Town of Orrington

Land Use Ordinance

Adopted June 6, 2005
Revised June 6, 2011, June 3, 2013,
June 2, 2014, June 1, 2015, July 27, 2020,
June 6, 2022, June 5, 2023

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ARTICLE I -- PREAMBLE

1. AUTHORITY AND JURISDICTION

This Ordinance has been prepared in accordance with the home rule authority granted in Titles 30-A Maine Revised Statutes Annotated (MRSA) Section 3001 and Article VIII, Part 2, of the Maine Constitution, Section 4352, Zoning Ordinances, and Title 38 MRSA Sections 435-449, as amended, and shall be effective throughout the Town of Orrington.

2. TITLE

This Ordinance and the accompanying official zoning map shall be known as and may be cited as the "Land Use Ordinance, Town of Orrington, Maine."

3. PURPOSE

This Ordinance has the following purposes:

A. to promote the health, safety, and general welfare of the residents;
B. to encourage the most appropriate use of land throughout the municipality;
C. to promote traffic safety;
D. to provide safety from fire and other elements;
E. to provide adequate light and air;
F. to prevent overcrowding of real estate;
G. to provide wholesome home environment;
H. to prevent housing development in unsanitary areas;
I. to provide an adequate street system;
J. to coordinate development of unbuilt areas
K. to encourage the formation of community units;
L. to provide an allotment of land area in new developments sufficient for all requirements of community;
M. to conserve natural resources;
N. to prevent and control water pollution;
O. to protect fish spawning grounds, aquatic life, bird and other wildlife habitat;
P. to protect buildings and lands from flooding and accelerated erosion;
Q. to protect archaeological and historic resources;
R. to control building sites;
S. to conserve shore cover;
T. to conserve natural beauty and open space;
U. to anticipate and respond to the impacts of development in shoreland areas; and
V. to provide for adequate public services, as an integral part of a comprehensive plan for municipal development.

4. REPEAL OF CONFLICTING ORDINANCES

Any existing ordinances or such parts thereof as may be inconsistent herewith are repealed.

5. VALIDITY

Should any section or part of a section or any provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

6. AMENDMENTS

The Town Meeting may, from time to time, amend this Ordinance upon review by the Planning Board and after a public hearing. The State planning Office shall be notified in writing of any amendments to this Ordinance within thirty (30) days of the adoption of such amendments. Copies of amendments to the shoreland zoning provisions of this Ordinance, attested and signed by the Municipal Clerk, shall be submitted by the Municipal Clerk to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within the forty-five (45) days of their receipt of the amendment, the amendment shall be automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this ordinance, or ordinance amendment, if such amendment is approved by the Commissioner.

7. EFFECTIVE DATE

This Ordinance shall take effect and be in force after its adoption by the town.

8. AVAILABILITY

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

9. CONFLICTS WITH OTHER ORDINANCES

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

ARTICLE 2 -- LAND USE DISTRICTS

1. CLASSES OF DISTRICTS

For the purpose of this Ordinance, the town is hereby divided into the following classes of districts or zones:

Low Density Residential Districts to be known as "R" districts.
Highway Commercial Districts to be known as "C" districts.
General Industrial Districts to be known as "I" districts.
Rural Residential and Farming Districts to be known as "R-F" districts.
Mixed Residential-Commercial Districts to be known as “MR-C” districts.
Commerce Park Districts to be known as “CPD” districts.

Resource Protection Districts to be known as "RP" districts. (see Article 3)
Shoreland Residential Districts to be known as "SR" districts. (see Article 3)
Shoreland Industrial Districts to be known as "SI" districts. (see Article 3)
Stream Protection Districts to be known as "SP" districts. (see Article 3)

2. RULES GOVERNING DISTRICT BOUNDARIES

The boundaries of these districts are hereby established as shown on the official Land Use District Map. Said map is hereby made a part of this Ordinance; it shall be on file in the office of the Town Clerk.

Unless otherwise indicated, the district boundary lines are the nearest lot lines, the center lines of streets or such lines extended, the center lines of water courses or such lines extended, or the Town boundary lines. Boundaries indicated as following or parallel to shorelines shall be construed to follow or be parallel to the normal high-water line or upland edge of a wetland of such shorelines, and in the event of changes in the shore line shall be construed as moving with the actual shoreline. Distances may be determined where necessary by scale of the map. Questions concerning the exact location of district boundaries shall be decided by the Board of Appeals.

3. LAND USE REQUIREMENTS

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

Any use or proposed use not explicitly listed in the Table of Uses (Article II) shall require Planning Board evaluation/review to determine the most appropriate classification and any applicable performance or siting requirements.

4. DISTRICT PURPOSES

A. Low-Density Residential District "R". The "R" District is established as a Growth District in which the principal use of the land is for single-family dwellings at low-density, together with the recreational, educational, religious facilities which will encourage the development of well-rounded neighborhood living, and adjacent open areas where similar residential growth appears likely.

B. Highway Commercial District "C". The "C" District is established as a Growth District in which the principal use of the land is for establishments offering accommodations, services, or supplies to motorists, and in which vehicular access and parking is of primary importance. Also compatible with this district are certain specialized business uses which serve the entire town. The "C" District, ordinarily located along numbered state or federal highways or other roads designated as major streets, is intended to help control commercial sprawl along the highways by grouping together those businesses which are most advantageously located on major streets. Any non-residential construction, including new construction on existing and approved non-residential sites, shall be subject to site plan review according to the requirements of Article 6.

C. General Industrial District "I". The "I" District is established as a Growth District in which the principal use of the land is for industry and associated uses. Certain open areas favorably situated with respect to transportation and containing other factors conducive to industrial development but not in conflict with residential neighborhoods or business, are also included. This is for the purpose of reserving suitable land for the expansion of existing industry and location of new industry, and to enhance economic development and employment opportunities. Any non-residential construction, including new construction on existing and approved non-residential sites, shall be subject to site plan review according to the requirements of Article 6.

D. Rural Residence and Farming District "R-F". The "R-F" District is established as a Rural District in which the principal use of the land is for agriculture, forestry, rural-type residence and customary associated uses. Large lots, with ample space between buildings, are required as a means of reducing fire hazards, and also to provide sufficient area for both private water supply and septic disposal system on the same lot. Other purposes of this district include conservation of natural resources and reduction of soil erosion.

E. Mixed Residential-Commercial District "MR-C". The "MR-C" District is established as a Growth District in which the principal use of the land is residential, but allows a maximum diversity of uses compatible with residential use. Residential uses shall be combined with governmental and retail uses, so as to provide interest and vitality to the neighborhood. New developments shall be sited so that they present a harmonious mix with existing uses. In determining this, the Planning Board shall establish performance standards considering availability of appropriate outdoor space and other factors relevant to ensuring that in the proposed development there will be no dangerous or unhealthy conditions and that the design preserves the standing nature of the area and protects its

environment from undue or unreasonable degradation. The Planning Board may require that appropriate buffer zones and landscaping be utilized to accomplish these objectives. Any non-residential construction, including new construction on existing and approved non-residential sites, shall be subject to site plan review according to the requirements of Article 6.

F. Commerce Park District "CPD". This District is designed and intended to accommodate future "targeted" commercial and industrial development. Unique in its topography and design, this District is situated with access to a transportation corridor, and adjacent to existing industrial development. The "Park" is intended to accommodate a variety of commercial and industrial developments, along with eco-related industries. Proposed development in this district shall be subject to the review requirements of Article 6 of this ordinance [1].

5. DISTRICT REQUIREMENTS

Permitted uses and uses subject to planning board approval shall conform to all dimensional requirements and other applicable requirements of this Ordinance. A plumbing permit and/or building or use permit shall be required for all buildings, uses and sanitary facilities according to the provisions of Article 5 Section 2 of this Ordinance. All uses shall comply with the land use standards of Article 4.

Key

District Symbols

R	Low Density Residential District
RF	Rural Residence and Farming District
C	Highway Commercial District
I	General Industrial District
MR-C	Mixed Residential-Commercial District
CPD	Commerce Park District

Permit Symbols

Y	Yes; allowed without permit but must comply with standards
PB	Planning Board approval required; subject to site plan review (see CEO)
CEO	Code Enforcement Officer Permit required
N	No, not allowed

Note: Numbers adjacent to some permit symbols ([1, 2], etc.) refer to notes at the end of the table which contain additional requirements.

1. A Tax Increment Financing District may be created to provide development incentive, encourage a diversity of industrial uses to enhance the tax base, and secure resources for future economic development investment.

Table 2-1

	R	RF	C	I	MR-C	CPD
Resource Extraction and Rural Uses						
1. Agriculture	PB[2, 23]	CEO[2, 23]	PB[2, 23]	N	PB[2, 23]	N
2. Boarding and riding stables	N	PB	PB	N	PB	N
3. Commercial timber harvesting provided that all State required permitting has been obtained.	Y	Y	Y	Y	Y	N
4. Filling, grading, draining, dredging or alteration of a water table or level, and not to mean a pit or hole sunk into the earth to reach a supply of water, with appropriate state permits	Y	Y	CEO	CEO	CEO	PB
5. Outdoor recreation such as parks, playgrounds and golf courses	PB	PB	PB	PB	PB	PB
6. Private, non-commercial stables	PB[1]	CEO	N	N	PB	N
7. Roadside produce stand	Y[3]	Y[3]	Y[3]	N	Y[3]	N
8. Earth materials extraction or storage for road purposes only, affecting an area of less than two acres in size.	CEO	CEO	CEO	CEO	CEO	CEO
9. Earth materials extraction or storage for road purposes only, affecting an area of two acres or greater in size.	PB	PB	PB	PB	PB	PB
10. Accessory structure, uses, or services that are essential for the exercise of uses listed above.	CEO	CEO	CEO	CEO	CEO	CEO
Residential Uses						
1. Single-family dwelling (Primary)	CEO	CEO	CEO	CEO	CEO	N
2. Single family mobile home (Primary)	CEO[4]	CEO[4]	CEO[4]	CEO[4]	CEO[4]	N
3. Duplex (two family Primary dwelling)	CEO[5,8]	CEO[5,8]	CEO[5,8]	CEO[5,8]	CEO[5,8]	N
4. Multi-family dwelling (Primary)	PB[6,8]	PB[8, 24]	PB[6,8]	PB[6,8]	PB[6,8]	N
5. Mobile home park (see Article 4, Section 7)	N	PB	N	N	N	N
6. Home Occupation[17]	CEO	Y	Y	Y	Y	N
7. In-law apartment	CEO	CEO	CEO	CEO	CEO	N
8. Cluster Development (see Article 4, Section14)	N	PB	N	N	N	N
9. Accessory structures, uses or services that are essential for the exercise of uses listed above.	CEO	CEO	CEO	CEO	CEO	N

