot 5-15 and the interior subdivision road; thence southerly along the subdivision road and the southeasterly boundary of Map 14 Lot 5-11 to the southernmost point to Map 14 Lot 5-11; thence southeasterly to the easterly corner lot Map 14 Lot 2A; thence southerly along the southeasterly borders of Map 14 Lots 2A, 2, 1 and 1A, and Map 15 Lots 1 and 2 to the southernmost corner of Map 15 Lot 2; thence northwesterly, following the southern lot line of Map 15 Lot 2 to its intersection with Map 15 Lots 3-43; thence southerly along the easterly border of Map 15 Lots 3-43 and 3-44 to the subdivision road; thence northwesterly along said road to the northeasterly corner of Map 15 Lot 3-45; thence southerly along the easterly border to the aforementioned Town Line; thence northwesterly along said line to the point of beginning across Route 172.

3. Land Use Districts -- RESIDENTIAL GROWTH DISTRICT

Beginning at the point where the northwest corner of Map 9 Lot 14 intersects with the Toddy Pond Road (Route 176); thence westerly along the centerline of Toddy Pond Road to the southwest corner of Map 10 Lot 8A; thence following a projected line in a northwesterly direction through Map 10 Lot 9 to the southwest corner of Map 10 Lot 8; thence northwesterly along the westerly boundary line of Map 10 Lot 8 and Lot 28 to the northwest corner of Map 10 Lot 28; thence easterly following the northerly boundary of Lot 28 to the point where it intersects with Spruce Lane; thence southerly along the centerline of Spruce Lane to the point of intersection with Maple Lane; thence southerly along the centerline of Maple Lane a short distance to the northwest corner of Map 10 Lot 27; thence along the northerly boundary line of Lot 27 to the point where it intersects with Map 10 Lot 26A across Alder Lane; thence following a straight imaginary line projected in a southeasterly direction through Map 10 Lot 26A to the northwest corner of Map 10 Lot 7A; thence along the northern boundary line of Lot 7A to the northeast corner of said Lot 7A; thence southerly along the easterly boundary line of Map 10 Lot 7A to the northwest corner of Map 10 Lot 4; thence following in an easterly direction along the northern boundary lines of Map 10 Lot 4 and Lot 3A to the northeast corner of Lot 3A; thence extending those boundary lines by projecting a straight line from that point through Map 10 Lot 26 and Map 37 Lot 10 to the point where the projected line intersects with Map 37 Lot 13 along its westerly boundary line; thence in a northeasterly direction along said westerly boundary line of Map 37 Lot 13 to the point where it intersects with Murphy Road; thence in an southeasterly direction along the centerline of Murphy Road the northern boundary lines of Map 37 Lot 13 and Map 12 Lot 11 and Map 12 Lot 10 to the point where that line intersects with the lot line of Map 12 Lot 9; thence following the jagged southern boundary line of Map 12 Lot 10 in a westerly and southerly direction to the point where it intersects with Map 10 Lot 1 at the northwest corner of Map

12 Lot 8; thence in a southerly direction along the eastern boundary line of Map 10 Lot 1 to the point where it intersects with Toddy Pond Road (Route 176); thence easterly following the centerline of Toddy Pond Road along the northern boundary of Map 12 Lot 4 and following along the northern boundary lines of subdivision Map 12 Lots 4-1, 4-4, 4-5, 4B, 4A (power line), and continuing along the northern boundary of Map 12 Lots 3 and 3A to the intersection with Blue Hill Road (Route 172); thence in a northerly direction along the centerline of Blue Hill Road to the northwest corner of Map 31 Lot 6 at the shore line at the head of Patten Bay; thence following along the shoreline of Patten Bay in a southeasterly direction along the northern boundary lines of Map 31 Lots 7, 8, 12, and 14 and then along the northern boundary lines of Map 30 Lots 19 and 17 to the northeast corner of said Map 30 Lot 17; thence south along the eastern boundary of said Lot 17 to the intersection with Newbury Neck Road; thence easterly along the centerline of Newbury Neck Road for a short distance to the northeast corner of Map 30 Lot 18A; thence south along the eastern boundary line of said Map 30 Lot 18A to the southeast corner of said Lot 18A; thence westerly along the southern boundary line of said Lot 18A to the point where it intersects with Map 31 Lot 15-1; thence southerly along the eastern lot line of said Lot 15-1 to the point where it intersects with a line projected in an easterly direction along the southern boundary line of Map 31 Lot 22C across Morgan Bay Road and continuing across the northern boundary of Map 31 Lot 21 to intersect with the aforementioned point (along the western boundary line of Map 31 Lot 15-1); thence extending back along said projected line to the southwesterly corner of Map 31 Lot 22C; thence following around the westerly boundary lines of said Lot 22C in a northerly direction to the intersection with Map 31 Lot 24; thence continuing in a northwesterly direction along the southerly boundary line of said Lot 24 to the point where it intersects the northeast corner of Map 31 Lot 1C; thence following a projected line from the eastern boundary line of said Lot 1C perpendicular to the lot line of Map 31 Lot 24 across said Lot 24 to the northerly boundary line of said Lot 24; thence in a northwesterly direction to the northwest corner of said Lot 24; thence along a projected line across a portion of Map 31 Lot 3 to the southwest corner of Map 31 Lot 2; thence westerly along the southern boundary line of Map 31 Lot 2 to Blue Hill Road (Route 172); thence along a projected line extending the southern boundary of Map 31 Lot 2 in a westerly direction across Blue Hill Road and across Map 12 Lot 2 to the point where it intersects with the eastern boundary line of Map 12 Lot 4; thence southwesterly along the eastern boundary line of Map 12 Lot 4 and Map 11 Lots 4-19 and 4-18 to the northeast corner of Map 11 Lot 17; thence easterly along the southern boundary line of Map 11 Lot 4-18 to Sunfish Lane; thence following along the centerline of Sunfish Lane in a northwesterly direction across Meadow Stream to the southeast corner of Map 9 Lot 8; thence westerly along the southern boundary line of Map 9 Lot 8 to the southwest corner of said Lot 8; thence northerly along the western lot line of Map 9 Lot 8 and Lot 14 to the northwest corner of Map 9 Lot 14 at the Toddy Pond Road (Route 176) to the beginning point.

4. Land Use Districts – RURAL DISTRICT

The Rural District consists of those areas not otherwise designated for a particular Land Use.

5. Land Use Districts -- ROADSIDE RESIDENTIAL DISTRICT

There are six separate areas within the Town of Surry that are classified as Roadside Residential District. Five of these areas follow the major roads within Surry - specifically, along (a) North Bend Road (and

extending along Patten Pond Road); (b) Surry Road (Route 172 east of the Village); (c) Newbury Neck Road; (d) Morgan Bay Road (Route 176 southeast of the Village); and (e) Toddy Pond Road (Route 176 west of the Village). There is also an area (f) classified as Roadside Residential District to the south and east of the Roadside Commercial District, along the Town Line between Blue Hill and Surry.

While the Roadside Residential (RR) District consists of a band along the major roads extending for 1,500 feet from the centerline of each road in both directions, wherever a Shoreland Zone overlays these RR Districts, Shoreland Zoning Ordinance regulations will apply instead. Additionally, there are a few areas where the Roadside Residential District extends beyond 1,500 from the centerline of the roads. These extended areas have been delineated in the detailed legal descriptions below.

(a) North Bend Road and Patten Pond Road:

Beginning on Map 33 on the northerly boundaries of Lots 9 and 11; and thence extending in a northwesterly direction along North Bend Road and Patten Pond Road on Maps 34, 35, and 36 as a band extending along these roads 1,500 feet from the centerline of these roads (the band extends in a southwesterly and northeasterly direction on each side of these roads); and also including all of Map 36 Lot 40.

(b) Surry Road / Route 172 (East of the Village):

Beginning on Map 39 on a line formed by the western boundary of Lots 10, 10A, 11 and 12; and thence extending as a band in an easterly direction along Surry Playhouse Road (Old Route 172) 1,500 feet from the centerline of this road to the north along Surry Playhouse Road; and also extending as a band in an easterly direction along Surry Road (Route 172) 1,500 feet from the centerline on each side of Surry Road (Route 172) (the band extends to the north and south of Surry Road) --across Maps 40, 41, 42, and 43) to the Town Line of Ellsworth and Surry (the northern boundaries of Map 43 Lots 27, 27-A, 28, and 29).

(c) Newbury Neck Road:

Beginning on Map 30 on a line formed by the eastern boundaries of Lots 17 and 18A; and thence extending in an easterly and then southerly direction (across Maps 30, 29, 27, 26, and 18) along Newbury Neck Road as a band 1,500 feet from the centerline of this road on each side (northerly and southerly and then easterly and westerly) of Newbury Neck Road to a line formed by the southern boundary of Map 18 Lot 7A and the centerline of Cross Road.

(d) Morgan Bay Road / Route 176 (Southeast of the Village):

Beginning on Map 31 from a northern boundary formed by the line beginning at the northeasterly corner of Map 31 Lot 22H; and thence extending easterly along the northern boundary of said Lot 22H to the northwesterly corner of Map 31 Lot 22C; thence extending southward along the western boundary of said Lot 22C around the jagged boundary line to the southwesterly corner of said Lot 22C; thence extending along the southerly boundary of said Lot 22C in an easterly direction to the centerline of Morgan Bay Road; thence projecting a line in an easterly direction across Morgan Bay Road to the northwesterly corner of Map 31 Lot 21; thence extending easterly along the northerly boundary of said Lot 21 to the northeasterly corner of said Lot 21; thence continuing in a southerly direction along the easterly boundary

of said Lot 21 to the point where it intersects with map 31 Lot 20 at the southwesterly corner of Map 31 Lot 15-1; thence continuing along the southerly boundary of Map 31 Lot 15-1 to the southeasterly corner of said Lot 15-1; thence continuing northerly along the easterly boundary of said Lot 15-1 to the southwesterly corner of map 30 Lot18; thence easterly projecting a line along the southerly boundary of said Map 30 Lot 18 to the point 1,500 feet from the centerline of Morgan Bay Road; thence extending as a band from this aforementioned northern boundary in a southeasterly direction (across Maps 31, 28, 26 and 17) 1,500 feet on both sides from the centerline of Morgan Bay Road (the band extending to the northeast and the southwest on each side of Morgan Bay Road) to the Town Line of Blue Hill and Surry (the southwesterly boundaries of Map 17 Lots 2, 1, and 3).

(e) Toddy Pond Road:

Beginning on Map 9 on the western boundary of Lot 14; and thence from a line formed by the western boundaries of Map 10 Lots 28 and 8 projected in a southeasterly direction to the point where it intersects with Map 10 Lot 8A; and thence extending in a westerly and thence a northwesterly direction along Toddy Pond Road (across Maps 10, 9, 7, 6, 5, 4, and 3), as a band along this Toddy Pond Road for 1,500 feet from the centerline of this road on the northern and northeasterly and southern and southwesterly sides of this road to the Town Line of Orland and Surry (the northerly boundary of Map 3 Lot 1). Beyond the 1,500 foot band on either side of Toddy Pond Road, this Roadside Residential District also includes all of the lots on Map 4 (all Lots 1 through and including Lot 53A), Map 6 (all Lots 1 through and including Lot 32) and Map 8 (all Lots 1 through and including Lot 17-13).

(f) Area to the South and East of the Roadside Commercial District Abutting the Town Line Between Blue Hill and Surry

Beginning at the southwesterly corner of Map 15 Lot 3-46 on the Town Line between Blue Hill and Surry; thence extending northeasterly along the western boundary of Map 15 Lot 3-46 to the centerline of Granite Rock Circle South Road; thence easterly along the centerline of said Road a short distance to the southwestern corner of Map 15 Lot 3-42; thence northerly along the western boundary of Lot 3-42 to the point where it intersects with Map 15 Lot 2 ; thence eastward along the southern boundary of Lot 2 to the southeast corner of said Lot 2; thence northward along the eastern boundary lines of Map 15 Lots 2 and Lot 1; thence continuing along the eastern boundaries of Map 14 Lots 1A, 1, 2 and 2A to the northeastern corner of said Lot 2A; thence westward along the northern boundary of Lot 2A a short distance to the southeastern corner of Map 14 Lot 5-11; thence northward along the eastern boundary of said Lot 5-11 to the centerline of Granit Rock Circle North Road; thence eastward along the centerline of Granite Rock Circle North Road along the northerly boundaries of Map 14 Lots 5-10, 5-9 and 5-8 to the northwest corner of Map 14 Lot 6; thence southeasterly along the southerly boundary of said Lot 6 to the northwest corner of Map 14 Lot 5-23; thence southeasterly along the northeeasterly boundaries of Map 14 Lots 5-23 and 5-24; thence along the northeasterly boundaries of Map 15 Lots 3-25 and 3- 26 to the northeastern corner of Map 15 Lot 3-26; thence southward along the easternly boundaries of Map 15 Lots 3-26, 3-27, and 3-28 to the northeast corner of said Lot 3-28; thence southwesterly along the southerly boundaries of Lots 3-28, 3-29, 3-31, 3-32, 3-33, 3-34, 3-50 and 3-49 to the southeasterly corner of said Lot 3-49 at the Town Line between Blue Hill and Surry; thence westerly along the aforementioned Town Line to the point of beginning at the southwesterly corner of Map 15 Lot 3-46.

6. Shoreland Zones – STREAM PROTECTION ZONE

See the definition of the Stream Protection Zone in Chapter 4, Shoreland Zoning Ordinance, Section 7.A.

7. Shoreland Zones – RESOURCE PROTECTION ZONE

See the definition of the Resource Protection Zone in Chapter 4, Shoreland Zoning Ordinance, Section 7.B. Additionally, see the descriptions of the Resource Protection areas adjacent to Great Ponds and tidal areas by tax map and lot numbers below:

Upper Patten Pond – the entire pond.

Lower Patten Pond – beginning with Map 37 Lot 2 and running northerly to the Surry/Ellsworth line.

Patten Bay - beginning with Map 30 Lot 7 and running southeasterly to include Map 29 Lot 10.

Weymouth Point - beginning at the westerly boundary of Map 42 Lot 25-2 and running westerly to the next lot line.

Morgan Bay – beginning at the southerly boundary of Map 17 Lot 12 and running northerly to the head of Morgan Bay and southerly along the eastern side of the bay to the westerly boundary of Map 19 Lot 1-1

Newbury Neck – beginning at the southerly boundary of Map 20 Lot 9-c and running south around the bottom of the neck and ending at the northerly boundary of Map 25 Lot 4. Land on Map 21 Lots 8-1 through 8-6 is excluded from this description. Lots located between Map 22 Lot 5 and Map 22 Lot 10 are also excluded from this description.

8. Shoreland Zones – LIMITED RESIDENTIAL ZONE

See the definition of the Limited Residential Zone in Chapter 4, Shoreland Zoning Ordinance, Section 7.C.

9. Shoreland Zones – COMMERCIAL FISHERIES / MARITIME ACTIVITIES ZONE

See Insets A and B on the Town of Surry Official Zoning Map

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Chapter 4: SHORELAND ZONING ORDINANCE

1. Purposes:

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

2. Authority:

This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.) and the Maine Department of Environmental Protection guidelines as set forth in 06-096 - Chapter 1000.

3. Applicability:

This Ordinance applies to all land areas within 250 feet, horizontal distance, of the

A. normal high-water line of any great pond,

B. upland edge of a coastal wetland, including all areas affected by tidal action, or

C. upland edge of a freshwater wetland, and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream, as well as those areas designated in the Legal Descriptions and the Town of Surry Official Zoning Map included in Appendix A of this Ordinance.

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.

NOTE: Coastal wetlands, by definition, include all areas affected by tidal action, not just those areas where salt marshes and salt meadows exist. Cobble and sand beaches, mudflats, and rocky ledges, below the highest annual tide are all considered to be coastal wetlands.

4. Effective Date of Ordinance and Ordinance Amendments:

This Shoreland Zoning Ordinance, which was adopted by the voters of Surry on April 25, 2022 and shall not be effective unless approved by the Commissioner of the Maine Department of

Environmental Protection. A certified copy of the Ordinance, or the 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 45 days of receipt of the Ordinance or Ordinance amendment, it shall be automatically approved.

Any application for a permit submitted to the Town within the forty-five 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.

5. Zones and Zoning Map:

A. Town of Surry Official Zoning Map – The areas to which this Ordinance is applicable are hereby divided into the following Zones as shown on the Town of Surry Official Zoning Map and as detailed in the Legal Descriptions in Appendix A – Chapter 3 (UDO) which is made a part of this Code:

(1) Stream Protection (SP)
(2) Resource Protection (RP)
(3) Limited Residential (LR)
(4) Commercial Fisheries / Maritime Activity (CFMA)

B. Scale of Map – the Town of Surry Official Zoning Map shall be drawn at a scale of not less than 1 inch = 2000 feet. Zone boundaries shall be clearly delineated and a legend indicating the symbols for each Zone shall be placed upon the map. If multiple maps are provided for purposes of clarity, each map or inset shall define the scale of such map or inset.

C. Certification of Town of Surry Official Zoning Map – The Town of Surry Official Zoning Map shall be certified and attested by the Municipal Clerk and shall be located in the Town Office.

D. Changes to the Town of Surry Official Zoning Map – If amendments are made in the Zone boundaries or other matter portrayed on the Town of Surry Official Zoning Map, such changes shall be made on the Town of Surry Official Zoning Map within 30 days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

6. Non-conformance:

A. Purpose:

It is the intent of this Code to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Code (June 9, 1992) or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section (6). Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. General:

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

(2) **Repair and Maintenance.** This Code allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

NOTE: See Definitions, Chapter 2 of this Code for the definitions of non-conforming structures, non-conforming uses, and non-conforming lots.

C. Non-conforming Structures:

(1) **Expansions.** All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in the Land Use Standards Section 8(B)(1). A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.

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

(b) Notwithstanding paragraph (a) above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 6 (C) (1).

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

(c) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may

be expanded or altered as follows, as long as the other applicable municipal land use standards are met and the expansion is not prohibited by Section 6 (C) (1) or Section 6 (C)(1)(a) above.

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

(ii) For structures located less than 100 feet from the normal high water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 6(C)(1)(b)(i) and Section 6 (C) (1)(c)(i) above.

(iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection Zone when located less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection Zone was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 6(C)(1)(b)(i) and Section 6(C)(1)(c)(i) above.

(d) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary, and evidence of approval by the municipal review authority.