	R	RF	C	I	MR-C	CPD
Institutional Uses						
1. Cemetery	N	PB	N	N	N	N
2. Church	PB[7,9]	PB[7,9]	PB	N	PB[7,9]	N
3. Day care center	PB	PB	PB	N	PB	N
4. Fraternal order and service club	N	PB	PB	N	PB[9]	N
5. Governmental facilities and grounds	N	PB	PB	PB	PB[9]	PB
6. Group development, congregate housing, boarding home facility[17]	PB [5,7,8,9,10]	PB	PB	N	PB	N
7. Hospital	PB[7,9]	PB[7,9]	PB	N	PB[7,9]	N
8. Medical clinic, nursing home, convalescent facility	PB[7,9]	PB[7,9]	PB	N	PB[7]	N
9. Museum	PB[20]	PB[20]	PB[20]	N	PB[20]	N
10. Public or private school	PB[7,9]	PB[7,9]	N	N	PB[7,9]	N
11. Religious services as ancillary use	N	N	PB	PB	PB	PB
12. Accessory structures, uses or services that are essential for the exercise of uses listed above.	CEO	CEO	CEO	CEO	CEO	CEO
Commercial Uses						
1. Art gallery/craft shop/gift shop	N	PB[16]	PB	N	PB[16]	N
2. Auction barn	N	PB[16]	PB	N	PB[16]	PB
3. Automobile sales lot	N	N	PB	N	PB	PB
4. Automobile service station and repair garage	N	N	PB	PB	PB	PB
5. Aviation Services	N	N	N	CEO	N	PB
6. Bed and breakfast	CEO	CEO	CEO	N	CEO	N
7. Campground, travel trailer park	N	PB	N	N	PB	N
8. Convention Center	N	N	PB	N	PB	PB
9. Commercial greenhouse, garden, hydroponics[17]	CEO	CEO	PB	N	PB	PB
10. Line intentionally blank						
11. Communication facility	N	PB	PB	PB	PB	PB
12. Communication tower	N	PB	PB	PB	N	PB
13. Financial institution	N	N	PB	N	PB	PB
14. Funeral home	PB	PB	PB	N	PB	N
15. Grocery and variety store	PB[16]	PB[16]	PB	N	PB	N
16. Health spa, fitness club, gym	N	N	PB	N	PB	N
17. Indoor entertainment and recreation	N	N	PB	N	PB	PB
18. Kennel-boarding site	N	PB	PB	N	PB	PB
19. Laundry, dry cleaning establishment	N	N	PB	PB	PB	N
20. Liquor store	N	N	PB	N	PB	N
21. Medical marijuana growing facility	N	N	N	N	N	PB[21]
22. Medical marijuana dispensary facility	N	N	N	N	N	PB[21]
23. Motel, hotel	N	N	PB	N	PB	PB

	R	RF	C	I	MR-C	CPD
24. Outdoor storage business	N	N	PB	N	N	PB
25. Line intentionally blank						
26. Professional offices, office building	N	N	PB	PB	PB	PB
27. Redemption center	N	N	PB[13]	N	PB[13]	PB[13]
28. Restaurant	N	N	PB	N	PB	PB
29. Repair service (other than auto)	N	N	PB	PB	PB	PB
30. Retail outlets [19]	N	N	PB[11]	N	PB	N
31. Self-storage building	N	PB[22]	PB	N	PB[18]	PB
32. Service business	N	N	CEO[12]	N	CEO	PB
33. Signs[17]	CEO[14]	CEO[14]	CEO[14]	CEO[14]	CEO[14]	CEO[14]
34. Take-out food service and catering facilities	N	N	PB	N	PB	PB
35. Veterinary clinic	N	PB	PB	N	PB	PB
36. Accessory structures, uses or services that are essential for the exercise of uses listed above.	CEO	CEO	CEO	CEO	CEO	CEO
Industrial Uses						
1. Automobile graveyard/junkyard	N	N	PB	PB	N	N
2. Bulk oil and fuel storage, in excess of 50 gallons except for onsite purposes	N	N	N	PB	N	PB
3. Construction equipment storage	N	N	N	PB	N	PB
4. Firewood processing	N	PB	N	PB	N	PB
5. Light manufacturing assembly plant	N	PB[12]	PB[12]	PB[12]	PB[12]	PB[12]
6. Lumber yard	N	PB[15]	PB	PB	PB	PB
7. Manufacturing	N	N	N	PB	N	PB
8. Newspaper facility	N	N	N	PB	N	PB
9. Printing Facility	N	N	PB	PB	PB	PB
10. Pulp mill	N	N	N	PB	N	N
11. Saw mill / Pellet Mill	N	PB[15]	N	PB	N	PB
12. Sewage treatment facility	N	N	N	PB	N	N
13. Solid waste transfer station	N	N	N	PB	N	N
14. Transportation facility	N	PB[15]	PB	PB	PB	PB
15. Warehouse	N	N	N	PB	N	PB
16. Wholesale business facility	N	N	N	PB	N	PB
17. Compressed and/or liquefied gas operations (wholesale, distribution, processing, blending and/or condensing)	N	N	N	PB	N	PB
18. Agricultural Facility	N	PB	N	N	N	PB
19. Distribution Facility	N	N	PB	PB	N	PB
20. Terminal Facility	N	N	PB	PB	N	PB
21. Alternative Energy Production	N	PB	PB	PB	PB	PB
22. Processing Facility	N	N	PB	PB	N	PB
23. Storage Facility, Industrial/Commercial	N	N	PB	PB	PB	PB
24. Production Facility	N	N	PB	PB	N	PB

	R	RF	C	I	MR-C	CPD
25. Ecological Production	N	PB	PB	PB	PB	PB
26. Research and Development	N	N	PB	PB	PB	PB
27. Accessory structures, uses or services that are essential for the exercise of uses listed above.	N	CEO	CEO	CEO	CEO	CEO
Transportation and Utilities						
1. Major utility facilities such as transmission lines, but not including service drops	PB	PB	PB	PB	PB	PB
2. Road construction projects, other than land management roads, and not part of a project requiring Planning Board approval.	CEO	CEO	CEO	CEO	CEO	CEO
3. Road construction projects, other than land management roads, which are part of a project requiring Planning Board approval.	PB	PB	PB	PB	PB	PB
4. Accessory structures, uses or services that are essential for the exercise of uses listed above.	CEO	CEO	CEO	CEO	CEO	CEO

Notes to table of land uses

1. Provided they are not closer than 100 feet to any property line.
2. Provided that no building or dairy, poultry, or livestock raising is constructed, moved or enlarged to within 75 feet of the side or rear property lines.
3. Provided that at least five off-street parking spaces are provided, with entrances and exits approved by the Code Enforcement Officer.
4. Provided a concrete pad or foundation shall be installed, and the unit shall be firmly anchored by tie-downs.
5. Average densities shall not exceed those established for single-family housing.
6. Lots in the Growth Areas with no dwelling are allowed up to 4 dwelling units on the lot. (Primary dwelling unit and 3 Accessory Dwelling Units).
   Lots in the Rural Areas with a dwelling are allowed up to 2 additional Accessory dwelling units on the lot. (Primary dwelling unit and 2 Accessory Dwelling Units). No more than one of which may be detached.
7. Provided they are not closer than 40 feet to any property line.
8. Adequate highway access shall be available.
9. Provided the use is located on a street with adequate highway capacity.
10. Group developments shall be located on a site having a minimum area of two acres.
11. Any retail or service business may include the incidental manufacture of products sold at retail on the premises, provided that the manufacturing does not occupy more than 50% of the total floor area, and employs no more than 4 persons on a single shift, but excluding automobile graveyards or junkyards.
12. Provided that they shall comply with Federal and State standards regarding water and air pollution. Industries shall be required to prove to the Planning Board that the proposed location, construction and operation will not injure present or prospective industrial development in the district.
13. No outside storage.

14. Planning Board approval is required if the sign is to be lit.
15. Provided that neighboring properties are protected from noise and that adequate provision is made for accommodating the entering, exiting, and loading and unloading of transport vehicles on the premises (off the right-of-way).
16. Provided that gross floor area is not in excess of 5,000 square feet.
17. Subject to land use standards of this Ordinance, Article 4.
18. Minimum structure setback from Road Frontage property line right-of-way of 100 feet.
19. If retail operations include the sale of compressed fuel gases, then the storage/dispensing tank shall be limited to one tank per NFPA or DOT fuel classification and shall not exceed a maximum size of 1000 gallons.
20. Dwellings to be converted, as well as any structural alterations must maintain the appearance of their existing use as determined by the Planning Board. New buildings shall be designed and constructed so as to preserve the primary character of the neighborhood. The Planning Board may make requirements regarding facade materials and their texture (e.g., vinyl or wood clapboards, shingles, patterned shingles, and brick). The layout of parking areas, service areas, entrances, exits, yards, signs, or lighting shall be such as to protect the existing character of the district and any adjoining district.
21. Minimum lot size 4 acres; Lot setback within district boundaries of 500 feet; Facility front setback of 40 feet, side and rear setback of 100 feet; Refer all security to the State requirements; Indoor growing only; Facility shall be non-transparent secured building; The security measures that will be employed at the premises shall include, but are not limited to, lighting, alarms, cameras, armed security personnel on the premises 24 hours a day, seven days a week and automatic law enforcement notification; Security surveillance shall, at a minimum, include security surveillance cameras installed and operated 24 hours seven days a week to monitor all entrances, along with interior and exterior of the premises to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises; All security recordings shall be preserved for at least one week by the management of the facility; Describe how the cultivated and/or processed medical cannabis will be transported to the distribution facility and/or qualified patients; On-site display, sale, use or of paraphernalia employed in the consumption of medical cannabis shall not be allowed anywhere on site; Lot shall not be within 500 feet of the property line of any school, church, licensed day care or residence; Limited to only one such facility within the Town Boundaries.

22. The site shall be screened from view of the abutting residential properties and public roadways to the greatest practical extent utilizing natural buffers, berms, native vegetation and fencing. Lighting at the site shall be shielded and downcast such that the light does not spill onto adjacent parcels. Use shall be located on a parcel with adequate access and highway capacity. All adjacent landowners shall be notified during the application and review process. Hours of operations may be established to limit traffic flow.

23. Agricultural Greenhouses, High Tunnels and Caterpillar Tunnels: Construction of tunnels and greenhouses are intended to extend the growing season and maximize crop production or as cost effective livestock housing or equipment storage on a farm. These uses are considered pieces of farm equipment and not structures that require building permits, provided they can reasonably be relocated or removed without

material damage to the soils on the property. They are also exempt from associated fees. If these uses are placed on a slab or a permanent foundation, they would be considered structures and lose the exempt status.

24. Lots in the Rural District are allowed up to 3 dwelling units on the lot. (Primary Dwelling and 2 Accessory Dwelling Units. No more than one of which may be detached.

6. DIMENSIONAL REQUIREMENTS

All structures and uses shall meet or exceed the following minimum requirements. Letters adjacent to some dimensional requirements refer to notes at the end of the table which contain additional requirements.

Table 2-2

	R	RF	C	I	MR-C	CPD
Minimum lot size	1 acre A, G	2 acres B, G	1 acre G	1 Acre A, G	1 acre A, G	1 Acre A, G
Minimum lot width H	150 ft. H	250 ft. H	150 ft. H	200 ft. H	150 ft. H	150 ft. H
Shore setback	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.
Front yard	35 ft. I	35 ft. I	40 ft. I	40 ft. I	35/40ft. E,I	25 ft. I
Side, rear setbacks	20/15 ft. C	20 ft.	20 ft.	25 ft.	20 ft.	15-25 ft.
Maximum lot coverage	30%	20%	50%	50%	50%	60 %
Maximum building height	35 ft.	35 ft.	35 ft.	75/50 ft. D	35 ft.	Variable J
Maximum building floor area	Not applicable	Not applicable	Not applicable	Not applicable	F	Not applicable

Notes to table of dimensional requirements

A. Must have at least ½ acre of contiguous developable area that does not contain wetland area for the first unit and ¼ acre for each additional unit.
B. Must have at least 1 acre of contiguous developable area that does not contain wetland area for the first unit and ½ acre for each additional unit.
C. 20 feet for the principal building, 15 feet for accessory buildings.
D. 75 feet if sprinkler system installed; all others 50 feet.
E. 35 feet for residential development; 40 feet for commercial development.
F. 7,000 square feet of gross floor area per acre, provided that the total floor area of all commercial structures shall not exceed 20,000 square feet in floor area per level per parcel.
G. With functioning public water and sewer – one half the minimum lot size and width.

H. Minimum lot width is the closest distance between the side lot lines of a lot at the front building line (see definition of lot width).
I. Front yard property line – see Setback and Street Line definitions in Article 9
J. Fire Department Review/Recommendation and may require a sprinkler system.

ARTICLE 3 -- SHORELAND ZONING

1. APPLICABILITY

In addition to the specific requirements of any district the following provisions will apply in all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond, or river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action, or 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 defined in Article 9 Definitions.

This Article 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.

2. DISTRICTS AND LAND USE MAP

A. Official Shoreland Land Use Map

The areas to which this Section of this Ordinance is applicable are hereby divided into the following districts as shown on the Official Land Use Map which are a part of this Ordinance:

1.) Resource Protection District
2.) Shoreland Residential District
3.) Shoreland Industrial District I and Shoreland Industrial District II
4.) Stream Protection District

3. DESCRIPTION OF DISTRICT BOUNDARIES

This Ordinance applies specifically to the water bodies and wetlands as identified on the Official Town of Orrington Land Use Map and is on file in the Town Hall.

A. Resource Protection (See the official Orrington Land Use map.)

B. Shoreland Residential (See the official Orrington Land Use Map.)

C. Shoreland Industrial I and II

To include the area along the Penobscot River adjacent to the Industrial District. (See the official Orrington Land Use District Map.)

D. Stream Protection

1.) So-called Baker Brook from the point of confluence of two intermittent streams that form a brook to Brewer Lake.

2.) Sedgeunkedunk Stream.

3.) Swetts Pond Brook and Mill Creek from Swetts Pond to the Penobscot River and the north and south branches of said brook system from their respectful wetland headwaters.

4.) Trout Pond and outlet.

5.) Other Stream Protection Districts as shaded on the official Town of Orrington Land Use District Map.

4. SCALE OF MAP

The Official Land Use Map shall be available for viewing or purchase at the Town Hall. The Map is at a scale of 1-inch = 1,000 feet (RF 1:12,000).

5. NON-CONFORMANCE

A. Non-conforming Structures

1.) Expansions: 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. After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by more than 30%, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 5.A.3.), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure on January 1, 1989 had been expanded by 30% in floor area and volume since that date.

b. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Section 5.A.2.) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure except for expansion in conformity with Section 5.A.1.a.) above, and that

the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from the original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

2.) **Relocation:** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface 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 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 with in the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the located 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 planted with at least one native tree, three (3) feet in height, for every tree removed. If more than five (5) trees are planed no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no farther from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that were removed or destroyed in order to relocate a structure must be re-established. An area at least the 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.

3.) **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 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 in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, excepted as allowed pursuant to Section5.A.1.) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be located 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 planted in accordance with Section 5.A.2.) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market values, 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, removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board shall consider in addition to the criteria in Section 5.A.2.) Relocation above, the physical condition and type of foundation present, if any.

4.) **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.

B. 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 5.A.1above.

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

3**.) Change of Use**: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, 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 5.A.4.) above.

C. Non-conforming Lots

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

In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record which conformed to the Ordinance at the effective date of this Ordinance. Such lot must be in separate ownership and not continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area and width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area and width, or both, of the lot shall conform to the regulations for the district in which the lot is located. Any lot in a preliminary or final subdivision plan approved by the Orrington Planning Board as of December 1, 1973, meeting all legal requirements of Orrington's Town Ordinance is exempted from any subsequent changes in lot standards in this Ordinance.

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 Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. 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 Ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

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

This provision shall not apply to two (2) or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on December 6, 1993 and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules and:

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

b. Any lots that do not meet the frontage and lot size requirements of Section 5.C.3.a.) above are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

6. ESTABLISHMENT OF DISTRICTS

A. Resource Protection District

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

1.) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted in a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of December 31, 2008. For purposes if this paragraph "wetlands associated with great ponds and rivers" shall mean area characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.

Note: The Natural Resources Protection Act, 38 M.R.S.A. sections 480-A through 480-Z requires the Department of Environmental Protection to designate areas of "significant wildlife habitat". Significant wildlife habitat includes:

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

2.) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps on file in the Town Office or Flood Hazard Boundary maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

3.) Areas of two (2) or more contiguous acres with sustained slopes of 20% or greater.

4.) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils which are not part of a freshwater 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.

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

B. Shoreland Residential District

The Shoreland Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District or the Stream Protection District, and areas which are used less intensively than those in the Shoreland Industrial Districts.

C. Shoreland Industrial District I

The Shoreland Industrial District I includes the following types of exiting, intensively developed areas:

1.) Areas of two (2) or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:

a. Areas devoted to manufacturing, fabricating or other industrial activities;

b. Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and

c. Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.

2.) Areas otherwise discernable as having patterns of intensive commercial, industrial or recreational uses.

D. Shoreland Industrial District II

The Shoreland Industrial District II includes the same types of areas as those listed for the Shoreland Industrial District I. The Shoreland Industrial District II, however, shall be applied to newly established Shoreland Industrial Districts where the pattern of development at the time of adoption is undeveloped or not as intensively developed as that of the Shoreland Industrial District I.

Portions of the Shoreland Industrial District I or II may also include residential development. However, no area shall be designated as a Shoreland Industrial District I or II based solely on residential use.

In areas adjacent to great ponds and adjacent to rivers flowing to great ponds, the designation of an area as a Shoreland Industrial District shall be based upon uses existing at the time of adoption of this Ordinance. There shall be no newly

established Shoreland Industrial Districts or expansions in area of existing Shoreland Industrial Districts adjacent to great ponds, and adjacent to rivers that flow to great ponds.

E. Stream Protection District

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

7. TABLE OF LAND USES

All land use activities, as indicated in Table 3 - 1, Land Uses in the Shoreland Districts, shall conform with all of the applicable land use standards in Section 8. The district designation for a particular site shall be determined from the Official Land Use Map.

Key to Table 3-1:

Permit Symbols

Yes- Allowed (No permit required but the use must comply with all applicable land use standards.)

No - Prohibited

PB - Allowed with approval by the Planning Board and a permit issued by the Code Enforcement Officer

CEO- Allowed with permit issued by the Code Enforcement Officer

LPI- Allowed with permit issued by the Local Plumbing Inspector

District Symbols:

RP - Resource Protection
SR - Shoreland Residential
SI - Shoreland Industrial I and Shoreland Industrial II
SP - Stream Protection

Table 3 – 1
Land Uses in the Shoreland Districts

LAND USES		DISTRICTS			
		RP	SP	SR	SI
1.	Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes
2.	Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes
3.	Forest management activities except for timber harvesting & land management roads	yes	yes	yes	yes
4.	Timber harvesting	CEO[1]	yes	yes	yes
5.	Clearing or removal of vegetation for activities other than timber harvesting	CEO[1]	CEO	yes	yes
6.	Fire prevention activities	yes	yes	yes	yes
7.	Wildlife management practices	yes[8]	yes	yes	yes
8.	Soil and Water conservation practices	yes	yes	yes	yes
9.	Mineral exploration	yes[2]	no	yes[2]	yes[2]
10.	Mineral extraction including sand and gravel extraction	PB[3]	no	PB	PB
11.	Surveying and resource analysis	yes	yes	yes	yes
12.	Emergency Operations	yes	yes	yes	yes
13.	Agriculture	PB	yes	yes	yes
14.	Aquaculture	PB	PB	PB	yes
15.	Principal structures and uses A. One and two family residential including driveways B. Multi-family residential C. Commercial D. Industrial E. Governmental and Institutional F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	 PB[9] no no[10] no no PB	 PB[4] no no[10] no no PB[4]	 CEO PB no[10] no PB CEO	 CEO PB PB PB PB CEO
16.	Structures accessory to allowed uses	PB	PB[4]	CEO	yes
17.					

LAND USES		DISTRICTS			
		RP	**SP**	**SR**	**SI**
	Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland A. Temporary B. Permanent	CEO[11] PB	CEO[11] PB	CEO[11] PB	CEO[11] PB
18.	Conversions of seasonal residences to year-round residences	no	LPI	LPI	LPI
19.	Home occupations	PB	PB	PB	yes
20.	Private sewage disposal systems for allowed uses	no	LPI	LPI	LPI
21.	Essential services A. Roadside distribution lines (34.5kV and Lower) B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland district C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland district D. Other essential services	 CEO[5] PB[5] PB[5] PB[5]	 CEO[5] PB[5] PB[5] PB[5]	 yes[12] CEO PB PB	 yes[12] CEO PB PB
22.	Service drops, as defined, to allowed uses	yes	yes	yes	yes
23.	Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO
24.	Individual private campsites	CEO	CEO	CEO	CEO
25.	Campgrounds	no[6]	no	PB	PB
26.	Road construction	no[7]	PB	PB	PB
27.	Land Management roads	PB	yes	yes	yes
28.	Parking facilities	no[6]	no	PB	PB
29.	Marinas	no	PB	PB	PB
30.	Filling and earthmoving of < 10 cubic yards	CEO	CEO	yes	yes
31.	Filling and earthmoving of > 10 cubic yards	PB	PB	CEO	CEO
32.	Signs[14]	CEO[13]	CEO[13]	CEO[13]	CEO[13]
33.	Uses similar to allowed uses	CEO	CEO	CEO	CEO
34.	Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO

LAND USES		DISTRICTS			
		RP	**SP**	**SR**	**SI**
35.	Uses similar to uses requiring a PB permit	PB	PB	PB	PB

[1] In RP not allowed within 75 feet horizontal distance, of the normal high-water line of 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] In RP not allowed in areas so designated because of wildlife value.
[4] Provided that a variance from the setback requirement is obtained from the Board of Appeals.
[5] See further restrictions in **Article 3 Section 8.I.**
[6] Except when area is zoned for resource protection due to floodplain criteria in which case a planning board review and permit from the CEO is required.
[7] Except as provided in **Article 3 Section 8.O**.
[8] Within the "RP" district on the Richardson Tract, the Orrington Conservation Commission will periodically conduct minimal timber harvesting in order to implement specific wildlife management and fire-prevention programs. These programs will be implemented solely at the discretion of the Conservation Commission, and will not require **a** permit from the CEO.
[9] The Planning Board may approve and instruct the CEO to issue a permit for construction of a single-family residence in a Resource Protection District if the applicant demonstrates that all of the conditions in **Article 3** Section **8.R,** Special Exception, are met. Two-family residential structures are prohibited.
[10] Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district
[11] Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
[12] Permit not required but must file a written "notice of intent to construct" with CEO prior to commencement of any construction.
[13] Planning Board approval is required if the sign is to be lit.
[14] Subject to land use standards of this Ordinance, Article 4.

Note: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to38 MRSA, Section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or 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 material to a sand dune; or
D. Any construction or alteration of any permanent structure.

8. LAND USE STANDARDS (Adopted June 26, 1995)

All land use activities within the shoreland district shall conform with the following provisions, if applicable.