(2) **Foundations**. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision upon the criteria specified in the appropriate Land Use Zone

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

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 8. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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

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

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

(4) **Reconstruction or Replacement:** Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance

with the purposes of this Code. 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 6(C)(1) above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 6(C)(3) above.

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

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent, the Planning Board or its designee shall consider, in addition to the criteria in Section 6(C)(3) above, the physical condition and type of foundation present, if any.

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

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

D. Non-Conforming Uses:

(1) **Expansions.** Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 6(C)(1) above.

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

the structure has been used or maintained for residential purposes during the preceding 5 year period.

(3) **Change of Use**. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA Zone, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 6(C)(5) above.

E. Non-conforming Lots:

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

(2) **Contiguous Built Lots**. If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Code, if all or part of the lots do not meet the dimensional requirements of this Code, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with. If two or more principal uses or structures existed on a single lot of record on the effective date of this Code, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Code.

(3) **Contiguous Lots - Vacant or Partially Built**. If two (2) or more lots or combinations of lots and portions of lots with contiguous property lines are in undivided ownership at the time of the passage or amendment of this Code, and if all or part of the lots do not meet the dimensional requirements as established by this Code, then the lands involved shall be considered to be an individual parcel for the purpose of this Code. No portion of such parcel shall be sold, leased, developed or used which does not meet the lot width and area requirements established by this Code. If two or more contiguous lots or parcels in single or joint ownership of record as of June 9, 1992 or after and recorded in the registry of deeds, do not individually meet the dimensional requirements of this Code or subsequent amendments and, if one or more lots are vacant or contain no principal structure, the lots shall be combined so that each new lot will meet the minimum dimensional requirements of the Zone (or become as conforming as possible).

These lots shall not be divided in the future unless the division meets the requirements of this Ordinance and the State subsurface wastewater rules.

7. Establishment of Zones:

A. Stream Protection Zone: The Stream Protection Zone includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the Shoreland Zone associated with that water body or wetland. The stream protection zone for Patten and Meadow streams is increased to 100 feet per the Town of Surry Comprehensive Plan, page 84 J.4c.

B. Resource Protection Zone: The Resource Protection Zone includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This Zone shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection Zone, except that areas which are currently developed and areas which meet the criteria for the Commercial Fisheries /Maritime Activities (CFMA) Zone need not be included within the Resource Protection Zone.

(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 (FEMA)'s 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 Zone shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps of Flood Hazard Boundary Maps.

(2) Areas of two or more contiguous acres with sustained slopes of 20% or greater.

(3) Areas of two (2) 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.

NOTE: These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.

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

(5) Natural sites of significant scenic or esthetic value.

(6) Other significant areas which should be included in this Zone to fulfill the purposes of this Code, such as, but not limited to, existing public access areas and certain significant archaeological and historic sites deserving of long-term protection as determined by the Town after consultation with the Maine Historic Preservation Commission.

C. Limited Residential Zone: The Limited Residential Zone includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection Zone, or Stream Protection Zone, and areas which are used less intensively than the Commercial Fisheries/Maritime Activities (CFMA) Zone.

D. Commercial Fisheries / Maritime Activities Zone: Refer to Town of Surry Official Zoning Map dated 2/19/2010, or more current version. The Commercial Fisheries/Maritime Activities (CFMA) Zone includes areas where the existing predominant pattern of development is consistent with the allowed uses for this Zone as indicated in the Table of Land Uses and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:

(1) Shelter from prevailing winds and waves;

(2) Slope of the land within 250 feet, horizontal distance, of the shoreline;

(3) Depth of the water within 150 feet, horizontal distance, of the shoreline;

(4) Available support facilities including utilities and transportation facilities; and

(5) Compatibility with adjacent upland uses.

NOTE: See Table 1 Land Use Table, Chapter 3 (UDO). All land use activities, as indicated in Table 1, Land Use Table, shall conform with all of the applicable Land Use Standards in Section 8 below. The Zone designation for a particular site shall be determined from the Legal Descriptions and the Town of Surry Official Zoning Map included in Appendix A of Chapter 3 (UDO) in this Code.

8. Land Use Standards:

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

A. Minimum Lot Standards:

(1)

	Minimum Area	Minimum Shore Frontage (ft.)
(a) Residential per dwelling unit**		
(i)Adjacent to Tidal Areas	2 acres	200
(ii) Adjacent to Non-Tidal Areas	2 acres	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure		
(i) Within the Shoreland Zone, Adjacent to Tidal Areas, exclusive of those Areas Zoned for Commercial Fisheries and Maritime Activities	2 acres	200
(ii) Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	2 acres	200
(iii) Within the Shoreland Zone, Adjacent to Non-tidal areas	2 acres	300
(c) Public and Private Recreational Facilities		
(i) Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	2 acres	200

** - Minimum lot standards in Village and Roadside Residential shoreland areas must conform to lot size standards for those zoning Districts.

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

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

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

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

B. Principal and Accessory Structures:

(1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the Commercial Fisheries/Maritime Activities (CFMA) Zone there shall be no minimum setback. In the Resource Protection Zone the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that Zone in which case the setback requirements specified above shall apply.

NOTE: The Natural Resources Protection Act, 38 M.S.R.A. sections 480-A through 480-HH, required the Department of Environmental Protection to designate areas of "significant wildlife habitat".

Permitting under the Natural Resources Protection Act for activities adjacent to significant wildlife habitat areas may require greater setbacks. Contact your local Department of Environmental Protection office to see if additional permitting is required.

In addition:

(a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

(b) All principal structures along Significant River Segments as listed in 38 M.R.S.A. section 437 shall be set back a minimum of 125 feet horizontal distance from the normal high water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.

(c) The Planning Board may increase the required setback of a proposed structure or place limitations on placement of fill or other proposed land use activities, as a condition to permit

approval, if necessary to accomplish the purposes of this Code. Instances where a greater setback or other limitations may be appropriate include, but not be limited to, areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.

(d) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area or eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

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

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

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

(2) Principal or accessory structures and expansions of existing structures which are permitted in the Shoreland Zone 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.

(3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 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.

(4) With the exception of the Commercial Fisheries/Maritime Activities (CFMA) Zone non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

In the Commercial Fisheries/Maritime Activities (CFMA) Zone, non-vegetated surfaces shall not exceed a total of 70 percent of the lot located within the shoreland zone.

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

(5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

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

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

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

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

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

(f) The area behind the wall is re-vegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

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

(i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;

(ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of storm water runoff;

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

(iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;

(v) A footpath not to exceed the standards in Section 8(P)(2)(a) may traverse the buffer.

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

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

C. Piers, Docks, Wharves, Bridges and Other Structures:

Piers, docks, wharves, bridges, and other structures and uses extending over or below the normal high-water line of a water body or within a wetland, and shoreland stabilization:

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

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

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

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

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

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

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

(7) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been

obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

(8) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any Zone.

(9) Except in the Commercial Fisheries/Maritime Activities (CFMA) Zone, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

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

(10) Vegetation may be removed in excess of the standards in Section 8(P) of this Ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board and the Maine DEP. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.

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

(b) Re-vegetation must occur in accordance with Section 8(S).

NOTE: a permit pursuant to the Natural Resources Protection Act (NRPA) is required from the Department of Environmental Protection for Shoreline Stabilization activities

(11) A deck over a river may be exempted from the shoreland setback requirements if it is part of a downtown revitalization project that is defined in a project plan approved by the voters of the Town, and may include revitalization of structures formerly used as mills that do not meet the structure setback requirements, if the deck meets the following requirements:

(a) The total deck area attached to the structure does not exceed 700 square feet;

(b) The deck is cantilevered over a segment of a river that is located within the boundaries of the downtown revitalization project;

(c) The deck is attached to or accessory to an allowed commercial use in a structure that was constructed prior to 1971 and is located within the downtown revitalization project;

(d) The construction of the deck complies with all other applicable standards, except the shoreline setback requirements in section 15(B); and

(e) The construction of the deck complies with all other state and federal laws.

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

D. Campgrounds:

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

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

(2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

E. Individual Private Campsites:

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

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

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

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

(4) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.

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

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

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

F. Commercial and Industrial Uses:

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

(1) Auto washing facilities
(2) Auto or other vehicle service and/or repair operations, including body shops
(3) Chemical and bacteriological laboratories
(4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms

NOTE: 22 M.R.S.A. section 1471-U requires municipal ordinances that apply to pesticide storage, distribution or use be filed with the Maine Board of Pesticides Control, 28 State House Station, Augusta, Maine 04333. If a municipality's ordinance is more inclusive or more restrictive than these guidelines, as it pertains to pesticides, a copy of the ordinance must be filed with the Board of Pesticides Control.

(5) Commercial painting, wood preserving, and furniture stripping
(6) Dry cleaning establishments
(7) Electronic circuit assembly
(8) Laundromats, unless connected to a sanitary sewer
(9) Metal plating, finishing, or polishing
(10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
(11) Photographic processing
(12) Printing

G. Parking Areas:

(1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the Zone in which such areas are located, except that the Commercial Fisheries/Maritime (CFMA) Zone parking areas shall be set back at least 25 feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities in the Commercial Fisheries /Maritime Activities (CFMA) Zone shall be no less than 50 feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

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

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

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

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

H. Roads and Driveways:

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

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

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

Section 8(H)(1) shall 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 8(H)(1), except for that portion of the road or driveway necessary for direct access to the structure.

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

(3) New permanent Roads are not allowed within the Shoreland Zone along Significant River Segments except;

(a) To provide access to structures or facilities within the zone; or

(b) When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone, they shall be set back as far as practicable for the normal high water line and screened from the river by existing vegetation.

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

(5) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 8(T).

(6) Road and driveway grades shall be no greater than six (6) percent except for segments of less than two hundred (200) feet, which may be no greater than 10%.

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

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

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

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

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

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

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

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

I. Signs:

The following provisions shall govern the use of signs in all Shoreland Zones:

(1) Signs relating to goods and services sold on the premises shall be permitted, provided that each such sign shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

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

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

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

(5) Signs relating to public safety shall be permitted without restriction.

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

(7) Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff:

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

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

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

K. Septic Waste Disposal:

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

a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and
b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

L. Essential Services:

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

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

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

M. Mineral Exploration and Extraction:

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

Mineral extraction may be permitted under the following conditions:

(1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 8(M)(4), 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 great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.

(3) Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the zone, they shall be set back as far as is practicable from the normal high water line and no less than 75 feet and screened from the river by existing vegetation.

(4) 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.

NOTE: The State of Maine Solid Waste Laws, 38 M.R.S.A., section 1301 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

(b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.

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

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

N. Agriculture:

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

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

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

(4) There shall be no new tilling of soil unless related to erosion and control measures within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this Code and not in conformance with this provision may be maintained, as long as the existing operation is in conformance with a Soil and Water Conservation Plan filed with the Planning Board.

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

O. Timber Harvesting:

The Bureau of Forestry will administer all Timber Harvesting Regulations in the Town of Surry, Maine

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

(1) In a Resource Protection Zone abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees as described in section Q below.

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

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

(a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.

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

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

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

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

(4x1) + (2x2) + (3x4) + (2x8) = 36 points

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

The following shall govern in applying this point system:

(i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

(ii) Each successive plot must be adjacent to, but not overlap a previous plot;

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

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

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

For the purposes of Section 8(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

(c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and 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 8 (P) paragraphs (2) and (2) (a) above.

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

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

(f) In order to maintain the vegetation in the shoreland buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 8 (P) (2).

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

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

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

5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 8 (P).

6. A fee is required, payable to the Town of Surry, for any vegetative clearing.

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

(1) Hazard trees within the shoreland area may be removed without a permit after consultation with the Code Enforcement Officer if the following conditions are met.

(a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy of greater than 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 2 inches in diameter, measured at 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 4 feet in height, and be no less than 2 inches in diameter. Stumps may not be removed.

(b) Outside of the shoreline buffer, when the removal of hazard trees exceeds 40 percent of the volume of trees 4 inches and more in diameter, measured at 4.5 feet above ground level in any ten year period, and/or results in cleared openings exceeding 25 percent of the lot area within the shoreland zone, or 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(s) was/were removed and be at least 2 inches in diameter, measured at 4.5 feet above ground level. If new growth is not present, then replacement trees shall consist of native species and be at least 2 inches in diameter, measured at 4.5 feet above 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 8 inches in diameter measured at 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 250 square feet, replanting is not required, but the area shall be required to naturally re-vegetate, and the following requirements must be met:

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

(ii) Stumps from the storm damaged trees may not be removed,

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

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

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

R. Exemptions to Clearing and Vegetative Removal Requirements:

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 8(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 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 opening in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every 2 years, reverts back to primarily woody vegetation, the requirements of Section 8(P) apply.

(2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of Section 8(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 8(N) are complied with;

(5) The removal of vegetation associated with brown fields 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 Commercial Fisheries and Maritime Activities (CFMA) Zone, or other equivalent zoning district approved by the Commissioner that is part of state or federal brown fields program or a voluntary response action program pursuant to 38 M.R.S.A. section 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. section 465-A.

(6) The removal of non-native invasive 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 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 25 feet horizontal distance, from the shoreline occurs via hand tools; and

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

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

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

S. Revegetation Requirements:

When revegetation is required in response to violations of the vegetation standards set forth in Section 8(P), to address the removal of non-invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including the 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 non-invasive species;

(b) Replacement vegetation must at a minimum consist of saplings;

(c) If more than 3 trees or saplings are planted, then at least 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

saplings must be planted in a location that effectively reestablishes the screening between the shoreline and structures, and;

(f) A survival rate of at least 80% of planted trees or saplings is required for a minimum 5 year period.

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

(a) All woody vegetation and vegetation under 3 feet in height must be replaced with native non-invasive species of woody vegetation and vegetation under 3 feet in height as applicable;

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

(c) If more than 3 woody vegetation pants are to be planted, then at least 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 3 feet in height must be sufficient to remain in compliance with the standards contained within this chapter for a minimum of 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 storm water;

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

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

T. Erosion and Sedimentation Control:

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

(a) Mulching and revegetation of disturbed soil.

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

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

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

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

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

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

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

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

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

U. Soils:

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

V. Water Quality:

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

W. Archaeological Site:

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

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Chapter 5: FLOODPLAIN MANAGEMENT

1. PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Surry, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Surry, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Surry, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Surry has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Surry having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Surry, Maine.

The areas of special flood hazard, Zones A, AE, and VE for the Town of Surry, Hancock County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Hancock County, Maine", dated July 20, 2016 with accompanying "Flood Insurance Rate Map" dated July 20, 2016 with panels: 717D, 736D, 738D, 740D, 741D, 742D, 743D, 744D, 763D, 764D, 768D, 926D, 927D, 931D, 932D, 935D, 951D, 952D, 953D, 954D, 956D, 961D, 962D, 963D, 964D, 1176D, and 1177D, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Hancock County, Maine," are hereby adopted by reference and declared to be a part of this Ordinance.

2. PERMIT REQUIRED

Before any construction or other development (as defined in Chapter 2 - Definitions), including the placement of manufactured homes, begins within any areas of special flood hazard

established in Section 1., a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer except as provided in Section 7. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Surry, Maine.

3. APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

A. The name, address and phone number of the applicant, owner, and contractor;

B. An address and a map indicating the location of the construction site;

C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;

D. A statement of the intended use of the structure and/or development;

E. A statement of the cost of the development including all materials and labor;

F. A statement as to the type of sewage system proposed;

G. Specification of dimensions of the proposed structure and/or development;

NOTE: [Items H - K.3. apply only to new construction and substantial improvements.]

H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:

1. base flood at the proposed site of all new or substantially improved structures, which is determined:

a. in Zones AE and VE from data contained in the "Flood Insurance Study – Hancock County, Maine," as described in Section 1.; or,

b. in Zone A:

(1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Section 6.K. and Section 9.D.;

(2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other

topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,

(3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.

2. highest and lowest grades at the site adjacent to the walls of the proposed building;

3. lowest floor, including basement; and whether or not such structures contain a basement; and,

4. level, in the case of non-residential structures only, to which the structure will be floodproofed;

I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Section 6.;

J. A written certification by a Professional Land Surveyor, registered professional engineer or architect,
that the base flood elevation and grade elevations shown on the application are accurate

K. The following certifications as required in Section 6. by a registered professional engineer or architect:

1. a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Section 3.H.4.; Section 6.G.; and other applicable standards in Section 6.;

2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone VE, will meet the criteria of Section 6.P.; and other applicable standards in Section 6.;

3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Section 6.L.2.a.;

4. a certified statement that bridges will meet the standards of Section 6.M.;

5. a certified statement that containment walls will meet the standards of Section 6.N.;

L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

M. A statement of construction plans describing in detail how each applicable development standard in Section 6. will be met.

4. APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee to be established by the Board of Selectmen shall be paid to the Code Enforcement Officer and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

5. REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Section 6. (Development Standards) have been, or will be met;

B. Utilize, in the review of all Flood Hazard Development Permit applications:

1. the base flood and floodway data contained in the "Flood Insurance Study - Hancock County, Maine," as described in Section 1.;

2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Section 3.H.1.b.; Section 6.K.; and Section 9.D., in order to administer Section VI of this Ordinance; and,

3. when the community establishes a base flood elevation in a Zone A by methods outlined in Section 3.H.1.b., the community shall submit that data to the Maine Floodplain Management Program.

C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Section 1. of this Ordinance;

D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;

E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:

1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Section 6., paragraphs F, G, H, or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code

Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,

2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Section 6.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Section 6.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Section 7.

G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Section 10 of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Section

3., 6., and 8. of this Ordinance.

6. DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

A. All Development - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. use construction materials that are resistant to flood damage;

3. use construction methods and practices that will minimize flood damage; and

4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during flooding conditions.

B. Water Supply - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

C. Sanitary Sewage Systems - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

D. On Site Waste Disposal Systems – On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

E. Watercourse Carrying Capacity - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

F. Residential - New construction or substantial improvement of any residential structure located within:

1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.

2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 3.H.1.b.; Section 5.B.; or Section 9.D.

3. Zone VE shall meet the requirements of Section 6.P.

G. Non Residential - New construction or substantial improvement of any non-residential structure located within:

1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:

a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;

b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 3.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 3.H.1.b.; Section 5.B.; or Section 9.D., or

a. together with attendant utility and sanitary facilities meet the floodproofing standards of Section 6.G.1.

3. Zone VE shall meet the requirements of Section 6.P.

H. Manufactured Homes - New or substantially improved manufactured homes located within:

1. Zone AE shall:

a. be elevated such that the lowest floor (including basement) of the manufactured
home is at least one foot above the base flood elevation;

b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,

c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring
may include, but are not limited to:

(1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,

(2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

(3) all components of the anchoring system described in Section 6.H.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

a. be elevated on a permanent foundation, as described in Section 6.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Section 3.H.1.b.; Section 5.B.; or Section 9.D.; and

b. meet the anchoring requirements of Section 6.H.1.c.

3. Zone VE shall meet the requirements of Section 6.P.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A and AE, shall either:

a. be on the site for fewer than 180 consecutive days,

b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,

c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Section 6.H.1.

2. Zone VE shall meet the requirements of either Section 6.I.1.a. and b., or Section 6.P.

J. Accessory Structures - Accessory Structures, as defined in Section IV, located within Zones A and AE, shall be exempt from the elevation criteria required in Section 6.F. & G. above, if all other requirements of Section 6. and all the following requirements are met. Accessory Structures shall:

1. have unfinished interiors and not be used for human habitation;

2. have hydraulic openings, as specified in Section 6.L.2., in at least two different walls of the accessory structure;

3. be located outside the floodway;

4. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,

5. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. Floodways -

1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. In Zones AE and A riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Section 6.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,

b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.

3. In Zones AE and A riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. Enclosed Areas Below the Lowest Floor - New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of Section 6, including the elevation requirements of Section 6., paragraphs

F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Chapter 2 (Definitions);

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:

a. be engineered and certified by a registered professional engineer or architect; or,

b. meet or exceed the following minimum criteria:

(1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

(2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,

(3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

3. The enclosed area shall not be used for human habitation; and,

4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

M. Bridges - New construction or substantial improvement of any bridge in Zones A, AE, and VE shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and

2. a registered professional engineer shall certify that:

a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Section 6.K.; and

b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water

loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

N. Containment Walls - New construction or substantial improvement of any containment wall located within:

1. Zones A, AE, and VE shall:

a. have the containment wall elevated to at least one foot above the base flood elevation;

b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 3.K.

O. Wharves, Piers and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A, AE, and VE, in and over water and seaward of the mean high tide if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and

2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

P. Coastal Floodplains -

1. All new construction located within Zones AE and VE shall be located landward of the reach of mean high tide except as provided in Section 6.P.6.

2. New construction or substantial improvement of any structure located within Zone VE shall:

a. be elevated on posts or columns such that:

(1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;

(2) the pile or column foundation and the elevated portion of the structure

attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,

(3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.

b. have the space below the lowest floor:

(1) free of obstructions; or,

(2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,

(3) constructed to enclose less than 300 square feet of area with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

c. require a registered professional engineer or architect to:

(1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual*, (FEMA-55); and,

(2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Section 6.P.2.

3. The use of fill for structural support in Zone VE is prohibited.

4. Human alteration of sand dunes within Zone VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.

5. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.

6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Section 6.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Section 7., and if all the following requirements and those of Section 6.A., 6.K., and 6.L. are met:

a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.

b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.

d. The structure shall have unfinished interiors and shall not be used for human habitation.

e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.

f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

7. CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

A. Review Procedure for a Conditional Use Flood Hazard Development Permit

1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.

2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.

3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.

4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.

5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of Conditional Uses

1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

8. CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer:

1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Section 6., paragraphs F, G, H, or P and,

2. for structures in Zone VE, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Section 6.P.2.

B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.

C. Within 10 working days, the Code Enforcement Officer shall:

1. review the required certificate(s) and the applicant's written notification; and,

2. upon determination that the development conforms to the provisions of this ordinance, shall issue a Certificate of Compliance.

9. REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, local ordinances or regulations, and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

A. All such proposals are consistent with the need to minimize flood damage.

B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.

C. Adequate drainage is provided in order to reduce exposure to flood hazards.

D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area are to be constructed in accordance with Section 6. of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

10. APPEALS AND VARIANCES

The Board of Appeals of the Town of Surry may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

B. Variances shall be granted only upon:

1. a showing of good and sufficient cause; and,

2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,

3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,

4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:

a. that the land in question cannot yield a reasonable return unless a variance is granted; and,

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

c. that the granting of a variance will not alter the essential character of the locality; and,

d. that the hardship is not the result of action taken by the applicant or a prior owner.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as is deemed necessary.

D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

1. other criteria of Section 10. and Section 6.K. are met; and,

2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

1. the development meets the criteria of Section 10., paragraphs A. through D. above; and,

2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

F. Any applicant who meets the criteria of Section 10., paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as $25 per $100 of insurance coverage;

2. such construction below the base flood level increases risks to life and property; and,

3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.

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

5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.

6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

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

11. ENFORCEMENT AND PENALTIES

A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.

B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.

C. In addition to other actions, the Code Enforcement Officer may, upon identifying a violation, submit a declaration to the Administrator of the Federal Insurance Administration requesting a flood insurance denial. The valid declaration shall consist of;

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;

4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

12. VALIDITY AND SEVERABILITY

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

13. CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

60.3 (e) Rev. 01/16
Prepared by DACF/

Chapter 6: *RESERVED FOR FUTURE USE*

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Chapter 7: MAO - MISCELLANEOUS ADDITIONAL ORDINANCES

A. RESERVED FOR FUTURE ORDINANCE
in the Town of Surry

Chapter 7: MAO – A. RESERVED FOR FUTURE ORDINANCE

B. SURRY HAZARDOUS WASTE ORDINANCE

Section 1. Title:

This ordinance shall be known as the Hazardous Waste Ordinance of the Town of Surry, Maine.

Section 2. Authority:

This Ordinance is adopted pursuant to home rule power granted to all municipalities under the Constitution, Article VIII-A and Title 30MRSA, Chapter 201-A, Section 1917.

Section 3. Purpose:

The purpose of this Ordinance is to protect the health, safety and general community well-being and to protect the natural resources of the Town.

Section 4. Storage and Disposal Prohibited:

The disposal or storage of any hazardous wastes as designated under the U.S. Clean Water Act, Section 311, Public Law 92-500', and/or the disposal or storage of radioactive waste materials as defined by '38 MRSA, Section 361-D.I.B', within the boundaries of the Town of Surry, Maine is prohibited.

Section 5. Exceptions:

Any request for an exception to this prohibition shall be submitted in writing to the Selectmen and brought to the whole Town of Surry, acting as the body politic, to be voted on by all bona fide voters present in a Town Meeting.

Section 6. Penalty:

Any person to be found in violation of this Ordinance shall be subject to a fine of not more than one thousand dollars ($1,000) and not less than two hundred and fifty dollars ($250.00) for each offense. Each day in which a violation occurs shall constitute a separate offense.

I certify that this a true copy of the Ordinance as passed by the Voters of Surry at the Annual Town Meeting held on the 2nd day of March 1981.

May 8, 1981 - A True Copy Attest: John F White, Town Clerk

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C. An Ordinance to Establish the SURRY CONSERVATION COMMISSION

Section 1. ESTABLISHMENT

There is hereby established a Conservation Commission consisting of five (5) members, serving without pay, to be appointed by Municipal Officers pursuant to 30 M.R.S.A., Sec. 385l.

Section 2. DUTIES OF THE CONSERVATION COMMISSION

Such Commission shall conduct research and give advice as to the protection, development and use of the natural resources located within the territorial limits of the Town. It shall seek to coordinate its activities with existing municipal agencies, commissions, departments, and conservation bodies organized for similar purposes and may advertise, prepare, print, and distribute books, maps, charts, plans, and pamphlets which, in its judgment, it deems necessary. It shall prepare and keep an index of all open areas, publicly or privately owned, within the municipality including but not limited to open marsh lands, swamps, and other wetlands for the purpose of assimilating and retaining information pertinent to the proper utilization, protection and potential development of use of such open areas and may recommend to the municipal officers or any municipal body or board or any body (private, politic or public), a program for the better utilization, protection, development or use of such areas. It shall keep records of its meetings and activities, shall make an annual report to the municipality to be published as part of the annual municipal report, and may employ such personnel as may be approved by the Selectmen.

The Commission, with the approval of the Town, may acquire land or interest herein in the name of the municipality for any purposes set forth in 30 M.R.S.A., Sec. 385l, and accept gifts of land, money, or easements for conservation or park purposes.

The Commission shall, prior to making any recommendations pursuant to this section, submit its recommendations to the Town Planning Board at least 30 days in advance.

Certified to Jonathan L. Thomas, Clerk of Surry, this Fourteenth day of February, 1989: Attest: A true copy of an Ordinance entitled “An Ordinance to Establish the Surry Conservation Commission”, as certified to me by the Selectmen of Surry this Fourteenth day of February, 1989.

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D. An Ordinance to Require Use of VAULTS OR LINERS IN BURIALS OR INTERMENTS

Section 1: Definitions

Vault-Concrete or steel box large enough to contain the casketed remains of the deceased.

Liner-Approved concrete slabs so constructed and assembled as to prevent sags or hollows in the grave site, must meet all laws, rules and regulations.

Section 2: Use Required

All burials or interments in the Town of Surry shall be made in a steel or concrete vault or liner.

Certified to Jonathan L. Thomas, Clerk of Surry, this Fourteenth day of February, 1989.

Attest: A true copy of an ordinance entitled "AN ORDINANCE TO REQUIRE USE OF VAULTS OR LINERS IN BURIALS OR INTERMENTS", as certified to me by the Selectmen of Surry this Fourteenth day of February, 1989.

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E. SURRY ADDRESSING ORDINACE FOR E911 SERVICE

SECTION 1. PURPOSE

The purpose of this ordinance is to enhance the easy and rapid location of properties by law enforcement, fire, rescue, and emergency medical services personnel in the town of Surry.

SECTION 2. AUTHORITY

This ordinance is adopted pursuant to and consistent with the Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-AM.RS.A. Section 3001.

SECTION 3. ADMINISTRATION

This ordinance shall be administered by the Surry Board of Selectmen, which, is authorized to and shall assign road names and numbers to all properties, both on existing and proposed roads, in accordance with the criteria in Sections 4 and *5*. The Selectmen may appoint an E911 Addressing Committee to assist in the work and to make recommendations to the Selectmen. The Selectmen shall also be responsible for maintaining the following official records of this ordinance:

a. A Surry map for official use showing road names and numbers.

b. An alphabetical list of all property owners as identified by current assessment records, by last name, showing the assigned numbers.

c. An alphabetical list of all roads with property owners listed in order of their assigned numbers.

SECTION 4. NAMING SYSTEM

All roads that serve two or more properties shall be named regardless of whether the ownership is public or private. A "road" refers to any highway, road, street, avenue, lane, private way, or similar paved, gravel, or dirt thoroughfare. "Property" refers to any property on which a more or less permanent structure has been erected or could be placed. A road name assigned by the town of Surry shall not constitute or imply acceptance of the road as a public way.

The following criteria shall govern the naming system:

a. No two roads shall be given the same name (e.g., no Pine Road and Pine Lane).

b. No two roads should have similar-sounding names (e.g., Beech Street and Peach Street).

c. Each road shall have the same name throughout its entire length.

[Addition to the Surry Addressing Ordinance for E911 Service -Add the following paragraph to the end of Section 4: Naming System, of the "Surry Addressing Ordinance for E 911 Service."]

d. The presence of street signage assists the efforts of fire and rescue personnel to respond to emergency calls. There is a public purpose in spending public funds for street signage for roads, both public and private. Original signs naming roads, with names consistent with the provisions of this Section, will be paid for from public funds. Public funds will also be used to provide duplicate signs in the case where a sign is stolen or otherwise missing. However, experience shows that signs with popular or unique names are subject to theft more often than are others. Therefore, public funds will only be used to provide one duplicate sign to replace a missing one within a two-year period. Public funds will be used to provide a third sign within a two-year period if the naming party changes the name. A sign with a new name will be considered an original sign for the purpose of this Section. The replacement restriction will not apply if the sign is damaged by accident and not stolen

SECTION *5.* NUMBERING SYSTEM

Numbers shall be assigned every 50 (fifty) feet along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, determined by the number origin. (The frontage interval may vary in more densely or lightly populated areas, and it should be so indicated where that particular interval applies.)

The following criteria shall govern the numbering system:

a. All number origins shall begin from the designated center of Surry or that end of the road closest to the designated center. (The numbering origin does not have to be the town center but could be a border with another community., or as suggested in the Maine Enhanced 9-1-1 Addressing Guidebook for Local Governments.) For dead end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.

b. The number assigned to each structure shall be that of the numbered interval falling closest to the front door. If the front door cannot be seen from the main road, the number shall be that of the interval falling closest to the driveway of said structure.

c. Every structure with more than one principle use or occupancy shall have a separate number for each use or occupancy. (i.e. duplexes will have two separate numbers; apartments will have one road number with an apartment number, such as 235 Maple Street, Apt 2).

SECTION 6. COMPLIANCE

All owners of structures shall, by the date stipulated in Section 8, display and maintain in a conspicuous place on said structure, the assigned· numbers in the following manner:

a. Number on the Structure or Residence. Where the residence or structure is within 50 (fifty) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence or structure near the front door or entry.

b. Number at the Street Line. Where the residence or structure is over 50 (fifty) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall, the mail box, or on some structure at the property line next to the walk or access drive to the residence or structure.

c. Size and Color of Number. Numbers shall be displayed in a color and size approved for use by the Surry Selectmen and shall be located to be visible from the road.

d. Every person whose duty is to display the assigned number shall remove any different number that might be mistaken for, or confused with, the number assigned in conformance with this ordinance.

e. Interior location. All residents and other occupants are requested to post the assigned number and road name next to their telephone for emergency reference.

SECTION 7. NEW CONSTRUCTION AND SUBDIVISION

All new construction and subdivisions shall be named and numbered in accordance with the provisions of this ordinance and as follows:

a. New Construction. Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to obtain an assigned number from the Surry Selectmen, or their designated representative. This shall be done at the time of the issuance of the building permit.

b. New Subdivisions. Any prospective developer shall show a proposed road name and lot numbering system of the pre-application submission to the Planning Board. Approval by the Planning Board, after consultation with the Selectmen, shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets every 50 (fifty) feet to aid in assignment of numbers to structures subsequently constructed.

SECTION 8. EFFECTIVE DATE

This ordinance shall become effective as of April 1, 1996. It shall be the duty of the Selectmen, or their designated representative, to notify by mail each property owner and the Post Office of a new

address at least 30 (thirty) days before the effective date of use. It shall be the duty of each property owner to comply with this ordinance, including the posting of new property numbers, within 30 (thirty) days following notification. On new structures, numbering will be installed before final inspection or when the structure is first used or occupied, whichever comes first.

SECTION 9. ENFORCEMENT

Any violation of the provisions of this ordinance shall be subject to a civil penalty, payable to the town of Surry, of not less than $5.00 and not more than $25.00 for each violation, together with payment of attorney's fees as provided by law. Each day a violation is permitted to continue is a separate offense.

SECTION 10. SEPARAB ILITY

If any portion of this ordinance shall be declared invalid, it shall not affect any other portion of this ordinance.

ATTEST: A True Copy of the "Surry Addressing Ordinance for E911 Service", as certified to me by the Surry Board of Selectmen on March 13, 1996

F. SURRY KENNEL ORDIANCE

1. **Authority**: This ordinance is adopted pursuant to 7 M.R.S.§ 3950 and 30-A M.R.S.A. § 3001.

2. **Prohibited Practices**: The owner or operator of a kennel, boarding kennel, breeding kennel, as defined in 7.M.R.S.A. §3907, shall not permit the dogs therein to disturb the peace of any person in the vicinity of such kennel by barking, howling, baying, whining, yelping or other loud and unreasonable noises for unreasonably long or frequent periods.

3. **Enforcement Procedure**: Any owner or operator of a kennel who after having been ordered by the Surry Animal Control Officer, or any other law enforcement officer, fails or refuses to cause the noise prohibited under Section 2 above to cease, commits a civil violation for which forfeiture of not less than $100.00 nor more than $300.00 may be adjudged for each offense, together with reasonable attorneys' fees. All forfeitures established by this ordinance shall be recovered on complaint to the use of the Town of Surry pursuant to 30-M.R.S.A. § 3001(4).

4. **Multiple Violations**: In addition to the forfeiture prescribed by Section 3 above, in the case of 3 or more violations of this ordinance within a twelve (12) month period, the owner or operator of a kennel may be ordered to remove the kennel from the Surry town limits.

3/21/96

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Town of Surry Ordinance

G. RESTRICTING VEHICLE WEIGHT ON POSTED WAYS

Section 1. Purpose and Authority:

The purpose of this ordinance is to prevent damage to town ways and bridges in the Town of Surry which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of town ways and bridges, and to reduce the public expense of their maintenance and repair.

This ordinance is adopted pursuant to 30-A M.R.S.A Section 3009 and 29-A M.R.S.A Sections 2395 and 2388.

Section 2. Definitions:

The definitions in Title 29-A M.R.S.A shall govern the construction of words contained in the ordinance. Any words not defined there shall be given their common and ordinary meaning. Further, the highway is considered "solidly frozen" only when the air temperature is 32 F or below and no water is showing in the cracks of the road. Both conditions must be met.

Section 3. Restrictions and Notices:

The municipal officer may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in their judgement, be necessary to protect the traveling public an prevent abuse of the highways, and designate the towns ways and bridges to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein.

The notice shall contain, at a minimum, the following information: the name of the way or bridge, the gross registered weight limit, the time period which the restriction applies, the date on which the notice was posted, and the signatures of the municipal officers.

The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the travelway. Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices.

No person may remove, obscure, or otherwise tamper with any notice posted except as provided herein.

Section 4. Exceptions:

The following are exempt from this ordinance:

a) Any two-axle vehicle while delivering home heating fuel;
b) Any vehicle engaged in highway maintenance and repair;
c) Any emergency vehicle (such as firefighting apparatus or ambulance) while responding to an emergency;
d) Any school transportation vehicle while transporting students;
e) Any public utility vehicle while providing emergency service or repairs; and
f) Any vehicle whose owners or operator hold a valid permit from the municipal officers as provided herein.

Section 5. Permits:

The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the municipal officers for a permit to operate on a posted way or bridge notwithstanding the restriction. The municipal officers may issue a permit only upon all of the following findings:

a) No other route is reasonably available to the applicant;
b) It is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and
c) The applicant has tendered cash, or bond or other reasonable security running to the Town in an amount sufficient, in their judgement, to repair any damage to the way or bridge which may result from the applicant's use of the same.

Even if the municipal officers make the foregoing findings, they need not issue a permit if they determine the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage. They many also limit the number of permits issued or outstanding as may, in their judgement, be necessary to preserve and protect the highways.