A. Minimum Lot Standards

1.) See Table 3-2

Table 3 – 2
Minimum Lot Standards - Shoreland Districts

Lot Standard		SR	SI	SP	RP
Minimum Lot Area per dwelling unit and per recreational facility	Tidal	40,000 sf[1]	40,000 sf[1]	40,000 sf[1]	40,000 sf[1]
	Non-Tidal	40,000 sf[1]	40,000 sf[1]	40,000 sf[1]	40,000 sf[1]
Minimum Shore Frontage per dwelling unit	Tidal	150ft[2]	150 ft[2]	150 ft[2]	150 ft[2]
	Non-Tidal	200 ft[3]	200 ft[3]	200 ft[3]	200 ft[3]
Minimum Lot Width	Tidal	150 ft[2]	200 ft.	150 ft[2]	150 ft[2]
	Non-Tidal	200 ft[3]	200 ft[3]	200 ft[3]	200 ft[3]
Minimum Front Yard Depth	Tidal	35 ft.	40 ft.	35 ft.	35 ft.
	Non-Tidal	35 ft[5]	40 ft[5]	35 ft[5]	35 ft[5]
Minimum Side/Rear Yard Depth	Tidal	20 ft[4]	25 ft.	20 ft.	20 ft.
	Non-Tidal	20 ft[4]	25 ft.	20 ft.	20 ft.

[1] 60,000 square feet required per principal structure for Governmental, Institutional, Industrial, or Commercial uses.

[2] 200 feet required per recreational facility, Governmental, Institutional, Industrial, or Commercial uses.

[3] 300 feet required per principal structure for Governmental, Institutional, Industrial, or Commercial uses, 200 feet required per recreational facility.

[4] 15 feet required for residential accessory structures.

[5] Front yard property line – see Setback and Street Line definitions in Article 9

2.) Land below the normal high water line of a water body or upland edge of a wetland and land beneath roads serving two (2) or more 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 dwelling unit or, 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. Agriculture

1.) All spreading or manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7M.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 or a river flowing to a great pond, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland district must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

3.) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland district 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 Ordinance.

NOTE: Assistance in preparing a Conservation Plan may be available through the Penobscot County Soil and Water Conservation District office.

4.) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; 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 Ordinance and not in conformance with this provision may be maintained.

5.) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; 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 with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

C. Archaeological Sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments from the Commission prior to rendering a decision on the application

D. Beach Construction

Beach construction on any great pond, brook, river, stream or coastal wetland shall require a permit from the Department of Environmental Protection.

E. Campgrounds

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

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

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

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

1.) In a for Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

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

2.) Except in areas as described in Subsection 1.), above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond or a river flowing to a great pond, and 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 footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

b. Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 8.F.2.b.) a "well-distributed stand of trees" adjacent to a great pond, or a river or stream flowing to a great pond, shall be defined as maintaining a rating score of 24or 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) + (3x 4) + (2x8) = 36 points

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points (36 - 24 = 12) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

(i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposed clearing within the required buffer:
(ii) Each successive plot must be adjacent to, but not overlap the previous plot;
(iii) Any plot not containing the required points may no have 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 are may consist of trees greater than 12 inches in diameter.

For the purposes of Section 8.F.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 rectangular area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 samplings 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 /12 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 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, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

f. Section 8.F.2.) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

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

In no event shall cleared openings for any purposes, 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 district or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the Shoreland Industrial Districts.

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

5.) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions Section 8 (F).

G. Commercial and Industrial Uses

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

a. Auto washing facilities
b. Auto or other vehicle service and/or repair operations, including body shops
c. Chemical and bacteriological laboratories
d. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms
e. Commercial painting, wood preserving, and furniture stripping
f. Dry cleaning establishments
g. Electronic circuit assembly
h. Laundromats, unless connected to a sanitary sewer
i. Metal plating, finishing, or polishing
j. 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
k. Photographic processing
l. Printing

H. Erosion and Sedimentation Control

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

a. Mulching and revegetation of disturbed soil.

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

c. Permanent stabilization structures such as retaining walls or riprap.

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

3.) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

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

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

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

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

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

I. 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 District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

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

J. Individual Private Campsites

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

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

2.) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond or river flowing to a great pond, 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.

3.) 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.

4.) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in the Resource Protection District shall be limited to one thousand (1,000) square feet.

5.) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

6.) 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.

K. 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 paragraph 3.) below.

2.) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond or a river flowing to a great pond, 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 of any property line, without written permission of the owner of such adjacent property.

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

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

NOTE: The State of Maine Solid Waste Laws, Title 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 grade shall be no greater than a slope of two and one-half (21/2) horizontal to one (1) vertical.

c. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area.

Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

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

L. Parking Areas

1.) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities, in districts other than the Shoreland Industrial District I shall be reduced to no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists farther 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.

M. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland

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

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

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

4.) 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 (6) feet for non-commercial uses.

5.) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending below 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.

6.) 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 Resource Protection Act.

7.) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending below the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

8.) Except in the Shoreland Industrial Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending below 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.

9.) 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 MRSA Title, Section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

N. 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 and rivers that flow to great ponds, 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 Shoreland Industrial District I the setback from the normal high-water line shall be at least twenty-five (25) feet, horizontal distance. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other objects specifically allowed in that district in which case the setback requirements specified above shall apply.

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

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

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

2.) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Shoreland Residential, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

3.) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one (1) foot above the elevation of the 100 years flood, the flood or record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils. Accessory structures may be placed in accordance with the standards outlined in Article 7 of this ordinance and need not meet the elevation requirements of this paragraph.

4.) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland district shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland district, including land area previously developed, except in the Shoreland Industrial District adjacent to tidal waters and rivers that do not flow to great ponds, where lot coverage shall not exceed seventy (70) percent.

5.) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

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

b. The wall(s) is (are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;

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

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

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

f. The area behind the wall is revegetated with grass, shrubs, trees, or 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 does not exist. The buffer area must meet the following characteristics:

i. The buffer must include shrubs and other woody and herbaceous vegetation. Where the 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 perpendicular to the normal high-water line or upland edge of a wetland;

v. A footpath not to exceed the standards in Section 8.F.2.a., may traverse the buffer.

Note: It 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, shall be allowed 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.

O. 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 or a river that flows to a great pond, 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 8.0.1. does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 8.0.1 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 roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon finding that no reasonable alternative route or location is available outside the district.

When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high water line of a water body, tributary stream, or upland edge of a wetland.

4.) 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 Article 3 Section 8.H.

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

6.) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary stream or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified 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. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

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

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

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

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

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

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

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

P. 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 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 a shoreland district.

NOTE: The Maine Subsurface Water Disposal Rules, require new systems, excluding fill extensions, to be constructed no less than 100 horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

Q. 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, 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.

R. Special Exception

In addition to the criteria specified in Article 5 Section 1.A.3.)c., excepting structure setback requirements, the Planning Board may approve and instruct the CEO to issue a permit for construction of a single-family residence in a Resource Protection District if the applicant demonstrates that all of the following conditions are met.

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

2.) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.

3.) All proposed buildings, sewage disposal system and other improvements are:

a. Located on natural ground slopes less than 20%; and

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

If the floodway is not shown on the FEMA maps, it is deemed to be the width of the 100-year floodplain. For purposes of this subparagraph, "floodway" means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot in height and "velocity district" means 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.

4.) The total ground-floor area, 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 any variance (MDEP 06-096 Chapter 1000 section 16E4).

5.) 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 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 floodplain and its proximity to moderate-value and high-value wetlands.

S. 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 waters.

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

Note: The Storm water 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 of 5 acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with one (1) acre or more of development area in any other stream, coastal or wetland watershed. A permit-by-rule is necessary for a project with one (1) acre or more of disturbed area but less than one (1) acre of impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than five (5) acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one (1) acre or more of disturbed area.

T. Timber Harvesting

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

- Section 7. Table of Land Uses, Item 3 (Forest management activities except for timber harvesting), Item 4 (Timber harvesting), and Item 27 (Land management roads);
- Section 8.T, Timber Harvesting, in its entirety; and
- Article 9. Definitions, the definitions of "forest management activities", "land management roads", "skid trail", "slash" and "residual basal area".

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

438-B(5) further provides that "the Commissioner of Conservation shall notify the Secretary of State in writing and advise the Secretary of the effective date of the state-wide standards."

1.) In a shoreland area zoned for resource protection abutting a great pond, timber harvesting shall be limited to the following:

a. Within a strip of land extending 75 feet inland from the normal high-water line timber harvesting is prohibited, except to remove safety hazards.

b. Beyond the 75 foot strip referred to in paragraph a. above, timber harvesting is permitted in accordance with paragraph 2.) below except that in no case shall the average residual basal area of trees over 1 inch in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.

2.) Except in areas as described in Paragraph 1.) above, timber harvesting shall conform with the following provisions:

a. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 feet above ground level on any lot in any ten (10) year period is permitted. In addition:

i. Within one-hundred (100) feet, horizontal distance of the normal high-water line of a great pond or a river flowing to a great pond, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

ii. At distances greater than one-hundred (100) feet, horizontal distance, of a great pond or a river flowing to a great pond, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet apart. Such clearcut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.

b. Timber harvesting operations exceeding the 40% limitation in paragraph a. above, may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of

this Ordinance. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the Planning Board's decision.

c. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.

d. Timber harvesting equipment shall not use stream channels as travel routes except when:

i. Surface waters are frozen; and

ii. The activity will not result in any ground disturbance.

e. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

f. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

g. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet from the normal high-water line of a water body or upland edge of a wetland.

U. 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.

ARTICLE 4 -- PERFORMANCE STANDARDS

1. COMMERCIAL DEVELOPMENT IN THE MR-C DISTRICT

A. Not less than 20 percent of the lot area shall be dedicated to green space.

B. Commercial development shall not exceed 60 percent of the total Land use in any MR-C District.

C. Commercial development shall be served by public water and sewer if available public water and sewer is within 200 (two hundred) feet of closest lot boundary line.

D. The developer shall file with the town a performance guarantee in an amount sufficient to defray the cost of improving the means of vehicular access and landscaping, as specified in the site plan and approved by the Planning Board. The conditions and amount of such performance bond shall be determined by the town manager with the advice of the various municipal departments and agencies concerned. The amount shall be at least equal to the total cost of buffer zones, curbing, landscaping, and providing vehicular access, where required.

E. The construction will be designed so as to protect the public health and safety, environmental quality, and economic well-being of the municipality, and will be subject to a minimal control of those uses which by virtue of their external effects (waste stockpile or discharge, noise, glare, fumes, smoke, dust, and/or auto, truck traffic) which could otherwise create a nuisance or unsafe or unhealthy conditions. Lighting shall comply with Article 6, Section 9.G., and lighting fixtures must be installed to project light downward and not outward. The proposed development will not cause unreasonable erosion, sedimentation, or reduction in the capacity of the land safely to hold, absorb, or transpire water so that a dangerous or unhealthy condition results. Consulting a soil scientist/engineer or similar professional may be required. The construction will comply with all federal, state, and local laws, including air and water pollution control laws and regulations.

F. When necessary to protect the privacy of neighboring residents and the integrity of the area, the Planning Board may require a planting strip of up to 50 feet in width at the property lines at the periphery of the development. The planting strip shall be so designed as to screen the project and subsequent project activities from view of the public, where appropriate, and from adjoining property owners. Non-residential yard space abutting a residential area shall be maintained as a buffer strip by the developer.

G. All approved outside storage areas, exposed machinery installation, service areas, truck loading areas, utility, and similar structures shall have sufficient setbacks and screening to provide an audio-visual buffer sufficient to eliminate their adverse impact on the other land uses within the development area and surrounding properties.

H. Dwellings to be converted, as well as any structural alterations must maintain the appearance of their existing use as determined by the Planning Board. New buildings shall be designed and constructed so as to preserve the primary character of the neighborhood. The Planning Board may make suggestions regarding facade materials and their texture (e.g., vinyl or wood clapboards, shingles, patterned shingles, brick). The layout of parking areas, service areas, entrances, exits, yards, signs, or lighting shall be such as to protect the existing character of the district and any adjoining district.