In determining whether to issue a permit, the municipal officers shall consider the following factors:

a) The gross registered weight of the vehicle;
b) The current and anticipated condition of the way or bridge;
c) The number and frequency of vehicle trips proposed;
d) The cost and availability of materials and equipment for repairs;
e) The extent of use by other exempt vehicles; and
f) Such other circumstances as may, in their judgement, may be relevant

The municipal officers may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

Section 6. Administration and Enforcement:

This ordinance shall be administered and may be enforced by the municipal officers or their duly authorized designee (such as road commissioner, code enforcement officer, or law enforcement officer).

Section 7. Penalties:

Any violation of this Ordinance shall be a civil infraction subject to a fine of not less than $250.00 nor more than $1000.00. Each violation shall be deemed a separate offense. In addition to any fine, the Town may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs.

Section 8. Amendments

This ordinance may be amended by the municipal officers at any properly noticed meeting.

Section 9. Severability, Effective Date

In the event any portion of this ordinance is declared invalid by a court of competent jurisdiction, the remaining shall continue in full force and effect.
This ordinance shall take effect immediately upon enactment by the municipal officers at any property noticed meeting.

Certified to Jonathan L Thomas, Clerk of Surry, this 29th day of March, 1999

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Town of Surry

H. DRIVEWAY ENTERANCE ORDINANCE

1. Purpose and authority; Applicability; effective date; Uncontrolled driveway entrances to the public roads constitutes a threat to the health, safety and welfare of the public. Driveways which are not properly placed or constructed cause serious drainage problems and interfere with the municipality's ability to maintain the roads in a safe and passable condition. The purpose of this ordinance is to protect the public by creating an uniform process for driveway installation. This ordinance is adopted pursuant to the municipality's Home Rule powers, and pursuant to 23 M.R.S.A Section 704, 705

This ordinance applies to all driveways entrances which are constructed or established after the effective date of this ordinance.

This ordinance becomes effective when adopted by the voters at any properly called town meeting.

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

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

4. Amendments: This Ordinance may be amended by a majority vote of the voters of Surry at a special or regular Town Meeting.

5. Definitions: Except as defined below or if the context dictates otherwise, words used in this ordinance shall have their common ordinary meaning.

> **Person:** includes an individual, corporation, partnership, association, trust, estate, joint venture, club or any other group or entity and includes the plural of these as well as the singular and male as well as female, where appropriate.
>
> **Driveway:** any access serving a lot or lots, from a town, state or state aid road.
>
> **Driveway entrance:** That portion of a driveway which is located within the right-of-way of a town way, a state or state aid highway, which is maintained by the municipality, and which provides and entrance from the public road to abutting property.

6. Permit required: No person may construct or establish a driveway entrance, or allow a driveway entrance to be constructed or established on that person's property from a town, state or state aid roadway without first obtaining a driveway permit from the permitting authority, who is the selectmen/road commissioner or their designated official.

7. Culverts: If the permitting authority determines that a culvert is necessary for the driveway entrance, he or she shall state on the permit the necessary size (diameter and length) and type of (material and gauge) culvert for the entrance in question. The landowner shall at the landowner's expense provide and install the initial culvert, to the satisfaction of the permitting authority. The municipality shall be responsible for the maintenance, repair, and replacement of the culvert thereafter.

8. Locations: For the safety and convenience of the landowner and the general public all driveway entrances will be located and meet the driveway the driveway entrance standards as set for by the Maine Department of Transportation.

9. Standards: Driveway entrance culverts shall be no less than 15 inches in diameter nor less than 30 feet in length. They shall be made of galvanized steel, aluminized steel or any other material acceptable to the Town of Surry. The culverts shall be installed to the satisfaction of the permitting authority, in accordance with generally accepted installation standards in the Maine Department of Transportation recommendations. The permitting authority may also require that the driveway surface be crowned or otherwise shaped to direct the flow of run off toward the ditch and away from the travel way of the public road.

10. Enforcement and Penalties: The Board of Selectmen or its duly authorized designee have the authority to enforce this ordinance. Any person who constructs or establishes a driveway entrance without the necessary permit, or any landowner who allows the construction or establishment of an unpermitted driveway entrance on his or her land, shall be liable for a minimum fine of $200.00 and a maximum fine of $750.00, which shall accrue to the municipality. The municipality may also seek equitable relief including but not limited to an injunction preventing the use of an unpermitted driveway entrance. In addition to the fine, the violator is also responsible for the municipality's court costs and reasonable attorney's fees if the municipality prevails in a civil action.

Certified to Jonathan L Thomas, Clerk of Surry, this 27th day of February, 2001-

I. TOWN OF SURRY ANIMAL CONTROL ORDINANCE

Section 1: Definitions

As used in this Ordinance, unless the context indicates otherwise:

A. "Animal" shall be intended to mean any living, sentient creature that is not a human being.

B. "Dog" shall be intended to mean both males and females.

C. "Keeper" shall be intended to mean a person in possession, or control as well as a person who has care or custody of a dog or other animal.

D. "Owner" shall be intended to mean any person or persons, firm, association, or corporation owning, keeping or harboring a dog or animal.

Section 2: Public Nuisance

No owner or keeper of a dog or animal shall allow the dog or animal to unreasonably annoy or disturb any person by loud and repeated barking or other noises. Upon written complaint of the person disturbed, signed and sworn to, any animal control officer or other law enforcement officer may investigate the allegations of the complaint. If the agent or officer finds that there are valid grounds for the complaint, the agent or officer shall serve a written warning upon the owner or keeper, notifying the owner or keeper that such annoyance or disturbance must cease. The written warning shall be in a form approved by the Town Selectmen. Warning shall be served by delivering a copy of the warning to the owner or keeper, in hand, by leaving a copy with a person of suitable age and discretion at the premises where the dog is kept or where the owner or keeper resides; or by mailing a copy to the owner or keeper at the address shown on the license application for that dog or animal. Any owner or keeper who allows such annoyance or disturbance to occur again after notice has been served commits a civil violation subject to the penalties set forth in this Ordinance.

Section 3: Enforcement and Penalties

Any person who violates any provision of this Ordinance commits a civil violation. the penalty for this violation is a fine of not less than twenty-five dollars ($25.00) or more than one hundred dollars ($100.00) per violation. Each day that a violation continues constitutes a separate violation. If the Town is a prevailing party in an action to enforce any provision of this Ordinance, it must be awarded its reasonable attorney's fees, expert witness fees, and costs, unless extraordinary circumstances make the award of these fees unjust.

ATTEST: A true copy of the ordinance entitled "Town of Surry Animal Control Ordinance", as certified tome by the Surry Board of Selectmen on February 26, 2002.
Jonathan L. Thomas, Clerk of Surry – Feb. 26, 2002

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J. REVISED PARKING & TRAFFIC ORDIANCE
June 2002

TITLE: This Ordinance shall be known and may be cited as the Revised Parking and Traffic Ordinance of the Town of Surry, Maine, June 2002.

ENACTING CLAUSE: Be enacted by the Board of Selectman in Accordance with Title 30-A, M.R.S.A. Section 3009, the following ordinance regulating the operation of vehicles within the Town of Surry, Maine.

SECTION 1. PURPOSE: The purpose of this ordinance is to ensure the public safety to facilitate snow removal and sanding, fire suppression and to relieve traffic hazards and congestion through of on street parking and vehicular traffic flow in the Town of Surry, Maine.

SECTION 2. PROHIBITED PARKING AREAS: No person shall park, stand or leave a motor vehicle in the following specified areas.

A. On the northerly side of State Highway Route 172, beginning at the intersection of the North Bend Road (State Aid Road #5), and extending easterly 1165 feet to the easterly driveway of the Arbutus Grange Hall within 10 feet of the well traveled portion of the highway:

B. On both sides of the North Bend Road (State Aid Road #5) beginning at the intersection with Route 172 and extending in a northerly direction approximately 570 feet to a point opposite Bell Atlantic Pole 5/4, within the paved area:

C. On both sides of the Newbury Neck Road at the Carrying Place Beach, starting at the "NO Parking" sign on the easterly side, and running in a southerly direction 1,300 feet on both sides of the road to the last "NO Parking" sign on this section of the highway,

D. The easterly side of the curve of Route 172, starting from the northerly end of the guard rail and the end of Meadow Brook and running northeasterly end of the driveway of the residence currently owned by Donald F. and A. Rita Backes.,

E. 1. In the Patten Pond Boat Launching Area adjacent to the dry hydrant,
2. The are over the wooden bridge in the Patten Pond Boat Launching Area:

F. 1.On the boat launching ramp at the Patten Bay Landing;
2. From sundown to sunup anywhere in the Patten Bay Landing Area;

The dry hydrant lot located on the Decorum Road adjacent to Toddy Pond, the No Parking area is marked with appropriate signage.

Exceptions to Items C and F above are permitted with the approval of the Selectmen. Permits for those exceptions will be issued by the Town Office

S
ECTION 3. ENFORCEMENT: Town of Surry law enforcement officers are hereby directed to enforce provisions of this ordinance by issuing tickets to violators thereof. Violators will be notified of any violations by means of a parking ticket.

SECTION 4. PENALTIES: Whoever violates or fails to comply with the provisions of Section 2 of this ordinance may waive all court action by payment of a waiver fee of $10.00 at the Surry Town office prior to the expiration of the 30 day period following the issuance of the parking ticket.

A summons may be issued answerable to the District Court, Ellsworth, Maine for any violation of this ordinance when waiver fee is not paid to the Town of Surry in the 30 day period following the issuance of a parking ticket. The violator shall be subject to a fine not less than $25.00 and not more than $100.00 to be recovered to the use of the Town of Surry. Further, the municipality shall recover reasonable attorney's fees and court costs incurred in the prosecution of a violation.

All money collected by this ordinance shall be turned over to the town treasurer for the use of said town.

SEVERABILITY CLAUSE: If any section, subsection, sentence or part of this ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this ordinance.

REPEAL: Any ordinance regulating traffic in the town and any provision of any other town ordinance which is inconsistent with this ordinance is hereby repealed.

EFFECTIVE DATE: This ordinance shall become effective as of the date it is enacted by the Board of Selectmen.

ATTEST: A true copy of an ordinance entitled Revised Parking and Traffic Ordinance of the Town of Surry, Maine, June, 2002, as enacted by the Municipal Officers of the Town of Surry on the 18th day of June, 2002.

Jonathan L Thomas, Clerk of Surr

K. TOWN OF SURRY LIGHTING ORDINANCE

1. AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provide for in Article VII, Part 2, Section 1 of the Maine Constitution and Title 30-A, Section 3001, et seq.

2, SHORT TITLE

This Ordinance shall be known and may be cited as the "Lighting Ordinance of the Town of Surry Maine", and will be referred to as this "Ordinance"

3. STATEMENT of NEED AND PURPOSE

The Town of Surry Recognizes the following:

1. Improperly located lighting can cause unsafe and unpleasant conditions;

2. Excessive lighting can cause unsafe, unhealthful and unpleasant conditions, waste electricity and threaten the natural environment;

3. Obtrusive lighting can cause unsafe and unpleasant condition;

4. Proper lighting can enhance safety and enjoyment of the built environment;

5. On balance, lighting with higher color rendering index (CRI) provides more desirable lighting than lighting with a lower CR; and

6. Illumination levels should be appropriate to the visual task.

This ordinance is established to provide the public health, safety, and welfare and is intended to accomplish the following purposes;

1. allow appropriate lighting levels to preserve safety, security, and the nighttime use and enjoyment of property;
2. reduce light pollution, light trespass, glare, and offensive lighting;
3. promote energy conservation;
4. allow people in residential areas to view the stars against a dark night sky;
5. enhance the aesthetics of the built environment; and
6. protect the character of the natural environment and preserve ecological values.

April 28, 2008 –Attested by Peter Wass, Town Clerk

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L. THE TOWN OF SURRY
PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

PREAMBLE

WHEREAS, the 120 Maine Legislature has enacted Public Law 2009, Chapter 591, "An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "the Property Assessed Clean Energy Act" or "the PACE Act"; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy ("PACE") Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City/Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Municipality wishes to establish a PACE program; and NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

ARTICLE I - PURPOSE AND ENABLING LEGISLATION

1. Purpose:

By and through this Chapter, the Town of Surry declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy ("PACE") program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town of Surry. The Town of Surry declares its purpose and the provisions of this Chapter/Ordinance to be in conformity with federal and State laws.

2. Enabling Legislation:

The Town of Surry enacts this Chapter/Ordinance pursuant to Public Law 2009, Chapter 591 of the 124 1h Maine State Legislature -- "An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "the Property Assessed Clean Energy Act" or "the PACE Act" (codified at 35-A M.R.S.A. § 10151, et seq.).

ARTICLE II - TITLE AND DEFINITIONS

3. Title:

This Chapter/Ordinance shall be known and may be cited as "The Town of Surry Property Assessed Clean Energy (PACE) Ordinance" (the "Ordinance")."

4. Definitions:

Except as specifically defined below, words and phrases used in this Chapter/Ordinance shall have their customary meanings; as used in this Chapter/Ordinance, the following words and phrases shall have the meanings indicated:

Energy saving improvement. "Energy saving improvement" means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

A. Will result in increased energy efficiency and substantially reduced energy use and:

(1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or

(2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

Municipality. "Municipality" shall mean the Town of Surry

PACE agreement. "Pace agreement" means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

PACE assessment. "PACE assessment" means an assessment made against qualifying property to repay a PACE loan.

PACE district. "Pace district" means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality's boundaries.

PACE loan. "PACE loan" means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

PACE mortgage. "PACE mortgage" means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

PACE program. "PACE program" means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.

Qualifying property. "Qualifying property" means real property located in the PACE district of the Municipality.

Renewable energy installation. "Renewable energy installation" means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

Trust. "Trust" means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

ARTICLE III- PACE PROGRAM

l. Establishment; funding. The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that l) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust's administration of the municipality's PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality's PACE program.

2. Amendment to PACE program. In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

ARTICLE IV- CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

1. Standards adopted; Rules promulgated; model documents. If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

ARTICLE V— PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

1. Program Administration

A. PACE Administration Contract. Pursuant to 35-A M.R.S.A.§ 101 54(2) (A) (2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

i. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;

ii. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;

iii. the Trust, or its agent, will disburse the PACE loan to the property owner;
iv. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;

v. the Trust, or its agent, will be responsible for collection of the PACE assessments.

vi. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;

vii. the Municipality, or the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

B. Adoption of Education and Outreach Program. In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

C. Assistance and Cooperation. The Municipality will assist and cooperate with the Trust in its administration of the Municipality's PACE program.

D. Assessments Not a Tax. PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

2. Liability of Municipal Officials; Liability of Municipality

A. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

B. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

Adopted: April 25, 2011

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M. TOWN OF SURRY ALEWIFE ORDINANCE

Regulations for taking of alewives shall be as follows:

- A minimum unobstructed opening of two feet (2') shall be maintained at all times between the riverbank and the downstream end the weir.
- The maximum mesh size of wire, twine, or other material used in the weir shall not exceed one inch by one inch (1" x 1").
- There shall be a 72-hour weekly closed season on alewives from sunrise each Monday morning until sunrise the following Thursday morning. During the closed season, a minimum size unobstructed opening of three feet by three feet (3'x3') shall be maintained in the upstream and downstream end of the trap to allow for escapement of spawning alewives and other migratory fish.
- Migratory fish such as salmon, shad, or other species except alewives and blueback herring which enter the trap, shall be removed and allowed to pass upstream.
- Fishing operations shall cease and all fishing gear obstructing the passage of fish shall be removed from the fishing waters not later than June 5.
- The total landings in pounds or bushels and value of the catch shall be made available to the Maine Department of Marine Resources and/or National Marine Fisheries Service on request by these agencies.
- The alewive fishing rights on Patten Stream for 2011 will be awarded by the town selectmen.
- Alewive season starts when the fish arrive and ends June 5th. An extension of that period of up to 10 days based on delay caused by weather/flow may be granted on application to DMR.

Additional regulations for streams with Atlantic Salmon runs:

- The entrance to the dipping pen or trap shall be covered by bars, slats, or spacers with a maximum width of two inches (2”) between said bars, slats or spacers.
- Dipping of alewives shall be confined to the dipping pen or tray.

Approved by vote of the Annual Town Meeting April 25, 2011
A True Copy Attest: Angela Smith, Clerk

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N. Ordinance for the Recall of Elected Officials

I. Authority

This Ordinance is adopted pursuant to Title 30-A MRSA § 2602(6).

II. Applicability

Any elected official of the Town of Surry, Maine, may be recalled and removed from office as provided herein.
This Ordinance does not apply to members of the School Board.

III. Grounds for Recall

An elected official may be recalled for (a) failure to appropriately carry out the duties and responsibilities of the office; (b) engaging in conduct which brings the office into disrepute; (c) engaging in conduct which displays an unfitness to hold the office; or (d) for the conviction of a crime under the laws of the State of Maine or a felony under the laws of the United States or entry of a plea of guilty to such an offense.

IV. Petitions for Recall

1. Only registered voters of the Town of Surry may sign petitions for recall. To be valid the recall petition shall contain a number of valid signatures equal to twenty-five percent (25%) of the number of votes cast for Governor in the last gubernatorial election in Surry.

2. The petition shall be addressed to those members of the Board of Selectmen who are not subjects of the petition; if petitions for the recall of all Selectmen are submitted, the petitions shall be addressed to the Town Clerk.

3. The petition shall state the name and office of the person whose removal is being sought. The petition shall list specific reasons for recall as described in "Section III. Grounds for Recall" and cite examples of behavior for which recall is being sought.

4. If recall of more than one person is being sought, there shall be a separate petition for each person whose removal is being sought. If a person holds more than one office, a separate petition will be required for recall of all offices being held by that individual.

5. Each page of the petition shall provide a space for each voter's signature, address and printed name.

6. All petition pages shall be filed as a single document.

7. At the bottom of each page of the petition, the circulator of that page shall certify that to the best of his or her knowledge, each signature is genuine.

V. Clerk's Certification

Within ten (10) days of the receipt of the petition, the Town Clerk or the Selectmen shall certify the signatures contained on the petition and shall determine if the petition meets all of the procedural qualifications as set forth in Sections III and IV of this Ordinance. Should the petition be found insufficient, the petition shall be filed in the Clerk's office and the voter who filed the petition shall be notified.

VI. Calling the Recall Election

1. If the petition is certified by the Town Clerk to be sufficient, he or she shall submit the same with his or her certification to the Board of Selectmen at their next regular meeting and shall notify the person or persons whose removal is being sought of such action.

2. The Selectmen, upon receipt of the certified petition, shall within ten (10) days time of receipt order an election by secret ballot, pursuant to Title 30-A MRSA § 2528 to be held not less than 45 nor more than 60 days thereafter, provided that a regular municipal election is not scheduled to be held within 90 days of receipt of the certified petition and, in this case, the Selectmen may at their discretion provide for the holding of the recall election on the date of the regular municipal election.

3. In the event that the Selectmen fail or refuse to order an election as herein provided, the Town Clerk shall call the election to be held not less than 45 days nor more than 60 days following the Selectmen's failure or refusal to order the required election.

4. If at any time between the time of ordering the election and the date of the election the person whose recall is sought requests a public hearing, the Selectmen shall promptly schedule such a public hearing on the recall election.
5.

VII. Ballots for the Recall Election

Unless the official(s) whose removal is being sought resigns within ten (10) days of receipt of the certified petition by the Board of Selectmen, the ballots shall be printed and shall read as follows: "SHALL_____WHO HOLDS THE OFFICE OF _____BE RECALLED?" with the name of the person whose recall is being sought and their elected office inserted in the blank spaces on the ballot.

VIII. Result of Election

If a fifty-five percent (55%) majority of those voting in a recall election vote in favor of recalling the named official, such official is thereby removed from office upon certification of the vote by the Town Clerk.

IX. Vacancies to be Filled

Any vacancy resulting from removal from office under this Ordinance shall be filled in accordance with the provisions of Maine law.

Adopted: April 25, 2011

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O. EXEMPTING ELIGIBLE ACTIVE DUTY MILITARY PERSONNEL FROM VEHICLE EXCISE TAX

Section 1. Authority:

This ordinance is enacted pursuant to 36 M.R.S.A. § 1483-A, which expressly authorizes such ordinances.

Section 2. Excise Tax Exemption; Qualifications:

Vehicles owned by a resident of this municipality who is on active duty serving in the United States Armed Forces and who is either permanently stationed at a military or navel post station or base outside of this State or deployed for military service for a period of more than 180 days and who desires to register that resident's vehicle(s) in this State are hereby exempted from annual excise tax imposed pursuant to 36 M.R.S.A.§ 1482.

To apply for this exemption, the resident must present to the excise tax collector certification from the commander of the resident's post, station or base, or from the commander's designated agent, that the resident is permanently stationed at that post, station or base or is deployed for military service for a period more than 180 days.

For purposes of this section, "United States Armed Forces" includes the National Guard and the Reserves of the United States Armed Forces.

For purposes of this section, "deployed for military service" has the same meaning as in 26 M.R.S.A. § 814 (1) (A).

For purposes of this section, "vehicle" has the same meaning as in 36 M.R.S.A §1481 (5) and does not include any snowmobiles as defined in 12 M.R.S.A. § 13001.

Section 3. Effective Date; Duration:

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provide and shall remain in effect unless and until it or 36 M.R.S.A. § 1483-A is repealed.

Section 4. Adoption: This ordinance was submitted to the voters of Surry, Maine and adopted at a Town Meeting held on the 10 day of August, 2012.

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P. CONSUMER FIREWORKS ORDINANCE

(Governing directive – Maine Revised Statute Title 8, chapter 9-A, Sections 221-237)

Section I. Purpose.

This ordinance governs the use of consumer fireworks to ensure the safety of the residents and property owners of the Town of Surry Maine and the general public.

Section II. Title and Authority.

This ordinance shall be known as the "Town of Surry Consumer Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 31-A M.R.S.A. § 3001, and the provisions of P.L. 2011, ch. 416 § 5 (effective Jan. 1, 2012), codified at 8 M.R.S.A. § 223-A

Section III. Definitions.

As used in this ordinance, unless the context otherwise indicates, the following terms have the following meanings:

> **Consumer fireworks.** "Consumer fireworks" has the same meaning as in 27 Code of Federal Regulations Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3rd party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47.

Consumer fireworks **excludes:**

1. Missile-type rockets, as defined by the State Fire Marshal by rule;
2. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
3. Sky rockets and bottle rockets. For purposes of this paragraph, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

Section IV. Use of Consumer Fireworks.

No person shall use, display, fire or cause to be exploded consumer fireworks within the Town of Surry on any day that is Class III to Class V National Fire Danger Rating System Days, as designated by the Maine Forest Service. No person shall use, display, fire or cause to be exploded consumer fireworks on any day on public property without a permit from the Town of Surry.

No person shall use, display, fire or cause to be exploded consumer fireworks on any day on public property without a permit from the Town of Surry.

No person shall use, display, fire or cause to be exploded consumer fireworks except on the following dates and times:

1. July 4th from 9:00am to July 5th at 12:30am
2. December 31st 9:00am to January 1st 12:30am
3. January 1st 9:00am to 5:00pm

Section V. Seizure, Forfeiture and Disposal of Consumer Fireworks.

The Town of Surry may seize consumer fireworks that the Town of Surry has probable cause to believe are used in violation of this Ordinance and shall forfeit sized consumer fireworks to the State for disposal. Fireworks may not be disposed of at the Blue Hill/Surry Transfer Station.

Section VI. Conflicts with other Rules, Regulations or Laws.

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted Federal, State, or Local law, rule or ordinance, the requirements of the most restrictive or higher standard shall govern, unless, the provisions of the local ordinance are preempted by Federal or State laws or regulations.
1

Section VII. Severability.

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

Section VIII. Penalties.

Any person who violates any provision of this ordinance commits a civil violation for which a fine of not less than two hundred dollars ($200) and not more than five hundred dollars ($500) may be imposed for each day such offence continues. The Board of Selectmen shall decide the amount of the fine, and the Town of Surry's reasonable fees and expenses, including attorney's fees. Each day such violation occurs or continues to occur shall constitute a separate violation.

Section IX. Effective Date.
This ordinance shall become effective on the date of adoption by the Town of Surry.

Adopted April 28, 2014

Q. HARBORS AND WATERWAYS ORDIANCE - 2014

I. GENERAL PROVISIONS

A. Purpose of Ordinance

This Waterways and Harbor Ordinance is hereby established to regulate marine activities within the fresh and tidal waters of the Town of Surry, Maine in order to ensure safety to persons and property, promote availability and use of valuable public resources, and to create a fair and efficient framework for the administration of these waters.

B. Legal Authority

The legal authority for the establishment of this Ordinance and the provisions provided herein is provided by the municipal home rule process of Title 30-A M.R.S.A. and Title 38 M.R.S.A., which are available at the Town Office. The provisions of this Ordinance shall be liberally interpreted in order to meet the objectives of those statutes and the intent of this Ordinance.

C. Conflict with Other Ordinances and Regulations

Whenever a provision of this Ordinance conflicts with another ordinance of the Town of Surry or State or Federal regulation, the stricter provision shall be applied. Nothing contained herein shall be construed to conflict with the lawful jurisdiction of the United States Government with respect to enforcement of navigation, shipping or anchorage and associated laws of the United States or any valid laws or regulations of the State of Maine.

D. Validity and Severability

If any provisions or clause of this Ordinance or application thereof to any person, persons, or circumstances is found to be invalid, then such invalidity shall not affect any provisions or applications of the Ordinance which can be effectuated without the invalid provision or application. To this end, provisions of this Ordinance are declared severable.

E. Effective Date

This Ordinance shall take effect and be in force from the date of its adoption by the Town at Town Meeting and all previous Harbor Ordinances and public beach use ordinances are hereby repealed.

F. Penalties

Violations of any of the provisions of this Ordinance shall be deemed civil violations. They are enforceable by the Harbor Master or any other law enforcement officer with jurisdiction in the Town of Surry by a civil action in the District Court to recover such relief, fees, fines and penalties as are provided for in Titles12, 30-A and 38 M.R.S.A.

G. Surry Waters

Surry Waters are: Toddy Pond, Upper and Lower Patten Pond, Gold Stream Pond, Patten Stream, Meadow Brook, Meadow Stream, Sandy Brook, Emerton Brook, Mill Steam, all Surry tidal waters Surry Tidal Harbors.

H. Surry Tidal Waters

All waters along the coast of Surry which are affected by tide and are within the Surry town limits.

I. Surry Tidal Water Harbors

1. The Surry Tidal Water Harbors are shown on attached charts A & B; which indicate the limits of the Patten Bay Harbor and the Carrying Place Harbor. The limits for each harbor include the waters and shore areas below the mean high water line of each area (the inner limit) and the inshore of the line (outer limit), as described below. (Map numbers refer to the Tax Maps of the Town of Surry) The GPS Coordinates for these locations will be added to this ordinance and updated exhibits will be attached as soon as they are available.

2. Outer limit line of Patten Bay Tidal Water Area: A straight line extending from the northern property line of Map 40 lot 36 to the southern property line of Map 29 Lot 23. See Exhibit A attached.

3. Outer limit of line of the Carrying Place: A straight line extending from the southern boundary line of Map 19 Lot 3 to the northern line of Map 19 Lot 1 and then 250 feet into the bay (from the mean high water mark) at right angles then North West and southeast until the lines intersect. All moorings should be placed outside this 250 foot limit to allow for public recreational area. See Exhibit B attached.

II. DEFINITIONS:

Anchorage Area: An area of the harbor set aside for the anchoring of Vessels.

Berth: The place where a Vessel lies when at a wharf or pier.

Channel: An area of waterway kept clear of moorings or other obstructions to allow the free passage of Vessels.

Commercial Marine Facility: Any commercial facility within the Limited Residential or CMFA Zone.

Commercial Mooring: A mooring assigned to a Commercial Marine Business as designated by the Town's Unified Development Ordinance.

Commercial Vessel: A Vessel that generates income and is registered as commercial.

Congested Areas: Those areas of Surry Waters (Salt and Fresh) that are determined by the Waterways Commission and designated by the vote at Town Meeting to be approaching or to have reached saturation of available mooring space.

Fairway: The navigable waters of a harbor or other Waterway.

Float: Any floating structure, other than a Vessel, normally used as a point of transfer for passengers, fishing gear or other goods and not designed for self-propelled navigation.

Littoral Land Owner: A property owner having rights to land in the coastal zone between the limits of high and low tides.

Mooring: A permanent means of securing a Vessel or Float to the bottom in a mooring area. The owner of a mooring may not trespass over private property to reach his/her mooring.

***Municipal resident*:** "Municipal resident" means any person who occupies a dwelling within the municipality for more than 180 days in a calendar year

Outhaul or Clothesline Mooring: a system with 2 anchors, one on the beach and one in the water connected by a loop of line used to secure a dinghy.

Shorefront Owner: The owner of a parcel of land that borders on that area of Surry Waters off which a mooring is being requested.

Riparian Land Owner: Shall mean the owners of land bordering on a river or other body of water.

Property Owner: Any person owning real estate in Surry.

Waterway: Any water area providing access from one place to another, principally a water area providing a regular route for water traffic.

Vessel: A watercraft of any kind including boats, scows, dredges and barges but excluding floats

III. WATERWAYS COMMISSION

A. PURPOSE:

a. Recommend policies, rules and regulations regarding Surry Waters and public lands adjacent to Surry Waters.

b. Participate in harbor planning, coordinate approved projects and to administer the department budget.

c. Maintain current local marine charts, tide calendars and local notices to mariners on the Town website.

d. Responding to public inquiries, concerns and complaints with regard to Surry Waters. Assist Selectmen with any issues concerning Surry Waters which may arise and make recommendations for improvements to town facilities.

e. Monitor waterway use.

f. Annual review of all existing waterways ordinances for potential revisions.

g. Be available to the Board of Selectmen and the public to discuss any issues which may arise concerning Surry Waters.

h. Monitor the condition of the public piers, floats, utilities and structures for proper and safe operation and repair or coordinate repairs as necessary.

i. Coordinate the seasonal placement/removal and repair of public floats.

B. MEMBERSHIP: The Commission shall consist of volunteer citizens of Surry, seven (7) full time members and as many alternates as apply, but not to exceed five (5), as appointed by the Selectmen for three (3) year terms which will be staggered so as to maintain reasonable continuity. Terms of Office will expire April 30 of each year, respectively. Any member may be reappointed. To the extent possible, the membership shall be diverse, representing recreational and commercial interests, fresh and saltwater shorefront property owners, boat owners and persons not owning watercraft. All members serve without compensation.

C. OFFICERS

1. **CHAIRMAN:** A Chairman shall be elected annually by the fulltime members of the Commission at its first meeting after May 1 of each year.

2. **VICE CHAIRMAN:** A Vice Chairman shall be simultaneously elected to act in the absence of the Chairman.

3. **RECORDING SECRETARY:** A Recording Secretary shall be elected annually to keep a comprehensive log of items discussed and debated during meetings, conferences, workshops and brainstorming sessions.

D. MEETINGS: The Commission shall hold an annual meeting within thirty (30) days after to May 1, of each year to elect its officers, review existing ordinances and policies, and to conduct any business which comes before it, and report to the Board of Selectmen within thirty (30) days thereafter. The Commission shall convene other meetings on a regular schedule as decided the annual meeting. The Chairman, Vice Chairman, in the Chairman's absence, or the Board of Selectmen may call a meeting at any time subject to the 1 week public posting requirements.

E. QUORUM: A majority of the appointed full time members shall constitute a quorum. If a quorum is not present the Chairman shall appoint an alternate member to sit as a voting member in the absence of a full time member. If two or more alternates are present, then alternates will sit in an alternating order.

F. VOTE: The Commission shall strive to make decisions by mutual consent but none the less by the vote of the majority of members present and voting. In the event that there are an even number of members present and a vote results in a tie, the item will be tabled until the next scheduled meeting.

IV. HARBOR MASTER & DEPUTY HARBOR MASTER: The Harbor Master and Deputy Harbor Master shall be appointed by the Selectmen after consultation with the Waterways Commission on an annual basis.

The Harbor Master and Deputy Harbor Master are prohibited from making arrests or carrying a weapon.

The duties of the Harbor Master and Deputy Harbor Master shall include, but are not limited to the following:

The Harbormaster shall enforce with the assistance of the Marine Patrol, Inland Fisheries and Wildlife or other local law enforcement agency (including officials from Ellsworth, Blue Hill, Penobscot and Orland as needed to address Toddy Pond, Upper and Lower Patten Ponds and Morgan Bay) all federal and state laws, rules and regulations over which he or she has been given jurisdiction, including specifically, but not limited to the provisions of 38 M.R.S.A. Sections 1-13.

The Harbormaster shall maintain appropriate records, logs and files as required, including but not limited to mooring placement records.

The Harbormaster shall provide guidance in the placement of moorings, floats, gangways, wharfs, and their location in the waters of the Town of Surry and ensure that proper maintenance is provided for.

Provide essential and customary courtesy services to the local and visiting public as the position is one of high visibility and may be the only contact between the public and local officials.

Monitor the use of all public boat launching facilities.

The Harbormaster shall be an ad hoc/ non-voting member of the Waterways Commission and should regularly attend the Waterways Commission meetings and inform the Commission of his/her activities as well as provide such available information as may be requested by the Commission and or the Selectmen for the execution of its duties.

V. AMENDMENT OF THIS ORDINANCE

The Town may amend this ordinance as may be required at a Town Meeting, to accommodate certain conditions in which the modification is deemed necessary by a recommendation of the Waterways Commission to the Surry Selectmen or by citizen petition.

VI. ENACTMENT

When duly acted upon by the voters of the Town of Surry, this ordinance shall supersede any and all ordinances pertaining to Surry Waters, harbors and facilities in the Town of Surry previously enacted. Including but not limited to Town of Surry Carrying Place Beach Seasonal Use Ordinance, March 14, 1995, Patten Bay Town Landing Use Ordinance, March 1999 and all Town of Surry Waterways and Harbor Ordinances.

VII. GENERAL REGULATIONS

A. CARRYING PLACE BEACH USE RULE AND REGULATIONS

1. Purpose--- These rules and regulations will be in effect seasonally from May 1 to October 30 of each year. They are intended to provide for the use of land by both commercial and recreational users during the time period described above. By regulating the use of this land and the adjacent water, these regulations are intended to promote safety and proper traffic flow in the beach area. These rules do not excuse any person from the necessity of complying with all other applicable laws and regulations.

2. Area of Jurisdiction and Boundary Markers ---These rules and regulations cover the seasonal use of town owned land located between the southerly bound of Map 19 Lot 1 and Map 19 Lot 3.

Vehicle parking will be available in the three permanent parking areas; one in" The Pines" on the southwest end of the Carrying Place, one adjacent to the "Frog Pond" salt marsh located on the easterly bound of Map 19, Lot 1-1; and the last one is located on the northeastern end of the town owned beach.

Two parking areas primarily reserved for commercial and recreational watercraft users are located at the north and south ends of the road adjacent to the beach. It is requested that parking in the loading and unloading areas should be limited to periods of two (2) hours or less.

There shall be forty-five (45) foot long sections of beach at the southeast and northeast end of the Carrying Place reserved for commercial and recreational watercraft users.

A. Permitted Commercial and Recreational Watercraft Activities---
Resident commercial and recreational boater outhauls will be allowed in the designated area, three (3) per side in the designated forty-five (45) foot boat use areas and five (5) outhauls will be allowed in the Pines. (Preference will be given to the adjacent property owners owning properties on the west side of the Newbury Neck Road within the area of the beach and the Pines

If conflicts arise with the use of outhauls, the Waterways Commission may require an annual lottery to determine their use. The Waterways Commission will monitor the use of outhauls on the public beaches.

Temporary (less than 48 hours) storage of traps, nets, and accessory items is permitted. Temporary beaching of boats or tenders (less than 48 hours) will be allowed. All storage

activities will be at the owner's risk and must be within the allowed boating use zones. It is requested that owners leave contact information with their property when leaving it at the beach.

B. Sunbathing and Swimming Areas ---The remaining beach not designated for commercial and recreational watercraft zones may be used for public sunbathing, swimming and picnics. This area will be marked with white, black and orange, 12x59x13mooring buoys, marked NO WAKE ZONE and placed 250 ft from the mean high water mark.

3. Area Map

The attached map shall be the official designator of the boundaries of parking and no parking areas. See Exhibit B attached. (Note this map will be updated when the GPS coordinates are available)

B. PATTEN BAY TOWN LANDING USE RULES AND REGUALTIONS

1. Purpose

The purpose of these rules and regulations are to permit the use of the landing area by the public in a safe and enjoyable manner.