I. The proposed use will not create or aggravate hazards to traffic on the roads and sidewalks serving the proposed use. To limit the proliferation of access points to public highways now controlled by the state Department of Transportation, and the resultant traffic hazards and congestion, a developer may be required to dedicate a 50 foot strip adjacent to and running the length of the project along the public highway to the use of controlled public access and landscaping. If required, such strip could be considered as part of the required setback, and shall be constructed in accordance with town standards. The developer shall file with the town a performance guarantee in an amount sufficient to defray the cost of improving the strip. The conditions and amount of such performance bond shall be determined by the town manager with the advice of the various municipal departments and agencies concerned.

J. The proposed development will not place an undue burden on the ability of municipal or other governmental agencies to provide services or facilities, including, but not limited to sewer, water, elementary and secondary schools, fire protection, road maintenance, solid waste disposal, police protection, telephone and electrical facilities, municipal road systems, or fire department.

K. Where possible, the site design will preserve specimen or long-lived tree species and existing watercourses, hills, and other natural features. The services of a professional forester, arborist, soil scientist/engineer may be required.

L. Exterior signs or outdoor advertising structures shall not detract from the surrounding properties. Signs or structures shall conform to requirements specified under section 12 of this article, but in addition shall be reviewed for the following: size, location, design, lighting, materials, illumination, colors, and scale. Minor changes that do not alter the dimensions or lettering style of an existing sign need not be reviewed. One sandwich, portable, or other temporary sign of advertisement, not illuminated, shall be permitted. Such sign shall be no larger that six square feet, and shall be displayed for no more than 30 days.

M. Provisions shall provide convenient and safe emergency vehicle access to all structures at all times.

2. COMMERCIAL REMOVAL OF EARTH MATERIALS

Sand, gravel, rock, and similar earth materials may be removed commercially from districts where permitted under the terms of the Ordinance only after site plan review and approval.

Following such approval, a permit may be issued by the Code Enforcement Officer. The applicant shall be required to:

A. Restore the site by regrading and seeding with adequate preparation to assure growth of vegetation cover.

B. No earth removal, quarrying, or mining activity will be conducted within 20 feet of a property line, unless a greater distance is specified elsewhere in this Ordinance, or by State guideline, rule, or statute. A slope not to exceed 1 to 1 ratio and above-ground accumulation of earth materials will be maintained on all excavation.

C. If such earth removal activity is not of continuous nature (excluding shutdown through the winter season) the operator must renew the land use permit every two years from the date of issue and show why he should not restore all or part of the site at that time.

D. The Planning Board may require the applicant to post a bond with the Treasurer of the municipality in an amount approved by the Planning Board as sufficient to guarantee conformance.

3. FLOOD PLAIN AND/OR MUD SLIDE HAZARD AREAS

In addition to the specific requirements of any district the following provisions will apply in any areas designated as flood plain hazard areas. The Code Enforcement Officer shall review all building permit applications to determine whether proposed building sites will be reasonably safe from flooding. Any construction, relocation, replacement or substantial enlargement or modification of any building, including prefabricated and mobile homes upon building sites in the special flood hazard areas must:

A. Be designed or modified and anchored to prevent flotation, collapse, or lateral movement of the structure.

B. Use construction material and utility equipment that are resistant to flood damage, and

C. Use construction methods and practices that will minimize flood damages.

The following provisions will apply in areas designated mud slide hazard areas:

D. A review of the site must be made by persons qualified in geology and soils engineering.

E. The proposed construction, substantial improvement, grading or earth removal must:

1.) be adequately protected against mudslide damage, and

2.) not aggravate the existing hazard.

4. GROUP DEVELOPMENTS

A group development is permitted provided that:

A. Uses shall be limited to those permitted within the district in which it is located.

B. Density and height requirements of the district are met.

C. The distance of every building from the nearest property line shall meet all requirements of the district in which the project is located. The development shall abut a public street for a minimum of 150 feet, and all structures shall be set back at least 150 feet from said street.

D. The Planning Board shall approve the location of the group development.

5. HOME OCCUPATION

The following provisions shall govern home occupations in the R, C, MR-C and Shoreland residential districts:

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 only if it totally complies with all of the requirements of this subsection.

B. A home occupation shall be carried on by the full time occupants of the dwelling unit and no more than two additional employees.

C. The home occupation shall be carried on wholly within the principal home or accessory structure and shall not use more than 25% of the ground floor area of the structure or accessory structure being used.

D. Intentionally left blank

E. There shall be no external evidence of such operation except one non-illuminated, nonrelative sign, no larger than four (4) square feet in area, and no home occupation shall involve the use of advertising media on the premises, which calls attention to the fact that the home is being used for business purposes, telephone number listing excepted (see Article 4, Section 12, Subsection C).

F. The sale of products shall be limited to those which are mailed (e.g. Fed~~eral~~Ex~~press~~, UPS etc.), catalog items ordered off the premises by customers, to items which are accessory or

incidental to a service which is provided on the premises and manufactured items made on the premises.

G. Adequate off-street parking shall be provided. See Article 4 Section 9- Subsection L, Off-Street Parking

The following provisions (H-M) shall govern home occupations in the RF district:

H. Rural home occupations shall be carried out without altering the basic character of the structure or neighborhood, or changing the character of the lot from its principal use as stated in the intent and purposes of the district. A rural home occupation will be permitted only if it totally complies with all the requirements of this subsection.

I. A home occupation shall be carried on by the full time occupants of the dwelling unit and no more than three additional employees.

J. The home occupation shall be carried on within the principal structure and shall not exceed 25% of the ground floor area of that principal structure, or for accessory structure see below:

1.) 2-4 acre lot: Accessory Structure no larger than home structure in area or volume.

2.) 5 acre lot or larger: Accessory Structure shall not exceed a total of 25% lot area.

K. There shall be no visible external evidence of such operation from a public way except one non-illuminated, non-reflective sign, no larger than four (4) square feet in area, and no home occupation shall involve the use of advertising media on the premises which calls attention to the fact that the home is being used for business purposes, telephone number listing excepted. See Article 4, Section 12, Subsection C, Signs, for setback criteria for all signs.

L. The sale of products shall be limited to those which are mailed (e.g. FedEx, UPS, etc.), catalog items ordered off the premises by customers, to items which are accessory or incidental to a service which is provided on the premises and manufactured items made on the premises.

M. Adequate off-street parking shall be provided. See Article 4, Section 9, Subsection L, Off Street Parking.

6. JUNK YARDS AND AUTOMOBILE GRAVEYARDS

Junk yards and automobile graveyards, where permitted under the terms of this Ordinance, must be approved by the Planning Board in addition to fulfilling the requirements of MRSA Title 30A, Sections 3751-3760.

7. MOBILE HOME PARKS

A. The application for a permit, to be submitted to the Planning Board for site plan review, shall show:

1.) The area and dimensions of the tract of land.

2.) The number, size, and location of mobile home lots.

3.) The location and width of roadways.

4.) The location of water and sewer lines.

5.) Such further information as may be requested by the Building Inspector, Code Enforcement Officer, Planning Board, or Health Officer to determine that the mobile home park complies with legal requirements.

B. Minimum locational standards: A mobile home park shall be:

1.) Free from adverse influence by wetlands or waste disposal areas.

2.) Not subject to flooding or other hazard or nuisance as determined by the Planning Board.

C. Minimum general standards:

1.) A mobile home park shall contain no less than 5 acres.

2.) A mobile home site shall contain no less than 15,000 square feet with a street/road frontage of at least 100 feet; a concrete pad or foundation shall be installed on each site; and each unit must be firmly anchored by tie-downs.

3.) Mobile homes shall be separated from each other by at least 25 feet.

4.) The ground surface in all parts of the mobile home park shall be graded and equipped to drain all surface water in a safe, efficient manner.

5.) Exposed ground surfaces in all parts of every mobile home park shall be paved or covered with stone screenings or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and the emanation of dust during dry weather.

6.) Every mobile home park shall have a continuous, safe, and potable water supply capable of delivering no less than 150 gallons of water per day for each mobile home site at suitable pressure with a connection at each mobile home site.

7.) Every mobile home park shall be provided with an adequate and safe sewage disposal system, with a sewer connection at each mobile home site.

8.) Every mobile home park shall contain an electrical system, consisting of wiring, fixtures, equipment and appurtenances which shall be installed and maintained in accordance with applicable codes and regulations governing such systems. Each mobile home site shall be provided with an approved electrical service.

9.) The storage, collection, and disposal of refuse in every mobile home park shall be managed so as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazard, or air pollution.

10.) Not less than 8% of the gross area of the park site shall be devoted to recreational facilities which may include playgrounds, ball field, ornamental areas, and community buildings.

D. Minimum street standards

1.) All streets in a mobile home park shall be provided with a well-drained and durable surface of minimum width of 24 feet. Street surfaces shall be maintained and snow-plowed by the mobile home park operator.

2.) Safe, continuous, and convenient vehicular access shall be provided from abutting public streets or roads into the mobile home park and within the park to each mobile home space.

3.) Grades of all streets shall be sufficient to insure adequate surface drainage but shall not be more than 8 percent.

4.) Intersections of streets shall be at approximately right angles.

5.) Street lighting shall be provided as approved by the Planning Board.

8. OFF-STREET LOADING AND UNLOADING

On every lot on which a business, trade, or industry is hereafter established, sufficient off-street space with access to a public right-of-way shall be provided for the loading and unloading of vehicles, and shall not obstruct traffic flow.

9. OFF-STREET PARKING

No building hereinafter shall be erected or any of the following uses established unless the minimum number of off-street parking spaces as specified below are provided. Adequate off-street parking must be provided to insure no vehicles need be parked along the roadway. Each parking space shall be at least 200 square feet and shall have access for vehicles to a public right-of-way. Parking lots for more than 5 vehicles shall provide sufficient turning space to prevent cars from backing into the street.

If the required automobile parking spaces cannot be provided on the same lot as the principle use, such spaces may be provided on other off-street property located within 400 feet of the main entrance of the principle use. Such parking space shall be associated with principle use, and not thereafter reduced or encroached upon in any manner.

Required parking space may extend up to 100 feet in a residential district provided that the parking space adjoins a commercial or industrial district, has its only access on the same street as the property for which it serves, and is separated from abutting residences by a planted buffer strip at least 10 feet wide.

A. Gasoline Filling Stations and Repair Garages - 5 spaces for each grease rack or other similar facility.

B. Hospitals and Nursing Homes - 1 space for each 4 beds.

C. Hotels - 1 space for each 2 guest bedrooms.

D. Industrial Establishments - 1 space for each 2 employees at maximum employment on the 2 shifts of highest employment.

E. Lodges and Clubs - 1 space for each 5 members.

F. Motels - 1 space for each accommodation.

G. Offices - 1 space for each 300 square feet of office floor space.

H. Places of Amusement or Assembly - 1 space for each 150 square feet of floor area devoted to patron use.

I. Residential - 1 space for each dwelling unit.

J. Restaurants - 1 space for each 3 seats.

K. Schools - 1 space for each 30 pupils in primary schools; 1 space for each 4 students in secondary schools; and 1 space for each student in higher education.

L. Museum – Parking 1 space for each 500 square feet of floor area devoted to patron use (a minimum of 2 parking spaces).

M. Other uses – sufficient space to meet the projected needs of the development.

10. PRINCIPAL AND ACCESSORY BUILDINGS AND USES OF A LOT

Except group developments, only one principle building and its accessory buildings and uses may hereafter be erected or constructed on any one lot.

A. **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, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to the criteria listed in Article 3. Section 5.A.4.