2. Prohibited uses of the Patten Bay Town Landing Area

A) Overnight Parking without permission of the Harbor Master

B) Overnight camping.

3. Launch and Recovery of Vessels

A) Responsibility for safe and expeditious launching and recovery of vessels at the Patten Bay Town Landing Area rests exclusively with the owner of the vessel.

B) Boats, trailers, vehicles, etc. left in such a manner that interferes with others ability to launch or recover vessels will be towed at owner's expense.

C) In keeping with the zoning designation for this lot as Commercial Fisheries Maritime Activities, the area to the east of the boat launch shall be reserved for the loading and unloading of lobster traps and commercial fishing related gear. Any gear left for loading or unloading should not be left in this area for a period to exceed 48 hours.

D) Upon completion of launching or recovery operations at the launching ramp, the vehicle and trailer must be removed from the ramp and parked appropriately or removed from the Town Landing. Vehicles, trailers or vessels may be parked for unusual situations for a period not to exceed 48 hours at the sole risk of the owner with the permission of the Harbor Master.

C. ABANDONED WATERCRAFT

When in the opinion of the Waterways Commission, a vessel has been abandoned in the Waterways or Harbors of Surry, they may, after giving such notice as practical, shall direct the Harbor Master to take custody and control of such vessel and remove it, store and or otherwise dispose of it, all at the sole risk and expense of the vessel owner. Reasonable notice of such disposal shall be given by civil service or by publishing notice in the local newspaper.

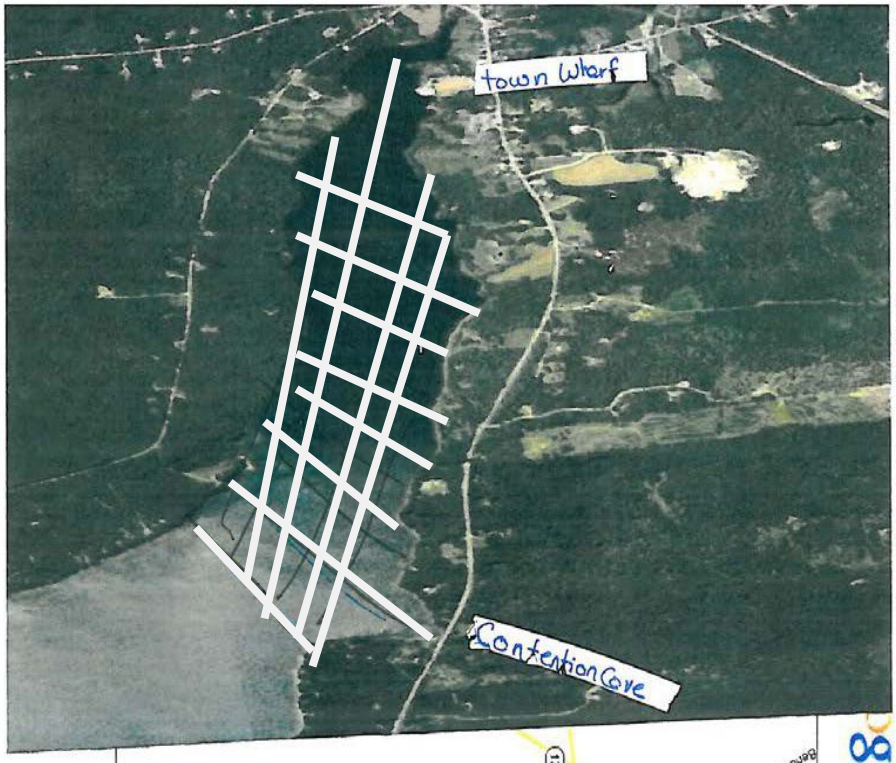
VI. MOORINGS, PIERS, DOCKS AND WHARFS

All moorings placed in Surry waters are done at the owner's risk and must comply with any and all Federal, State and Local Regulations. It is recommended that all moorings be registered with the Maine Department of Conservation, Bureau of Parks and Lands through a submerged lands lease or easement and with the Army Corps of Engineers as may be required.

All moorings and mooring buoys should conform to maritime standards and should to show at all tides from May to October.

All moorings in the waters and harbors of the Town of Surry as of this date are grandfathered.

Effective 4/28/2014



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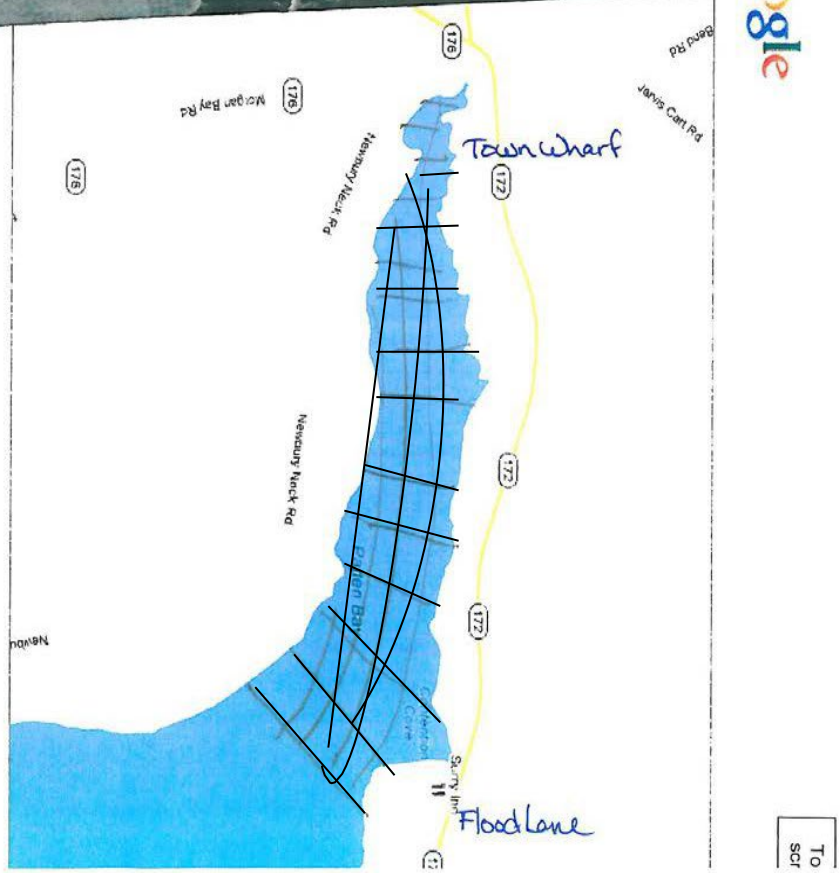

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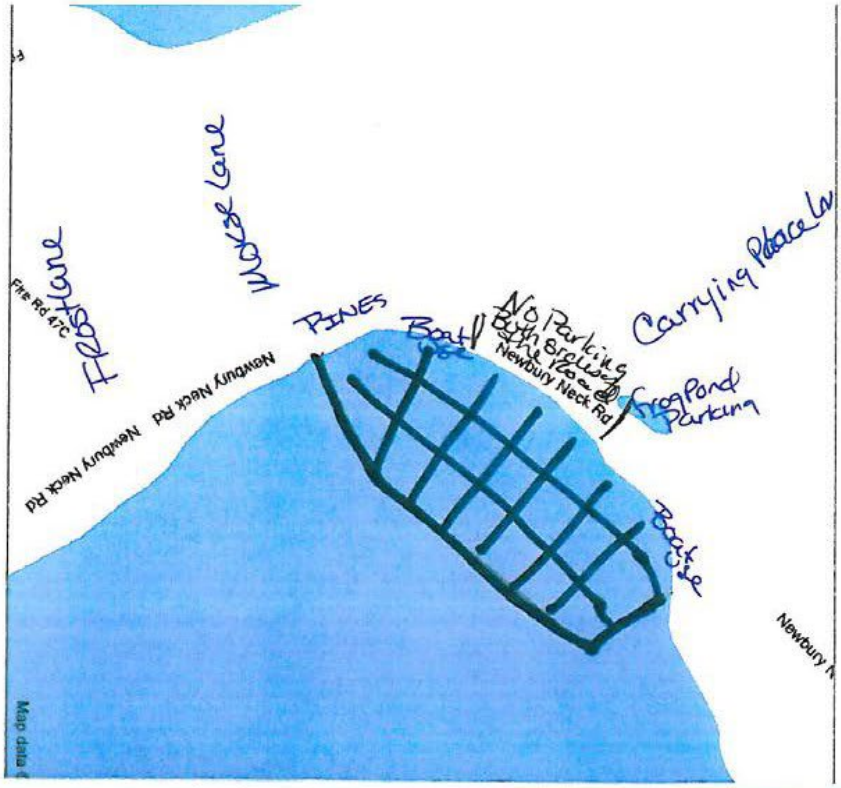

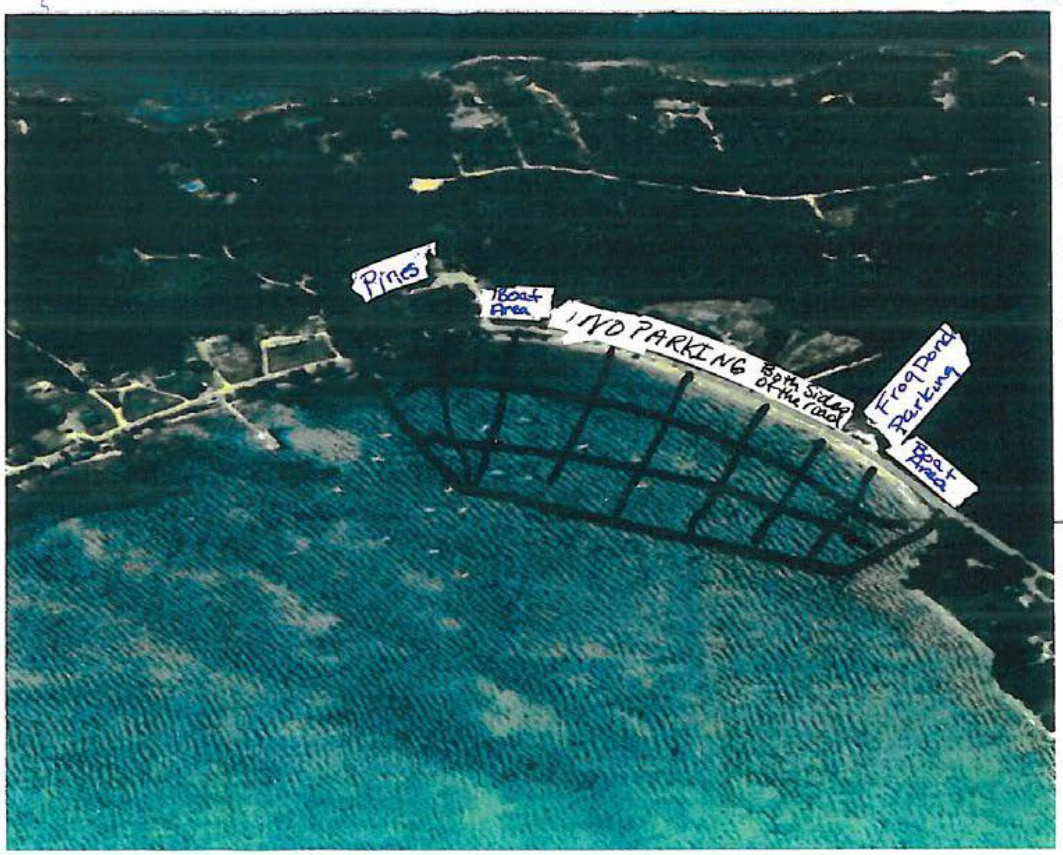

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R. SOLAR ENERGY ORDINANCE

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ADOPTED Town of Surry, Town Meeting - April, 27, 2024

1. Purpose:

a. Solar energy is a renewable energy resource that can reduce fossil fuel emissions and dependence on conventional fuels. Energy generated from Solar Energy Systems can be used to offset energy demand on the grid, with benefits for system owners and other electricity customers.

b. The standards that follow enable the accommodation of Solar Energy Systems and related Electrical Equipment in a safe manner while still allowing for the enjoyment of property.

c. This Solar Energy Ordinance ("the Ordinance") is intended to balance the need for reasonable standards with expedited and streamlined development review procedures.

2. Definitions: (*These Definitions will be incorporated into the Definitions section, Chapter 2, of the Surry Code of Ordinances.*)

3. Applicability:

a. Notwithstanding the provisions of 1 MRSA § 302 or any other law to the contrary, the requirements of this Ordinance shall apply to all Roof-Mounted and Ground-Mounted Solar Energy Systems modified or installed in the Town of Surry after the date of its enactment.

b. All Solar Energy Systems shall be designed, installed, maintained, and decommissioned in accordance with all applicable Federal, State and Local codes, regulations, and standards, including the requirements of Ordinance.

c. Any upgrade, modification or structural change that alters the size, placement or output of an existing Solar Energy System shall comply with all provisions of this Ordinance.

d. With regard to this Ordinance, the Town of Surry's Land Use Districts and Shoreland Zones are mapped and categorized as follows and are delineated on the Town's Official Zoning Map. Roof-Mounted SES, Small-Scale SES, Medium-Scale SES, and Large-Scale SES, are either allowed (YES), prohibited (NO), or allowed with permit issued by the Planning Board (PB) in the Land Use, as indicated in the table below, in the designated district.

LAND USES	LAND USE DISTRICTS				SHORELAND ZONES			
	VL	RC	RU	RR	SP	RP	LR	CFMA
Roof-Mounted SES	YES	YES	YES	YES	PB	PB	PB	YES
Small-Scale SES	PB[13]	PB[13]	PB[13]	PB[13]	PB[13]	NO	PB[13]	NO
Medium-Scale SES	NO	NO	NO	NO	NO	NO	NO	NO
Large-Scale SES	NO	NO	NO	NO	NO	NO	NO	NO

PB-PLANNING BOARD

[13] Subject to Site Plan Review. See specific prohibited commercial and individual uses… for this Zone or District in Chapter 3, Unified Development Ordinance, (Land Use Districts, Zones and Requirements) - from the Surry Code of Ordinances (SCO)

4. General Standards and Applicability:

a. A Solar Energy System or device may only be installed or operated in the Town of Surry provided it is in full compliance with this Ordinance.

b. Permitting shall be determined by i) Land Use District / Zone within the Town of Surry, ii) type of Solar Energy System, and iii) proposed size. The Town of Surry has designated the proper permitting process for each Solar Energy System in the above matrix. *(The above matrix will be incorporated into Table 1, Land Use Table of the Unified Development Ordinance (UDO), Chapter 3 of the Surry Code of Ordinances.)*

c. All Solar Energy Systems, both Roof-Mounted and Ground-Mounted, are subject to the Dimensional Standards of Section 5 and the Performance Standards outlined in Section 6 below in this Ordinance.

5. Dimensional Standards:

a. Solar Energy Systems, Roof-Mounted

i. Height: In all Land Use Districts and Shoreland Zones, such systems shall conform to the maximum building height requirements of the zoning district in which they are located. See SCO - Chapter 3, Land Use Table 2, UDO Dimensional Requirements.

b. Solar Energy Systems, Ground-Mounted

i. Height: Ground-Mounted Solar Energy Systems shall be limited to a maximum of twenty-two (22) feet in height. Height shall be measured from the lowest point of the structure above grade to the highest point of the structure when oriented at maximum Tilt.

ii. Setbacks:

a) With regard to any Medium- or Large-Scale SES, the minimum setbacks shall be one-hundred (100) feet on the front, rear and all sides. Small scale SES shall conform to the requirements of the Land Use District or Shoreland Zone in which the SES is located. See SCO Chapter 3, Land Use Table 2, UDO Dimensional Requirements.

b) Screening - Lots on which Large-Scale and Medium-Scale Solar Energy Systems are located shall utilize buffers / screening from roads and residences by plantings, berms, and natural topographical features. Large- and Medium-Scale SES shall be screened from view to the greatest extent practical of any adjacent property that is residentially zoned or used for residential purposes, as well as from any public way. The screen shall consist of a vegetative barrier which provides a visual screen. In lieu of a vegetative screen, a fence that provides visual screening, and meets requirements of the controlling ordinance, may be allowed only if a vegetative screen is deemed impractical by the Planning Board.

c) At the discretion of the Planning Board, for Large- and Medium- scale SES, additional setbacks and vegetative buffering may be required to mitigate visual and functional impacts.

6. Performance and Installation Standards:

a. Roof-Mounted and Small-Scale SES: All Roof-Mounted and Small-Scale Solar Energy Systems must conform with the following standards:

i. Roof-Mounted Solar Energy Systems and related equipment are permitted by right unless they are determined by either the Code Enforcement Officer (CEO) and or the Fire Chief to present one or more unreasonable safety risks including, but not limited to, the following:

a) Weight load;
b) Wind Resistance;

c) Ingress or egress to a property, structure, or building in the event of fire or other emergency; and
d) Proximity of Ground-Mounted system relative to buildings;

The CEO may, at his/her discretion, require an engineer to certify the roof capable of handling the Roof-Mounted SES

ii. All Solar Energy Systems shall be installed in compliance with the manufacturer's instructions and the Photovoltaic Systems Standards of the latest edition of the National Fire Protection Association (NFPA1), International Building Code (IBC), and National Electric Code (NEC) .

iii. All Electrical Equipment and wiring shall be installed in compliance with the manufacturer's instructions and the National Electric Code (NFPA70), IBC and NEC

iv. Prior to the startup of operation of any new Solar Energy System, all electrical connections must be inspected and approved by the Code Enforcement Officer (CEO) and a third-party electrical inspector designated by the CEO. Such inspection and approval process shall be paid for by the Applicant.

b. Medium-Scale and Large-Scale Ground-Mounted SES: In addition to the standards in Section 6 a. above, Medium-Scale and Large-Scale ground-mounted solar energy systems shall also comply with the following:

i. Utility Connections:

a) Utility connections shall be underground wherever practicable.

c. Safety:

i. The Solar Energy System Applicant shall provide a copy of the Site Plan and Application to the Code Enforcement Officer (CEO). Where applicable, the Planning Board's approval or denial of the Application shall include a review of the safety of the proposed system.

ii. The street number shall be posted at the edge of the nearest road entrance. Numbers and letters shall be white reflective with blue reflective background and a white reflective trim. Font shall not be cursive. Street number shall be nine (9) inches on eleven (11) inch background. Background width shall be no less than twelve (12) inches

iii. Each fence opening shall be marked with a letter designation A, B, C, D, etc. in a counter clock wise fashion complying with the requirements above.

d. Visual Impact:

i. Reasonable efforts, as determined by the Planning Board, shall be made to minimize undue visual impacts by preserving native vegetation, screening abutting properties, or other appropriate measures, including adherence to height standards and setback requirements.

e. Land Clearing, Soil Erosion, and Habitat Impacts:

i. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of ground-mounted Solar Energy Systems or as otherwise prescribed by applicable laws, regulations and bylaws/ordinances.

ii. Ground-Mounted facilities shall minimize mowing to the extent practicable.

iii. Removal of mature trees shall be avoided to the extent possible.

iv. Native pollinator-friendly seed mixtures shall be used to the extent possible.

v. Lighting shall be only that which is necessary for safety or operational purposes. All lighting must be downward facing, shielded from other properties and no more than 20 foot candles for the entire project. Glare shall be avoided and light trespass minimized to less than 0.1 foot-candles.

vi. Herbicide, fungicide, and pesticide use is prohibited.

vii. No prime agricultural soil or significant amount of topsoil shall be removed from the site for installation of the Solar Energy System.

f. Fencing:

i. Where fencing is used, fences shall be elevated by a minimum of six (6) inches to allow for passage of small terrestrial animals.

g. Removal:

i. Solar Energy Systems that have reached the end of their useful life or that have been abandoned consistent with this Ordinance shall be removed. The owner or operator shall physically remove the installation no more than one hundred and fifty (150) days after the date of discontinued operations. The

owner or operator shall notify the Town of Surry Planning Board by certified mail of the proposed date of discontinued operations and plans for removal.

ii. Removal shall consist of:

a) Physical removal of all Solar Energy Systems, structures, equipment, security barriers, and transmission lines from the site. Remediation of the soil to thirty-six inches (3 feet) if contamination is found.

b) Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.

c) Stabilization or re-vegetation of the site to minimize erosion. Native, pollinator-friendly seed mixtures shall be used to the maximum extent possible.

h. Abandonment:

i. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, a Medium- or Large-Scale Ground-Mounted Solar Energy System shall be considered abandoned when it fails to operate for more than one hundred and fifty (150) days. A Surety Bond is required at the time of Planning Board review of a Site Plan Application for the assumption of any debt, default, non-compliance with State and Federal laws or local ordinances, or failure of the Array falls to the principal (contractor/developer/solar company) and not the obligor (owner). Any SES greater than three (3) or more acres must also comply with 35-A M.R.S.A § 3491 through 3496.
At the time of Planning Board review of a Site Plan Application and permit, the Applicant for a Medium or Large-Scale Solar Energy System shall identify how it shall provide a performance guarantee payable to the benefit of the Town of Surry for all costs associated with the removal of an approved Solar Energy System that has been abandoned. The performance guarantee shall be equal to one hundred fifty (150) percent of the estimated cost of removal. The performance guarantee can be in the form of a Solar Contractor Surety Bond or Solar Decommissioning Bond and shall be acceptable to the Town, as determined exclusively by the Planning Board and legal counsel for the Town. If the SES is three (3) acres or more the Town will accept a Solar Contractor Surety Bond or Solar Decommissioning Bond to the benefit of the Maine Department of Environmental Protection for 150 percent of the estimated removal cost. The financial guarantee shall include provisions granting and guaranteeing the Town the authority to access the funds and property to

ii. perform the decommissioning if the facility is abandoned and the owner or operator fails to meet their obligations to remove the Solar Energy System. The applicant shall provide the Town the identified performance guarantees prior to the issuance of any permits by the CEO for the Solar Energy System. Financial assurances shall be updated fifteen (15) years after approval of the plan and no less frequently than every five (5) years thereafter. Updates must be submitted to the CEO on or before December 31st of the year in which the updates are required.

iii. The owners or operators shall be responsible for notifying the Town (the CEO, Planning Board Chair and Select Board separately) in writing if the performance guarantee is revoked, and in such cases, shall provide the Town a replacement guarantee that is found acceptable by the Planning Board and legal counsel within ninety (90) days, or the owner's or operator's permit to operate the system shall be revoked. The owner or operator shall be responsible to pay the Town's legal fees.

iv. If the owner or operator of the Solar Energy System fails to remove the installation within one hundred fifty (150) days of abandonment or the proposed date of decommissioning, the Town of Surry or the obligee retains the right to use all available means to cause an abandoned, hazardous, or decommissioned Medium- and Large-Scale Solar Energy System to be removed.

v. If an owner or operator successfully removes a Medium- or Large-Scale Solar Energy System in accordance with the requirements of this Section, and the Town's CEO finds that removal was successfully completed, the owner or operator may apply to the Planning Board for release of the performance guarantee identified in this Section. The Town shall not unreasonably withhold the release of a performance guarantee post determination by the Code Enforcement Officer that an owner or operator has successfully removed a Solar Energy System.

i. Accessory Use: Medium and Large-Scale Solar Energy Systems shall not be considered an Accessory Use.

j. Operations and Maintenance Plan:

i. A project proponent shall, as part of an Application, submit a plan for the operation and maintenance of the Medium- or Large-Scale Solar Energy System, which shall include measures for safe access to the installation as well as other general procedures for operational maintenance of the installation.

k. Signage and Emergency Access:

i. A sign shall be required to identify the owner and provide a 24-hour emergency contact phone number. A Knox-Box shall be placed at the main gate opening to the fence for emergency access by first responders. All gates shall be keyed to allow access via the Knox-Box key.

l. Emergency Services:

i. The Medium- or Large-Scale Solar Energy System owner or operator shall provide a copy of the project summary electrical schematic, and Site Plan to the Code Enforcement Officer and Fire Department.

ii. Upon Request by the Town, the owner or operator shall cooperate with all local public safety officials to create an emergency response plan.

iii. All means of shutting down the system shall be clearly marked.

iv. The owner or operator shall provide the Code Enforcement Officer with the name and contact information of a responsible person for public inquiries throughout the life of the installation.

7. Site Plan Application and Review:

Please refer to the Town of Surry Code of Ordinances in Chapter 3, IV. Site Plan Review Standards, incorporated herein by reference.

No permits, road openings, or street names will be issued by the Town of Surry until the review process is complete and the Planning Board or CEO has issued a permit under this Ordinance.

a. Applicability

i. Roof-mounted systems are not subject to Site Plan Review, unless they exceed 100 KW DC.

ii. Small-Scale Ground-Mounted Solar Energy Systems are subject to Site Plan Review if they are in a Shoreland Zone or are within two hundred fifty feet of a Shoreland Zone.

iii. Medium-Scale and Large-Scale Solar Energy Systems are subject to Site Plan Review.

b. In addition to the Town of Surry's Site Plan Review and Application requirements in the Surry Code of Ordinances, the Applicant shall submit the following supplemental information as part of a Site Plan Application.

A Site Plan, prepared by a Maine licensed engineer showing:

i. Property lines and physical features, including roads, for the project site;

ii. Proposed changes to the landscape of the site, grading, vegetation, clearing and planting, exterior lighting, screening vegetation or structures;

iii. Blueprints or drawings of the Solar Energy System showing the proposed layout of the system, any potential shading from nearby structures or properties, the distance between the proposed Solar Collector and all property lines and existing on-site buildings and structures, and the tallest height of the Solar Collector Array;

iv. Documentation of all major system components to be used; including the panels, mounting systems, inverters, Electrical Equipment, etc.;

v. Name, address and contact information of proposed system installer, the project proponent, project proponent agent, and all co-proponents or property owners if any; and

vi. A one- or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods.

vii. Location of important plants and animal habitats identified by the Maine Department of Inland Fisheries and Wildlife or by the Town of Surry, or rare and irreplaceable natural communities and rare plant habitat as identified by the Maine Natural Areas Program

viii. Location of wetlands and waterbodies.

ix. Location of floodplains.

x. Storm water control plans.

xi. Locations of local or National Historic Districts and resources.

xii. A public outreach plan, including how the project proponent will inform abutters within 1000 feet and the community.

xiii. A decommissioning plan with a performance guarantee (Refer to Section 6. g. and h., in this Ordinance)

xiv. An Operation and Maintenance Plan.

xv. Waste Stream Management Plan (including recycling percentages)

xvi. Utility Notification - grid intertied Solar Energy Systems must show evidence to the Planning Board that the applicant has an agreement with the utility to accept power. Off-grid systems are exempt from this requirement.

xvii. Any development that will cause damage to a Town owned or Town maintained travel way will require a bond to ensure the repair of any damage to roadway to the satisfaction of a construction consultant hired by the Town and paid for by the Applicant.

If alterations to a public way are needed for a project, the cost of all alterations are at the expense of the Applicant. The alterations must be approved by a construction consultant hired by the Town and paid for by the Applicant.

8. Review Procedure and Process:

Please refer to Surry Code of Ordinances, Chapters 1 - 3, incorporated herein by reference.

9. Fees: The fees for review of solar energy systems shall be as noted below.

Roof-Mounted SES	See current Town of Surry Building/Use Permit Fee Schedule
Small-Scale Ground-Mounted SES	See current Town of Surry Building/Use Permit Fee Schedule
Medium-Scale Ground-Mounted SES	See current Town of Surry Building/Use Permit Fee Schedule for Commercial/Industrial Permits
Large-Scale Ground-Mounted SES	See current Town of Surry Building/Use Permit Fee Schedule for Commercial/Industrial Permits

For all projects requiring Planning Board action a six-hundred dollar ($600.00) deposit is required at the time of Application for newspaper notices. Notices shall also be mailed to all property owners within 500 feet of the property lines of the proposed medium or large scale SES. Upon completion of the approval process, any remaining funds will be returned to the Applicant.

There will be two (2) public notices in the local paper before any hearing on any Solar Energy System review that requires Planning Board approval.

10. Legal Action and Violations:

a. When any violation of any provision of this Ordinance shall be found to exist, the Code Enforcement Officer is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Surry. This section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this Ordinance.

b. Any person, firm, or corporation, being the owner of or having control over the use of any building or land or part thereof, who violates the provisions of this Ordinance shall be guilty of a civil violation and, upon judicial determination of such violation, shall be fined in accordance with the following.

i. The minimum penalty for starting construction or undertaking a land use activity without a permit or with an expired permit shall be two hundred fifty dollars ($250.00) and the maximum penalty shall be two thousand five hundred dollars ($2,500.00).

ii. The minimum penalty for any other violation of any aspect of this ordinance shall be two hundred dollars ($200.00) per violation per day, and a maximum penalty shall be two thousand five hundred dollars ($2,500.00).

c. All civil penalties imposed shall inure to the benefit of the Town of Surry. Each day a violation continues to exist after notification by the CEO by certified mail shall constitute a separate offense.

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S. Shellfish Conservation Ordinance, 2026 Revision
Town of Surry
Effective Date: 4/13/2026

1. **Authority:** This ordinance is enacted in accordance with 12 M.R.S.A Section 6671.

2. **Purpose:** To establish a shellfish conservation program for the Town of Surry which will ensure the protection and environmentally sound optimum utilization of shellfish resources within its limits. These goals will be achieved by means which may include:
   - **a.** Licensing.
   - **b.** Limiting the number of shellfish harvesters.
   - **c.** Restricting the time and area where harvesting is permitted.
   - **d.** Limiting the minimum size of shellfish taken.
   - **e.** Limit the amount of shellfish taken daily by a harvester.
   - **f.** Recommending a shellfish conservation program.

3. **Definitions:**
   - ***a.*** **Town**, **Municipal, Municipality**– "Town" "Municipal" and "Municipality" refers to the Town of Surry, Maine.
   - ***b.*** **DMR** – "DMR" means the Department of Marine Resources.
   - **c.** **Resident** – The term "Resident*"* refers to a person who has been physically residing in this municipality for at least three months prior to the time his/her claim on such residence is made.
   - **d.** **Non-resident –** *"Non-resident"* means anyone not qualified as a resident under this ordinance.
   - **e.** **Warden –** "Warden" means the Town of Surry Shellfish Warden.
   - **f.** **Shellfish** - "Shellfish" and "clams" mean soft-shell clams (*Mya arenaria*), hen or surf clams (*Spisula solidissima*), hard clams, quahogs, cherrystones (*Mercenaria mercenaria*), razor clams (*Ensis directus*), and American oysters (*Crassostrea virginica*).
   - **g.** **Shellfish Conservation** – "Shellfish conservation" shall be broadly defined and shall include, but is not limited to such activities as reseeding, shore cleanup, pollution abatement, predator eradication, surveying and information gathering, testing and sampling, and any other activity the Shellfish Conservation Committee deems as fostering the general purposes of this ordinance.
   - **h.** **Lot:** The word "lot" as used in this ordinance means the total number of shellfish in any bulk pile. Where shellfish are in a box, barrel, or other container, the contents of each box, barrel, or other container constitute a separate lot.
   - **i.** **Possess:** For the purpose of this Ordinance "possess" means dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale shellfish stock.
   - **j.** **Enforcement:** A Town Shellfish Warden shall be appointed by the Select Board to enforce provisions of this Ordinance.

4. **Shellfish Conservation Committee:** The Shellfish Conservation Program for the Town of Surry will be administered by the Shellfish Conservation Committee, consisting of three members, to be appointed by the Surry Select Board for staggered terms of three years. The

Surry Select Board shall appoint a person to fill a vacancy for the duration of the unexpired term if a vacancy occurs.

a. The Committee shall only vote if all three members are present and able to vote.

b. Responsibilities:

The Committee's responsibilities include:

(1) Submit annually, in consultation with the Department of Marine Resources (DMR), the number of shellfish harvester licenses to be issued;

(2) Keeping this ordinance under review and making recommendations for its amendments;

(3) Securing and maintaining records of shellfish harvest from the Town's open areas for shellfish harvesting and closed areas that are conditionally opened by the DMR;

(4) Recommending conservation closures and openings to the Select Board in conjunction with the Marine Resource Scientist of the DMR;

(5) Submitting to the Select Board proposals for the expenditures of funds for the purpose of shellfish conservation;

(6) Submitting an annual report to the Municipality and the DMR covering the above topics and all other committee activities.

5. Licensing: A Municipal Shellfish Harvester License is required. It is unlawful for any person to dig, take or possess shellfish from the shore and the flats of this municipality without having a current license issued by this municipality as provided by this ordinance. A "recreational license" means a license that authorizes a person to take or possess shellfish only for personal use as described in 12. M.R.S.A Section 6671,3, G-1. A Commercial Harvester must also have a valid State of Maine Commercial Shellfish License issued by the Department of Marine Resources before a town license becomes valid.

a) **Resident Recreational Shellfish License:** The license is available to residents and real estate taxpayers of this municipality take or possess shellfish only for personal use. It entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of themselves and their immediate family. The license is not available to, or valid for, holders of a state commercial shellfish license.

b) **Non-resident Recreational Shellfish License:** The license is available to a person who is not a resident of this municipality. The non-resident recreational shellfish licenses will be limited to 10% of those who hold resident recreational shellfish licenses. For example, if 1-5 resident recreational licenses are issued, 0 non-resident recreational license fees will be issued. If 6-10 resident recreational licenses are issued, only 1 non-resident recreational licenses will be issued. The 10% ratio is in accordance with the 10% rule as described in 12 M.R.S.A section 6671(3-E) and Department of Regulations, Chapter 7.4 Section 2, Table 1. It entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of themselves and their family combined. The license is not available to, or valid for, holders of a state commercial shellfish license.

c) **One-Day Recreational Shellfish License:** This license is available to both residents and real estate taxpayers of this municipality, as well as to non-residents of this municipality. This license entitles the holder to dig and take no more than one

peck of shellfish in the day for which the license is issued, for the use of themselves and their immediate family. The license is not available to, or valid for, holders of a state commercial shellfish license. This license expires one half-hour after sunset on the day for which it is issued.

d) **Resident Commercial Shellfish License:** The license, from Surry, is not available to residents of the Town of Surry. This ordinance may be amended to include a limited number of commercial licenses after an appropriate study of the shores and flats of this municipality is undertaken. (See # 8)

e) **Non-resident Commercial Shellfish License:** The license is not available to non-residents of this municipality. This ordinance may be amended to include a limited number of commercial licenses after an appropriate study of the shores and flats of this municipality is undertaken. (See #8)

f) **Prohibition on Dual Licensing:** No person who holds a valid State of Maine Department of Marine Resources commercial shellfish license, whether resident or non-resident, shall be eligible to be issued or to hold a Town of Surry recreational shellfish license during the term of that commercial license.

g) **Waiting Period:** A person whose State of Maine commercial shellfish license has expired or been surrendered shall not be eligible for a Town of Surry recreational shellfish license until six (6) months have elapsed from the expiration or surrender date.

h) **License must be signed:** The licensee must sign the license to make it valid.

6. **Application Procedure:** Any person may apply to the Town Office for the licenses required by this ordinance on forms provided by the municipality.
   a. **Contents of Application:** The application must be in the form of an affidavit and must contain the applicant's name, current address, proof of residence (current Surry resident for 3 months or more), signature, and whatever information the municipality may require.
   b. **Misrepresentation**: Any person who gives false information on a license application will cause said license to become invalid and void.

7. **Fees:** A schedule of fees shall be available at the Surry Town Office. The fees for the license shall be determined annually by the Shellfish Conservation Committee and the Surry Select Board. Licensees shall submit fees, in full, upon issuance of license. Fees received for shellfish licensing shall be used by the Town for shellfish management, conservation and enforcement.

8. The Shellfish Conservation Committee determines management options for limiting shellfish harvesting in conjunction with the Select Board, and submitted to the Department of Marine Resources for their approval at least thirty (30) days prior to the date of issuance. For the first year of this ordinance, there will be zero Residential Commercial Licenses and zero Non-resident Commercial Licenses issued. The limit of license categories will be reviewed annually by the Shellfish Conservation Committee and the Surry Select Board in consultation with the DMR. Should the Shellfish Committee and Surry Select Board initiate commercial licenses, the application of a 10% ratio for allocation and issuance of non-resident commercial licenses to resident commercial licenses will apply. For example, if 1-5 resident commercial licenses are permitted to be issued, 0 non-resident commercial licenses will be issued. If 6-10 resident

commercial licenses are issued, only 1 non-resident commercial license would be permitted. The 10% ratio is in accordance with the 10% rule as described in 12 M.R.S.A section 6671(3-E) and Department of Regulations, Chapter 7.4 Section 2, Table 1.