11. PUBLIC FACILITIES (FEDERAL, STATE AND MUNICIPAL)

Federal, State, Municipal, Public, grounds and public schools are permitted per Article 2 subject to the site plan review and the approval of the Planning Board, except as prohibited in Article 3. Section 7.

12. SIGNS

A. No sign shall be permitted except as specified in this Ordinance. All illuminated signs erected or maintained shall be illuminated by non-intermittent light or lights. No illuminated signs shall be of the intensity or brilliance to cause a glare or impair the vision of the operator of any motor vehicle or otherwise constitute a hazard to pedestrian or vehicular traffic.

B. No outdoor advertising shall hereafter be erected off premises, except that a business operating in conformance with the Land Use Ordinance of the Town of Orrington is permitted to place Official Business Directional Signs (OBDS) as defined by and in compliance with Title 23, MRSA 1901-1925, Maine Traveler Information Service Act, under the conditions set forth in Table 4-1 and excepting temporary signs, maximum of two per road not to exceed six and complying with table 4-1.

C. Setbacks for signs in all Districts (OBDS signs are exempt per MDOT placement): Setbacks for signs in all districts shall be eight (8) feet from right of way and twenty (20) feet from side property lines.

D. Height: no portion of any sign, either free standing, attached, detached, or affixed, whether permanent or temporary, to any wall of a building or roof shall exceed twenty-five (25) feet in height above the natural grade upon which it is erected.

E. The following standards listed in, and appended to, Table 4-1 shall apply to signs in the respective districts. The dimension of a Skeletonized sign shall be determined using the maximum vertical and horizontal plane or surface dimensions created by the displayed letters and not just the cumulative face area of the letters.

Table 4-1. Permitted signs by type and district

Type of Sign	***R*** (15)	***RF*** (15)	***MR-C***	***C*** (16)	***I CPD***[21]	***SR, SI, SP, RP***
Traffic Regulatory Signs	(1)	(1)	(1)	(1)	(1)	(1)
Official Business Directional Signs - OBDS	12” x 48” (2)	12” x 48” (2)	12” x 48” (2)	12” x 48” (2)	12” x 48” (2)	12” x 48” (2)
No Trespassing/No Hunting (3)	1 sf	1 sf	1 sf	1 sf	1 sf	1 sf
Illuminated	(13)	(13)	(13)	(13)	(13)	na
Temporary Construction, Renovation, or Repair (5)	16 sf	16 sf	16 sf	16 sf	16 sf	16 sf
Temporary (public or semi-public occasional events, athletic events, political campaigns, candidate, sales/marketing) (6)	(14)	(14)	(14)	(14)	(14)	(14)
Real Estate (7)	6 sf	6 sf	6 sf	32sf	32sf	3sf
Conforming nonresidential principal building or use on the premises (e.g. Town Hall, school, church)	32sf	32sf	32sf	32sf	32sf	6 sf (4)
Home Occupations (20)	4 sf	4 sf	4 sf	4 sf	4 sf	4 sf
Describing farm products raised or produced on the premises	16 sf	32 sf	16 sf	32 sf	na	8 sf
Multi-Family Housing	12sf	12sf	12sf	na	na	na
Subdivision	32 sf	32 sf	32 sf	32 sf	32 sf	na

Type of Sign	***R*** (15)	***RF*** (15)	***MR-C***	***C*** (16)	***I CPD[21]***	***SR, SI, SP, RP***
Entrance (free standing) (19)	na	na	24 sf (8)	24 sf (8)	50 sf (8,9)	(10)
Projecting or extending (not flush, parallel or co-planar with walls) and below roof line (12).	na	na	6 sf	6 sf	32 sf	na
Wall (co-planar, on, flush, or parallel to the wall and below the roof line (12)) (11)	6 sf	6 sf	6 sf	1 sf/lf of building frontage	1-1/2sf/lf of building frontage (11)	na
Shopping Centers (17)	na	na	24sf (8) (18)	24sf (8)(18)	na	na

sf = square foot. lf = linear foot. na = not allowed.

1. These shall consist of but shall not be limited to: stop, yield, curve, speed limit. Permitted location and design shall be as seen fit by the Road Commissioner and/or MDOT without restriction.
2. A maximum of 3 off premises signs shall be permitted if approved with Maine Department of Transportation (MDOT) application. Signs shall be Non-reflectorized white lettering on a blue background. The location of all such signs shall be approved on an individual basis by the Planning Board using the OBDS application, after submission and approval by the MDOT.
3. These signs shall be permitted without restriction as to the number of signs provided that there shall be not more than one sign per 50 linear feet of lot perimeter and an additional sign shall be permitted at each point of access from a public road.
4. The number of signs shall be limited to 2 for the premises, each not to exceed 6 sf in size.
5. A single sign which denotes the architect, engineer, contractor, and/or funding source for the work in progress. Such sign shall be removed, at the earlier of, when work is complete or when a certificate/authorization of use/occupancy is granted (either written or verbally by the CEO). Federal and State government mandated signs are exempt.
6. Such sign shall be displayed no more than three weeks before the event and shall be removed within one week after the event. In no event shall a temporary sign be displayed for greater than 30 days and no more than three events per calendar year. The temporary signs may include, but not be limited to: banner, flag, inflatable, and sandwich board. Signs classified as sales and/or marketing shall include, but not be limited to, those for Grand Openings, Promotionals, Seasonal Sales, Liquidations, Change in Ownership/Management, Going out of Business.
7. Real Estate signs are those relating to the advertisement of sale, rental, or lease of the premises on which the sign is located. Real estate signs within the stream, shoreland and resource protection districts are restricted to a maximum size of 3 sf per State Shoreland Zoning Ordinance. Temporary signs of a directional nature are not covered by this item.

8. In addition each business on the premises may display a single sign attached to the entrance sign, identifying the name of the business and services it provides. Such signs shall not exceed 6 sq. ft.
9. Businesses in the Industrial and the Commerce Parks, as defined, may erect one detached or free standing sign not exceed 40 sq. ft.
10. Unless otherwise prohibited sign guidelines for the Industrial District shall be used for the SI district. Districts SP, RP, and SR are not included in this item.
11. The aggregate area of all wall signs on the premises shall not exceed 200 sq. ft.
12. The phrase "roof line" shall refer to the nominal elevation of the roof ridge or parapet and the highest point of elevation of the sign.
13. Any illuminated sign, as permitted, but not limited to sections 4-5E, 4-5K, and 4-12A, shall only be illuminated during hours of public operation. Illuminated signs shall have a static display (no animation, changing colors, varying illumination intensity or aiming), except for time, temperature, or DOT traffic control/advisory signs. Such signs shall not be positioned, or of a color or intensity, as to compete with traffic control devices.
14. 6 square foot maximum display size, unless further limited elsewhere in this ordinance, or by express written permission by the CEO or PB. Campaign or candidate signs shall be limited to one sign per sponsor or candidate per location (per 250 ft in any direction).
15. Signs shall be considered accessory to the principal use of the premises on which they are located.
16. In the commercial district signs may be located on any part of the premises not otherwise restricted in these articles, and may be attached, detached, or projecting signs, single or double faced, identifying uses or goods sold or services rendered on the premises.
17. Each shopping center, as defined, may display a shopping center sign not to exceed 24 sq. ft. naming the shopping center.
18. In shopping centers, as defined, each store or shop may have a flush mounted, projecting or roof sign not to exceed 36 sq. ft. displaying the name of the store or shop. Maximum width or height not to exceed eight feet.
19. One sign per entrance.
20. See Article 4, Section 5, subsection E. or Article 4, Section 5, sub-section K for requirements in their respective district.
21. The Commerce Industrial Park may have a sign not to exceed 100 sq. ft. displaying the name of the Park and businesses within the Park.

13. REQUIREMENTS FOR CAMPGROUNDS AND TRAVEL TRAILER PARKS

Campgrounds and travel trailer parks may be established in districts permitted under the terms of this Ordinance provided that:

A. No campground or travel trailer park may be established or operated without a permit issued annually by the Code Enforcement Officer for which the applicant shall pay a fee of $1.00 per travel trailer site, camp site, or tent site. Such permit shall only be issued if the campground or travel trailer park is found to conform to the requirements of this

Ordinance and all other pertinent municipal and state ordinances and after approval of the proposed plan of such campground or trailer park by the Planning Board.

B. Camping areas shall contain a minimum of 5,000 square feet of suitable land, excluding common areas, roads and driveways, for each trailer or tent site.

C. Fires shall be permitted only in specifically designated fireplaces constructed to suitable standards, and only under conditions and at times approved by the Fire Chief.

D. Service facilities which meet the following specifications shall be provided and continuously maintained in clean and sanitary condition and in good operating order at all times when the campground or trailer park is open for business.

1.) One water connection able to deliver a continuous, adequate, safe and potable supply of water located not more than 200 feet from every trailer, camping, or tenting site.

2.) One flush-type or chemical toilet for each 5 sites.

3.) Adequate and safe sewage disposal facilities.

4.) The storage, collection and disposal of refuse shall be so managed as to create no health hazards, rodent harborage, insect-breeding areas, accident or fire hazard, or air pollution.

14. Cluster Development Standards

Purpose:
The purpose of cluster development is to encourage the preservation of the rural character of the Town of Orrington by preserving undeveloped land, to include forested land, farmland, and other undeveloped land within the Town. This can be accomplished by allowing cluster type development, which allows homes to be built on lots which are smaller than required in the Land Use District, but requires undeveloped portion of the lot to be preserved.

Note: Cluster development streets and utility lines are usually shorter, thus allowing development at a lower construction cost initially and lower maintenance costs in the future.

Location and Density:
Cluster development shall only be allowed in the Rural Residence and Farming District. Cluster development is not allowed within Shoreland Districts nor within designated Flood Zones. Land within Shoreland Districts may be used in calculating the allowed density for a project that is located partially within the Shoreland Districts and partially outside of the Shoreland Districts, but no lot development shall occur within the Shoreland District.

Cluster development shall mean a development of single family, two-family and multi-family residential homes that permit lots with dimensions, widths, and setbacks reduced from conventional lot size developments, provided that the density of the parcel as a whole shall not be greater than the density allowed by the Land Use District for non-cluster development. The remaining area shall be retained as permanently preserved open space. The Planning Board must make positive findings that the cluster approach will provide a development plan which provides and supports the preservation of open space and prevents the loss of natural features to the greatest extent possible.

Application Procedure:
The application procedure for Cluster Subdivisions shall be the same as conventional subdivisions. The number of lots or development shall in no case exceed the number of lots or dwelling units permitted in a standard subdivision submission within the **Rural Residence and Farming District.**

Calculating Developable Acreage
Total acreage and land suitable for development (Net Residential Acreage) shall be calculated the same as conventional subdivisions. Each lot must have a minimum of one acre (43,560 square feet) of developable area.

- Wetlands are not to be considered as developable area when calculating total acreage.
- Surface Water is not to be considered as developable area when calculating total acreage.
- Portions of the lot designated as Flood Plain are not to be considered as developable area when calculating total acreage.
- Right-of-ways are not to be considered as developable area when calculating total acreage.

Site Design Standards:

A. Cluster development must meet all the criteria requirements for a subdivision other than those land use standards that may be modified, and all other applicable town ordinances.

B. Each building must be an element of the overall plan for site development. The developer must specify the placement of building envelopes and the treatment of open spaces, paths, roads, utility services and parking.