9. **Fees and Fines for Funding:** Fees for shellfish licenses will be set forth in the annual license allocation application and will accompany the municipal application for the respective license. The Town Clerk shall pay all fees and fines collected from violators to the Town of Surry. Fines received shall be used to defray costs incurred in the enforcement and management of this ordinance.
    a. **Non-Lapse Provision:** Monies in the shellfish management account shall not lapse at the end of the year but shall be carried over to the next year account.
    b. **Funding:** The shellfish management program will be self-supporting as much as possible. Funds for operating the program may be generated by license fees, fines, and financial support from the Town.

10. **Limitation of Harvesters:** Shellfish resources vary in density and size distribution from year to year and over the limited shellfish producing area of the Town. It is essential that the Town carefully husbands its shellfish resources. Following the annual review of the Town's shellfish resources, its size distribution, abundance, and the warden's reports, as described #4, Section 4, the Shellfish Conservation Committee, in consultation with the DMR marine resource scientist, will determine whether limiting recreational or commercial shellfish licenses is an appropriate shellfish management option for the following year.
    a. The committee shall report its findings and document the recommendations for the allocation of commercial and recreational licenses to be made available for the following license year to the Commissioner of Marine Resources for concurrence by February 1.
    b. After receiving approval of proposed license allocation from the Commissioner of Marine Resources and prior to February 15, the Shellfish Conservation Committee shall notify the Town Clerk in writing of the number and allocation of shellfish licenses to be issued.
    c. Notice of the number of licenses to be issued and the procedure for application shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected, not less than 10 days prior to the period of issuance and shall be posted in the municipal offices until the period concludes.
    d. The Town Clerk shall issue licenses to residents and non-residents as allocated beginning on the first working day in April until the first working day in July. After which licenses shall be sold without regard to residency on a first-come, first-served basis.
    e. Applicants for a commercial license who have performed a minimum of ten hours of voluntary conservation service under the direction of the Shellfish Conservation Committee during the previous license year period may apply for a new license on the last working day in March. **There will be no harvesting of shellfish from January 1 to March 31.**

11. **License Expiration Date:** Each license under the authority of this ordinance shall be valid for:
    a. **Resident and Non-Resident recreational harvesters license** - from the date the license is issued and will expire one half hour after sunset at the end of that calendar year

(December 31**.** The license holder may possess no more than one peck of shellfish per day.

b. One-Day Recreational Shellfish License: This license will expire one half hour after sunset on the day it is issued. No day passes will be issued between January 1 to March 31. The license holder may possess no more than one peck of shellfish per day.

c. Resident and Non-Resident recreational harvesters 10 years old and under are exempt from requiring a license but are limited to harvest no more than one peck of shellfish per day during permitted hours/dates.

12. Shellfish Harvesting Hours Restricted: Shellfish harvesting shall be restricted to daylight hours, from one half hour before sunrise to one half hour after sunset.

13. Suspension: Any shellfish licensee having one conviction for a violation of this ordinance shall have this shellfish license automatically suspended for one year from the date of suspension.

a. The suspension shall be effective from the date of mailing of a Notice of a Suspension by The Town Clerk to the Licensee.

b. Any licensee whose shellfish license has automatically been suspended pursuant to this section shall be entitled to a hearing before the Shellfish Conservation Committee upon the filing of a written Request for Hearing with the Town Clerk within thirty (30) days following the effective date of suspension. The licensee may appeal the decision of the Shellfish Conservation Committee before the Select Board by filing a written Request for Appeal with the Town Clerk within seven (7) days of the decision of the Shellfish Conservation Committee.

14. Opening and Closing of Flats:

The Select Board, upon the approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvest. Upon recommendations of the Shellfish Conservation Committee and concurrence of the Department of Marine Resources marine resource scientist that the status of shellfish resource and other factors bearing on sound management indicate that an area should be opened or closed, the Select Board may call a public hearing and shall send a copy of the notice along with a conservation closure application to DMR. The decision of the Select Board made after the hearing shall be based on the findings of fact. The Select Board will follow the process described in this section to enact a Town closure in any area which is closed by the DMR to the harvesting of shellfish. The municipality will provide notification to the public of conservation closings/opening in accordance with DMR Regulations Chapter 7.50(1)(c). This section requires a 5-day notice of openings and closings.

15. Shellfish size and tolerance: It shall be unlawful for any person to possess shellfish within the Town of Surry, Hancock County which are:

a. Soft-shell Clams: Less than two (2) inches and greater than four (4) inches in the longest diameter to the amount of not more than ten (10) percent of any lot

b. Hard Clams: Which are less than one (1) inch in thickness as measured across the hinge width to the amount of not more than five (5) percent of any lot. Hinge width is measured at the thickest part of the clam near where the shells are joined together.

c. Atlantic Razor Clams which are less than four (4) inches

d. **American Oyster** which are less than two and a half (2.5) inches in the longest diameter to the amount of not more than ten (10) percent of any lot.

16. Method of determining is determined by numerical count of the entire lot.

17. Intertidal Mussel Harvesting - Mussels (*Mytilus edulis*) Other names: common mussel. This section is enacted in accordance with the 12 MRSA Section 6671(12) and 13-188 Chapter 7 (7.70). A copy of the Intertidal Management Plan will be made available through the Town Office or the Department of Marine Resources website.

18. Penalty: Whoever violates any provision of minimum and maximum size limits in Sections 15 shall be punished as provided by MRSA Section 6681 (10) and (10A).

19. Effective Date: This Ordinance, '*which has been approved'* by the Commissioner of Marine Resources, shall become effective after its adoption by the municipality provided a certified copy is filed with the Commissioner within 20 days of its adoption.

20. Period of Ordinance: This Ordinance shall remain in effect until repealed by the municipality or rescinded by the Commissioner of Marine Resources.

21. Separability: If any section, subsection, sentence of part of this ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this ordinance.

22. Repeal: Any ordinance regulating the harvesting or conservation of shellfish in the Town and any provisions of any other town ordinance which is inconsistent with this ordinance is hereby repealed.

T. Local Food and Community Self-Governance Ordinance of 2024

Adopted: 04/27/2024

AN ORDINANCE TO PROTECT THE HEALTH AND INTEGRITY OF THE LOCAL FOOD SYSTEM IN THE TOWN OF SURRY, HANCOCK COUNTY, MAINE.

Section 1. Name. This Ordinance shall be known and may be cited as the "Local Food and Community Self-Governance Ordinance."

Section 2. Definitions.
As used in this ordinance:

a) "Patron" means an individual who is the last person to purchase any product or preparation directly from a processor or producer and who does not resell the product or preparation.
b) "Home consumption" means consumed within a private home.
c) "Local Foods" means any food or food product that is grown. produced, or processed by individuals who sell directly to their patrons through farm-based sales or buying clubs, at farmers markets, roadside stands, fundraisers or at community social events.
d) "Processor" means any individual who processes or prepares products of the soil or animals for food or drink.
e) "Producer" means any farmer or gardener who grows any plant or animal for food or drink.
f) "Community social event" means an event where people gather as part of a community for the benefit of those gathering, or for the community, including but not limited to a church or religious social, school event, potluck, neighborhood gathering, library meeting, traveling food sale, fundraiser, craft fair, farmers' market and other public events.

Section 3. Preamble and Purpose. We the People of the Town of Surry, Hancock County, Maine have the right to produce, process, sell, purchase and consume local foods thus promoting self-reliance, the preservation of family farms, and local food traditions. We recognize that family farms, sustainable agricultural practices, and food processing by individuals, families and non-corporate entities offer stability to our rural way of life by enhancing the economic, environmental and social wealth of our community. As such, our right to a local food system requires us to assert our inherent right to self-government. We recognize the authority to protect that right as belonging to the Town of Surry.

We have faith in our citizens' ability to educate themselves and make informed decisions. We hold that federal and state regulations impede local food production and constitute a usurpation of our citizens' right to foods of their choice. We support food that fundamentally respects human dignity and health, nourishes individuals and the community, and sustains producers, processors and the environment. We are therefore duty bound under the Constitution of the State of Maine to protect and promote unimpeded access to local foods.
The purpose of the Local Food and Community Self-Governance Ordinance is to:

(i) Provide citizens with unimpeded access to local food;
(ii) Enhance the local economy by promoting the production and purchase of local agricultural products;
(iii) Protect access to farmers' markets, roadside stands, farm-based sales and direct producer to patron sales;
(iv) Support the economic viability of local food producers and processors;
(v) Preserve community social events where local foods are served or sold;
(vi) Preserve local knowledge and traditional foodways.

(vii)

Section 4. Authority. This Ordinance is adopted and enacted pursuant to the inherent, inalienable, and fundamental right of the citizens of the Town of Surry to self-government, and under the authority recognized as belonging to the people of the Town by all relevant state and federal laws including, but not limited to the following:

- The Declaration of Independence of the United States of America, which declares that governments are instituted to secure peoples' rights, and that government derives its just powers from the consent of the governed.
- Article I, § 2 of the Maine Constitution, which declares: "all power is inherent in the people; all free governments are founded in their authority and instituted for their benefit, [and that they have therefore an unalienable and indefeasible right to institute government and to alter, reform, or totally change the same when their safety and happiness require it."
- §3001 of Title 30-A of the Maine Revised Statutes, which grants municipalities all powers necessary to protect the health, safety, and welfare of the citizens of the Town of Surry
- §211 of Title 7 of the Maine Revised Statutes which states: "it is the policy of the State to encourage food self-sufficiency for the State."

Section 5. Statements of Law.

Section 5.1. **Licensure/Inspection Exemption.** Producers or processors of local foods in the Town of Surry are exempt from licensure and inspection provided that the transaction is only between the producer or processor and a patron when the food is sold for home consumption. This includes any producer or processor who sells his or her products at farmers' markets or roadside stands; sells his or her products through farm-based sales directly to a patron; or delivers his or her products directly to patrons.

Section 5.1.a. Licensure/Inspection Exemption. Producers or processors of local foods in the Town of Surry are exempt from licensure and inspection provided that their products are prepared for, consumed, or sold at a community social event.

Section 5.2. Right to Access and Produce Food. Surry citizens possess the right to produce, process, sell, purchase, and consume local foods of their choosing.

Section 5.3. Right to Self-Governance. All citizens of Surry possess the right to a form of governance which recognizes that all power is inherent in the people, that all free governments are founded on the people's authority and consent.

Section 5.4. Right to Enforce. Surry citizens possess the right to adopt measures which prevent the violation of the rights enumerated in this Ordinance.

Section 6. Statement of Law. Implementation. The following restrictions and provisions serve to implement the preceding statements of law.

Section 6.1. State and Federal Law. It shall be unlawful for any law or regulation adopted by the state or federal government to interfere with the rights recognized by this Ordinance. It shall be unlawful for any corporation to interfere with the rights recognized by this Ordinance. The term "corporation" shall mean any business entity organized under the laws of any state or country.

Section 6.2. Patron Liability Protection. Patrons purchasing food for home consumption may enter into private agreements with those producers or processors of local foods to waive any liability for the consumption of that food. Producers or processors of local foods shall be exempt from licensure and inspection requirements for that food as long as those agreements are in effect.

Section 7. Civil Enforcement. The Town of Surry may enforce the provisions of this Ordinance through seeking equitable relief from a court of competent jurisdiction. Any individual citizen of the Town of Surry shall have standing to vindicate any rights secured by this ordinance which have been violated or which are threatened with violation, and may seek relief both in the form of injunctive and compensatory relief from a court of competent jurisdiction.

Section 8. Town Action against Preemption. The foundation for making and adoption of this law is the peoples' fundamental and inalienable right to govern themselves, and thereby secure their rights to life, liberty, and the pursuit of happiness. Any attempt to use other units and levels of government to preempt, amend, alter or overturn this Ordinance or parts of this Ordinance shall require the Town to hold public meetings that explore the adoption of other measures that expand local control and the ability of citizens to protect their fundamental and inalienable right to self-government. It is declared that those other measures may legitimately include the partial or complete separation of the Town from the other units and levels of government that attempt to preempt, amend, alter, or overturn this Ordinance.

Section 9. Effect. This Ordinance shall be effective immediately upon its enactment.

Section 10. Severability Clause. To the extent any provision of this Ordinance is deemed invalid by a court of competent jurisdiction, such provision will be removed from the Ordinance, and the balance of the Ordinance shall remain valid.

Section 11. Repealer. All inconsistent provisions of prior Ordinances adopted by the Town of Surry are hereby repealed, but only to the extent necessary to remedy the inconsistency.

Town of Surry, Maine

Overnight Mooring and Anchorage Control Ordinance

For Lower Patten Pond

Adopted by Town Referendum Vote on November 4, 2025

Article 1 Purpose

This Chapter shall be known and cited as the Overnight Mooring and Anchorage Control Ordinance for Lower Patten Pond in the Town of Surry, Maine.

The purpose of this Chapter is to assure the safety, health and welfare of the citizens of the Town of Surry, and to balance the public's right to access and navigate on Lower Patten Pond while protecting property rights and values.

Article 2 Authority and Applicability

2.1 This Chapter is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A. §3001 and to the extent applicable, Title 38, M.R.S.A. §§ 1-13.

2.2 The provisions of this Chapter shall apply to Lower Patten Pond within the Town of Surry.

Article 3 Definitions

For the purposes of this Chapter, the following definitions shall apply:

3.1 **Anchoring:** The securing of a Watercraft or other floating object to the bottom of a water body using an anchor or appliance that is normally carried aboard that vessel.

3.2 **Dwelling Purpose:** A use in which Mooring or Anchoring allows a Watercraft to be used as a location for occupancy during an Overnight Period.

3.3 **Mooring:** The securing of a Watercraft or other floating object, usually by means of a chain, cable, or rope, to a pier or shore, or to a device attached to a fixed object or anchoring device below the water body.

3.4 **Mooring/Anchorage:** The beaching, grounding, or tying of a watercraft to the shore of Lower Patten Pond, or the Anchoring or Mooring of a watercraft on Lower Patten Pond in the Town of Surry.

3.5 **Mooring Control Area:** The area of water surface within 200 feet of the shore of Lower Patten Pond that is bounded by lines perpendicular to the shore extending 200 feet from the boundaries of privately-owned property.

3.6 **Overnight Period:** The period of time between 9:00 PM to 4:00 AM.

3.7 **Swim Float:** A single floating or inflatable structure unattached to land secured by Anchoring or Mooring to the water bottom, seasonally installed and removed, and used solely for swimming.

3.8 **Watercraft:** Any type of vessel including, but not limited to, a boat, house boat, barge, float, or craft that is used or capable of being used as a means of transportation on water. Without limiting the generality of the foregoing, the term Watercraft further includes any houseboat or floating structure designed, used, or capable of being used for overnight habitation and containing sleeping and/or toilet facilities, regardless of whether such facilities are of a permanent or temporary nature.

Article 4 Mooring Control for All Moorings/Anchorages

4.1 A Mooring/Anchorage may be placed by the shorefront property owner or another individual with the shorefront property owner's written permission. A Mooring/Anchorage shall only be placed in the Mooring Control Area directly adjacent to the shorefront property owner's property and must be in compliance with the rest of this Chapter.

4.2 Mooring and Anchoring shall be for a non-Dwelling Purpose. Moorings shall not be leased or rented to third-party users.

4.3 A Mooring/Anchorage shall not be allowed if the Watercraft attached to it will interfere with Watercraft attached to other lawful moorings and/or swim floats, or if safe navigation is impeded.

4.4 Property owners in an association with deeded access to a common shorefront lot shall maintain Moorings in accordance with this Article. The Town encourages property owners in an association with deeded access to follow established association bylaws. Said Moorings must be directly adjacent to the common shorefront lot and within the Mooring Control Area.

Article 5 Overnight Mooring/Anchorage Prohibited

No Watercraft shall be beached, grounded, or tied to the shore of Lower Patten Pond in the Town of Surry for an Overnight Period or any part of an Overnight Period, except in cases of emergency. No Watercraft shall be Anchored or Moored on Lower Patten Pond for an overnight period or any part of an overnight period, except in cases of emergency.

Article 6 Exemption

Mooring or Anchoring of the following nature are exempt from the provisions of Article 5 of this Chapter, provided these uses shall only be for non-Dwelling Purposes:

1) A float attached to any existing dock or pier;

2) Any Watercraft tied to a dock or pier;

3) Any Mooring placed or used by a shorefront property owner who owns the land adjacent to the water where the Anchoring/Mooring is placed;

4) Any Anchored, tied, or affixed flat Swim Float used by an adjacent shorefront property owner; and

5) Watercraft beached, grounded, or tied to the shorefront that is owned by the shorefront property owner.

Article 7 Enforcement

Any authorized law enforcement agency or the Surry Code Enforcement Officer, or their designee, is authorized and shall have the authority to enforce all provisions of this ordinance.

This Ordinance shall take effect as of the date it is approved by the voters of the Town of Surry.

Article 8 Civil Violation and Enforcement

Violations of this ordinance shall be enforced in the District Court under 4 M.R.S.A. § 152, 30-A M.R.S.A. § 4452, and M.R.Civ.P. 80K. A violation of this Ordinance shall be a civil violation punishable by a fine as established under 30-A M.R.S.A. § 4452.. Every Overnight Period that a violation continues shall constitute a separate offense. All fines shall inure to the benefit of the Town of Surry.

Article 9 Access for Purpose of Investigation

If a shorefront property owner notifies the Town of Surry of an alleged violation of this ordinance, the owner may grant access to the property by authorized law enforcement agencies or the Town of Surry for the purpose of investigating the alleged violation. Upon investigation of the alleged violation, the authorized law enforcement agency, Code Enforcement Officer, or their designee, shall promptly issue a written notice of having found there to either be a violation or no violation.

Article 10 Appeals

Appeals by any person aggrieved by a decision, act, or failure to act by the CEO/authorized law enforcement agency, as it relates to the implementation and enforcement of this Chapter, shall be made to the Town of Surry Board of Appeals. In all cases, a person aggrieved by an order or decision made, or by a failure to act by the CEO/authorized law enforcement agency, shall file their written appeal within 14 days of receipt of notice of the decision or order appealed. The appeal shall specifically describe the grounds for such action. The Code Enforcement Officer shall notify the appropriate law enforcement agency, Surry Select Board, and the Board of Appeals of the appeal. The Board of Appeals shall apply an appellate standard of review in a search for errors or inconsistencies supported by the evidence.

Article 11 Conflicts and Severability

11.1 Conflict with other ordinances. Whenever a provision of this Chapter conflicts with or is inconsistent with any other applicable ordinances, regulations, or statute, the more restrictive provision shall apply.

11.2 Severability. The invalidity of any part of this Chapter shall not invalidate any other part of this regulation.