C. A soil survey must be submitted. No building may be constructed on soil classified as being very poorly drained.

D. No building shall be located within 100 feet of a designated wetland or waterbody.

E. No house lot shall be less than one acre (43,560 square feet).

F. The land to be set aside for open space does not have to be contiguous with the house lot, provided that the required amount of land for each lot is located somewhere on the parcel to be subdivided as a cluster.

G. All open space shall be considered common land and the interest shall be divided equally among all land owners.

H. Minimum lot width for each lot shall not be less than one hundred and fifty feet (150') at the building line.

I. No individual lot or dwelling unit may have direct vehicular access onto a public road existing at the time of development.

J. Based on the recommendation of the Fire Chief, the developer may be required to provide underground storage capacity of first responder water supply or in lieu of, a mutually agreed upon payment to the Fire Department capital account for the establishment of strategically located "first responder water" infrastructure. Maintenance of these facilities to be the responsibility of a Home Owners Association, developer, or town if deemed public property.

K. Utilities may be installed underground.

L. As with conventional subdivisions, the test pit locations of all subsurface wastewater disposal systems must be shown on the plan. In addition, an equivalent reserve area for replacement systems must be shown. These reserve areas must be deed restricted with language not allowing any construction such as decks, storage buildings, pools, and the like within the replacement areas.

M. In order to facilitate State requirements for separation distances between drinking water wells and septic systems, private drinking water wells may be located in areas designated as open space if necessary.

Creation and Maintenance of Open Space and Any Common Facilities:

Open space may not be further developed. Open space may only be used for agriculture, forestry conservation, or non-commercial recreation. Upland areas of the open space may be used as storage or stockpile areas during construction of the development, provided that the area is restored to a condition similar to that which existed prior to commencement of the development.

Restoration:

The applicant shall delineate the limits of stockpile and storage areas on the plan and provide a restoration plan for those areas specifying grading, topsoil specifications and plantings as appropriate.

Homeowner Association:

The plan shall include provisions for the creation of a Homeowners Association as with any conventional subdivisions within Orrington.

15. YARD SALE

Yard sales will be allowed in all areas. They shall not occur on more than two weekends in a calendar year and not exceed three consecutive days. Yard sales occurring on heavily traveled roads are required to post warning signs.

ARTICLE 5 -- ADMINISTRATION, ENFORCEMENT AND PENALTIES

1. ADMINISTRATION

A. Administering Bodies and Agents

1.) Code Enforcement Officer

Unless otherwise provided in this Ordinance, the Code Enforcement Officer (CEO), as duly appointed by the Town Manager and confirmed by the Board of Selectmen, shall administer and enforce this Ordinance. No building permit or certificate of occupancy shall be issued by the Code Enforcement Officer except in compliance with the provisions of this Ordinance. The Code Enforcement Officer shall have the following duties, among others, in enforcing this Ordinance:

a. Preliminary plans. Examine preliminary plans.

b. Applications and fees. Act upon all applications and collect any fees due; refer and or process all applications as required.

c. CEO applications. Act upon building, construction and use applications which are under the jurisdiction of the CEO as set forth in Article 2. Section 5, District Requirements and Article 3. Section 7, Table of Land Uses.

d. Planning Board applications. Review site plan review applications, subdivision applications and hazardous materials applications for completeness of submissions and refer such applications to the Planning Board; and

e. Board of Appeals applications. Refer requests for variances and administrative appeals to the Board of Appeals.

f. Inspections. Inspect sites where building permits have been issued to ensure compliance with all local, state and federal laws, codes and/or ordinances.

g. Complaints and violations. Investigate complaints and reported violations.

h. Reports and records. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, for permits and activities in Shoreland, Stream, and Resource Protection Districts, a summary of these records shall be submitted to the Director of the Bureau of Land and Water Quality Control within the Maine Department of Environmental Protection.

i. Violation notices. Issue violation notices.

j. Appeals. Participate in appeals procedures.

k. Consent agreements. Process or act on consent agreements involving violations of this Ordinance or appear in court when necessary.

l. Agendas. Prepare agenda for mailing at least seven days before each meeting of the Planning Board and Board of Appeals, and attend meetings of the Planning Board and Board of Appeals.

m. Permit revocation. Revoke a permit after notice if it was issued in error or if it was based on erroneous information.

When there is a question concerning the interpretation of this Ordinance, the Code Enforcement Officer may refer the matter to the Board of Appeals for interpretation**.**

2.) Board of Appeals

A Board of Appeals has been created. See Article 8 Section 8.04 of the town charter.

3.) Planning Board

a. Creation. A Planning Board has been created. See Article 8 Section 8.03 of the town charter.

b. Powers and duties. The Planning Board shall be responsible for reviewing and acting upon applications for site plan review as set forth in Article 2. Section 5, Article 3. Section 7, and in accordance with the provisions of Article 6, and subdivisions in accordance with the provisions of Article 6 of this Ordinance, as well as certain Shoreland Land Use applications in accordance with the provisions of Article 3. Following approval by the Planning Board, the applicant shall return to the Code Enforcement Officer for building and other permits.

c. Activities covered by Shoreland Land Use requirements. After submission of a complete application to the Planning Board, the Board may approve said application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

(1) Will maintain safe and healthful conditions;
(2) Will not result in water pollution, erosion, or sedimentation to surface waters;
(3) Will adequately provide for the disposal of all wastewater;

(4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
(6) Will protect archaeological and historic resources as designated in the comprehensive plan;
(7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
(8) Will avoid problems associated with flood plain development and use; and
(9) Is in conformance with applicable provisions of Maine DEP Section 15, Land Use Standards and the Orrington Land Use Ordinance.

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

2. PERMITS REQUIRED

A. Permit required.

It shall be unlawful, without first obtaining a permit, to engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed. A permit shall be required for:

1.) **Activities listed in the Table of Land Uses**. Any activity listed in Article 2 Section 5, District Requirements, as requiring a permit from the Code Enforcement Officer. No permit may be issued under this provision for any activity which is part of a project requiring site plan review until such approval has been granted by the Planning Board.

2.) **Site plan review activities**. Any activity approved by the Planning Board under the site plan review provisions of Article 6.

3.) **Shoreland Land Use**. Any activity listed in Article 3. Section 7 as requiring a permit from the Code Enforcement Officer. No permit may be issued under Article 3 for an activity requiring Planning Board approval until approval for such a permit has been granted by the Planning Board.

4.) **Floodplain management activities.** Any activity listed in Article 7 as requiring a permit from the Code Enforcement Officer.

B. Permit Application

1.) **Written application**. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate administrating body or agent. The following items, when appropriate, shall be included on the site plan.

a. The shape, size and location of the lot to be built upon and structure(s) to be erected, altered or removed.

b. Any structure(s) already on the lot.

c. Depth of front yards of structure(s) and adjoining lots.

d. Statement of intended use.

e. Any other information needed by the Code Enforcement Officer, Planning Board, or the Board of Appeals to determine whether the provisions of this Ordinance are being observed.

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

3.) **Application to be dated**. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt and at such time and date as is acted upon.

4.) **Plumbing permit**. 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 or use would require the installation of a subsurface wastewater disposal system.

5.) Intentionally left blank

6.) **Modifications.** Any modification to the description, scale drawing, or site plan of the proposed structure(s) shall require a revised application, payment of an additional one-half of the application fee, and a permit prior to beginning, or continuing, the work.

3. PROCEDURE FOR ADMINISTERING PERMITS.

A. Code Enforcement Officer Action

Within seven (7) working days of the date of receipt of a complete application for a permit, the Code Enforcement Officer shall examine such application and physically examine the premises to determine whether or not the proposed building, structure or use would be in compliance with this Ordinance, except that in the event the value of the work does not exceed five thousand dollars a permit shall be issued upon payment of the required fee to the municipality without an inspection of the premises. (The aforementioned exclusion based on monetary limits does not apply to permits or activities within Shoreland, Stream, and Resource Protection Districts).

1.) Referrals. All applications which require approval of the Planning Board or action by the Board of Appeals shall within a period of thirty (30) days be referred to the applicable board for action and public notice shall be given. After approval, with or without conditions, by such Board, the Code Enforcement Officer shall issue a building or use permit within seven (7) working days after being notified of such approval.

2.) Code Enforcement Officer Permits. In all other cases, the Code Enforcement Officer shall within a period of seven (7) working days approve or deny such applications for a permit in accordance with whether or not such proposed building, structure or use complies with this Ordinance.

3.) Written notification. If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing and provided to the applicant within seven (7) working days. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any State law which the municipality is responsible for enforcing. If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing.

B. Applicant Responsibility

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

2.) Posting. Within seven (7) working days of receiving the permit, the applicant shall conspicuously post any permit issued (or copy thereof), on the lot where the activity will occur, at a location clearly visible from the public street or road, in such a manner as to protect the permit or copy from degradation by the elements.

C. Expiration of Permit

If no substantial start of construction has been made in 1 year from the date the permit is issued, the permit becomes invalid. The Code Enforcement Officer shall renew the permit within 30 days after the expiration of permit upon payment of a fee as specified in Article 5, Section 2.B.5. Otherwise the permit becomes invalid and application must begin anew. In all shoreland districts, if a substantial start is made within one year of the issuance of a permit, the applicant shall have one additional year to complete the building exterior and soil stabilized, at which time the permit shall expire.

D. Installation of Public Utility Service

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

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

1.) Not more than 25% longer than the culvert being replaced; and

2.) No longer than 75 feet.

AND;

Provided that adequate erosion control measures are taken to prevent sedimentation of the water, and that the crossing does not block fish passage in the water course.

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

G. Required Permit(s). Any permit required by this ordinance shall be in addition to any other permit required by law or ordinance.

4. CERTIFICATE OF OCCUPANCY REQUIRED

A Certificate of Occupancy issued by the Code Enforcement Officer is required in advance of the use of:

A. Any lot or change of the use thereof;

B. A building hereafter erected or a change in the use of an existing building.

No certificate of Occupancy shall be issued unless the lot or building complies with all the provisions of this Ordinance. A record of all Certificates of Occupancy shall be kept on file in the Town Office and available for Public Inspection.

5. ENFORCEMENT

A. **Violations.** Any violation of this Ordinance shall be deemed to be a nuisance. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation.

B. **Penalty**. 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 Ordinance shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 4452. The violator may be fined not exceeding $2,500 for each offense. Each day that the violation occurs shall constitute a separate offense, beginning with the day following notification by the Code Enforcement Officer of such Violation.

C. **Other remedies.** If any building is constructed, altered, removed, or any building or land is used in violation of this Ordinance the Building Inspector or any other appropriate authority or any person who would be damaged by such violation, in addition to other remedies may institute appropriate legal procedures to prevent and or abate such violation.

D. **Unsafe buildings** Any building or structure that may be or shall at any time hereafter become dangerous or unsafe, shall, unless made safe and secure, be taken down and removed, in accordance with provisions of Title 17 M.R.S.A. Section 2851.

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

ARTICLE 7 -- FLOODPLAIN MANAGEMENT LAND USE ORDINANCE

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1. PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Orrington, 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 Orrington, 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 Orrington, 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 Orrington 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 Orrington 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 Orrington, Maine.

The areas of special flood hazard, Zones (Districts) A and AE, for the Town of Orrington, Penobscot County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Penobscot County," dated July 19, 2023, with accompanying "Flood Insurance Rate Map Penobscot County, Maine" dated July 19, 2023, which are hereby adopted by reference and declared to be a part of this Ordinance.

2. PERMIT REQUIRED

The Code Enforcement Officer shall be designated as the local Floodplain Administrator. The Floodplain Administrator shall have the authority to implement the commitment made to administer and enforce the requirements for participation in the National Flood Insurance Program.

Before any construction or other development (as defined in Article 9), 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. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Orrington, 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;

[Items H-K.2 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 (District) A only, of the:

1.) base flood at the proposed site of all new or substantially improved structures, which is determined:

a. in Zone (District) AE, from data contained in the "Flood Insurance Study – Penobscot County, Maine," as described in Section 1; or,

b. in Zone (District) A:

i 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.M. and Section 8.D.; or,

ii in the absence of all data described in Section 3.H.1.b.(1), information to demonstrate that the structure shall meet the elevation requirement in Section 6.H.2.b., Section 6.I.2.a. or b., or Section.J.2.b.

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.) lowest machinery and equipment servicing the building; and,

5.) 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 6.I.; and other applicable standards in Section 6;

2.) a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Section 6. N.2.a.;

3.) a certified statement that bridges will meet the standards of Section 6. O.;

4.) a certified statement that containment walls will meet the standards of Section 6. P.;

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 of $50.00 shall be paid to the Town Clerk 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 - Penobscot 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. M.; and Section 8.D., in order to administer Section 6 of this Article; and,

3.) when the community establishes a base flood elevation in a Zone (District) A by methods outlined in Section 3.H.1.b.i., 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 Article;

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 an "under construction" Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction for verifying compliance with the elevation requirements of Section 6, paragraphs H, I, or J. 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.I.1. 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. L., 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.

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 9 of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Sections 3, 6, and 7 of this Article.

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 so as 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. **Utilities** - New construction or substantial improvement of any structure (including manufactured homes) located within Zones (Districts) A and AE, shall have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least one foot above the base flood elevation.

G. **Physical Changes to the Natural Landscape** - Certain development projects, including but not limited to, retaining walls, sea wall, levees, berms, and rip rap, can cause physical changes that affect flooding conditions.

1.) All development projects in Zones (Districts) AE and VE that cause physical changes to the natural landscape shall be reviewed by a Professional Engineer to determine whether or not the project changes the base flood elevation, zone, and/or the flood hazard boundary line.

a. If the Professional Engineer determines, through the use of engineering judgement, that the project would not necessitate a Letter of Map Revision (LOMR), a certified statement shall be provided.

b. If the Professional Engineer determines that the project may cause a change, a hydrologic and hydraulic analysis that meets current FEMA standards shall be performed.

2.) If the hydrologic and hydraulic analysis performed indicates a change to the base flood elevation, zone (district), and/or the flood hazard boundary line, the applicant may submit a Conditional Letter of Map Revision (C-LOMR) request to the Federal Emergency Management Agency for assurance that the as-built project will result in a change to the Flood Insurance Rate Map. Once the development is completed, a request for a Letter of Map Revision (LOMR) shall be initiated.

3.) If the hydrologic and hydraulic analysis performed show a change to the base flood elevation, zone (district), and/or the flood hazard boundary line, as soon as practicable, but no later than 6 months after the completion of the project, the applicant shall submit the technical data to FEMA in the form of a Letter of Map Revision request.

H. Residential - New construction or substantial improvement of any residential structure located within:

1.) Zone (District) AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.

2.) Zone (District) A shall have the lowest floor (including basement) elevated:

a. to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 3.H.1.B.i.; Section 5.B; or Section 8.D.; or,

b. in the absence of all data described in Article VI.H.2.a., to at least two feet above the highest adjacent grade to the structure

I. Non Residential - New construction or substantial improvement of any non-residential structure located within:

1.) Zone (District) 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 (District) A shall have the lowest floor (including basement) elevated:

a. to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 3.H.1.b.(i.); Section 5.B; or Section 8.D.;or,

b. in the absence of all data described in Section 6.I.2.a., to at least two feet above the highest adjacent grade to the structure; or,

c. together with attendant utility and sanitary facilities meet the Floodproofing standards of Section 6.I.1.a.,b., and c.

J. Manufactured Homes - New or substantially improved manufactured homes located within:

1.) Zone (District) 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:

i. 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,

ii. 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).

iii. all components of the anchoring system described in Section 6.J.1.c.(i)&(ii) shall be capable of carrying a force of 4800 pounds.

2.) Zone (District) A shall:

a. be elevated on a permanent foundation, as described in Section 6.J.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.i.; Section 5.B; or Section 8.D.; or,

b. in the absence of all data as described in Article VI.J.2.a., to at least two feet above the highest adjacent grade to the structure; and,

c. meet the anchoring requirements of Section 6.J.1.c.

K. Recreational Vehicles - Recreational Vehicles located within:

1.) Zones (Districts) 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.J.1.

L. Accessory Structures - New construction or substantial improvement of Accessory Structures, as defined in Article 13, shall be exempt from the elevation criteria required in Section 6.H & I. above, if all other requirements of Section 6 and all the following requirements are met.

1.) Accessory Structures located in Zones (Districts) A and AE shall:

a. meet the requirements of Article VI.A.1. through 4., as applicable;

b. be limited in size to a one-story two car garage;

c. have unfinished interiors and not be used for human habitation;

d. 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;

e. be located outside the floodway;

f. 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 farther from the source of flooding than is the primary structure; and,

g. have hydraulic openings, as specified in Section 6.N.2., in at least two different walls of the accessory structure.

M. Floodways -

1.) In Zone (District) 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 (Districts) 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.M.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 (Districts) A and AE 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.

N. Hydraulic Openings/Flood Vents - New construction or substantial improvement of any structure in Zones (Districts) A and AE that meets the development standards of Section 6, including the elevation requirements of Section 6, paragraphs H, I, or J, and

is elevated on posts, columns, piers, piles, or crawlspaces 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 Section 13;

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:

i. 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;

ii. the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,

iii. 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.

O. Bridges - New construction or substantial improvement of any bridge in Zones (Districts) A and AE 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. M.; 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.

P. **Containment Walls -** New construction or substantial improvement of any containment wall located within

1. Zones (Districts) A and AE 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.

Q. **Wharves, Piers and Docks -** New construction or substantial improvement of wharves, piers, and docks are permitted in Zones (Districts) A, and AE, in and over water and shall comply with all applicable local, state, and federal regulations.

7. 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, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Section 6, paragraphs H., I., or J..

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 Elevation Certificate and the applicant’s written notification; and,

   2.) upon determination that the development conforms with the provisions of this Ordinance, shall issue a Certificate of Compliance.

8. 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 or 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 so as 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 Article. 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.

9. APPEALS AND VARIANCES

The Board of Appeals of the Town of Orrington 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 it deems 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.) the criteria of Section 9.A. through C. and Section 6.M. 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. 9.A. through C.; 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. Variances may be issued for new construction and substantial improvement of Agricultural Structures being used for the conduct of agricultural uses provided that:

1.) the development meets the criteria of Section 9.A. through C.; and,

2.) the development meets the criteria of Section 6.M. and Section 6.N.

G. Any applicant who meets the criteria of Section 9.A. through C. and section 9.D., E., or F. 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; and,

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.

H. 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 documents 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.

10. 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 any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. 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.

11. 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.

12. 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.

13. DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure - a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.

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

Agricultural Structure - structures that are used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

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 Article 7, Section 1 of this Ordinance.

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

Basement - any area of the building having its floor subgrade (below ground level) on all sides.

Building - see **Structure**.

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 Ordinance.

Code Enforcement Officer (CEO) - A person certified under Title 30-A MRSA, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

Containment Wall - a wall surrounding all sides of an above ground tank to contain any spills or leaks.

Development - any man made change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

Digital Flood Insurance Rate Map (DFIRM) - an official digital map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones (districts) applicable to the community.

Elevated Building - a non-basement building that is:

1.) built, in the case of a building in Zones (Districts) AE or A, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, posts, piers, or shear walls; 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 case of Zones (Districts) 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 Section 6.N.

Elevation Certificate - an official form (FEMA Form 81-31, 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.

Existing Manufactured Home Park or Subdivision - a manufactured home park or subdivision that was recorded in the deed registry prior to the adoption date of the community's first floodplain management regulations.

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 (districts) 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 **Flood or 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 – Land Use ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance), 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.

Floodproofing - 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 contents.

Floodway - see **Regulatory Floodway**.

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

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 of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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 (district) or a zone (district) preliminarily determined by the Secretary of the Interior to qualify as a registered historic zone (district);

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.

Locally Established Datum - for purposes of this ordinance, 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), North American Vertical Datum (NAVD), 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.

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 Section 6.N. of this ordinance.

Manufactured Home - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

Minor Development - 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 Article 6.L., 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.

National Geodetic Vertical Datum (NGVD) - 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)”.

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

North American Vertical Datum (NAVD) - the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon the vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth’s crust, glacial rebound and subsidence, and the increasing use of satellite technology.

One-hundred-year flood (100-year flood) - see **Base Flood**.

Recreational Vehicle - a vehicle which is:

1.) built on a single chassis;

2.) 400 square feet or less when measured at the largest horizontal projection, not including slideouts;

3.) designed to be self-propelled or permanently towable by a motor vehicle; and,

4.) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway -

1.) the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height, and,

2.) when not designated on the community’s Flood Insurance Rate Map, it is considered to be the channel of a 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.

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

Special Flood Hazard Area - see **Area of Special Flood Hazard.**

Start of Construction - the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement 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 a 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 manufactured 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 basement, 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, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - damage of any origin sustained by a structure whereby the 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, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures 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 specifications 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, and a variance is obtained from the community's Board of Appeals.

Variance - a grant of relief by a community from the terms of a floodplain management regulation.

Violation - the failure of a structure or development to comply with a community's floodplain management regulations.

14. - ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

15. - DISCLAIMER OF LIABILITY

The degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.

ARTICLE 6 -- SITE PLAN AND SUBDIVISION REVIEW

1. PURPOSE

The purpose of this Article is to assure the comfort, convenience, safety, health and welfare of the people of the Town of Orrington, to protect the environment and to promote the development of an economically sound and stable community. In reviewing site plans and approving subdivisions, the Planning Board shall consider the requirements of this Article before granting approval, approval with conditions, or denial, shall make findings of fact that the provisions of this Article have been met and that proposed subdivisions meet the guidelines of the state law, Title 30-A, M.R.S.A. Sections 4401-4407 as amended.

2. APPLICABILITY PROVISIONS

A. Activities requiring site plan or subdivision review.

The following land use activities in the Town of Orrington must receive site plan approval and/or subdivision approval pursuant to the provisions of this article:

1.) **Table of land uses.** All land use activities set forth in Article 2, Section 5, as requiring site plan approval from the Planning Board.

2.) **Subdivisions.** All subdivisions as defined by Title 30-A M.R.S.A. Section 4401 including the division of any existing building or the construction of any new structures or buildings containing three (3) or more units.

3.) **Expansion of existing nonresidential buildings or structures.** The expansion of an existing nonresidential building or structure, including accessory buildings, if the enlargement increases the total area for all floors within a five (5) year period by more than twenty (20) percent of the existing floor area or five-hundred (500) square feet, whichever is greater.

4.) **Construction of new multifamily housing or the enlargement of existing multifamily housing:**

a. The construction of a residential building containing three (3) or more dwelling units.

b. The modification or expansion of an existing residential structure that increases the number of dwelling units in the structure by three (3) or more in any five (5) year period.

5.) Changes in use of existing buildings or structures

a. The conversion of an existing building from residential to nonresidential use.

b. The conversion of an existing nonresidential use to another nonresidential use. The conversion of an existing nonresidential use to another nonresidential use when the new use changes the basic nature of the existing use such that it increases the intensity of on- or off-site impacts shall subject the change in use to the standards and criteria of site plan review.

c. The conversion of an existing nonresidential building or structure in whole or in part, into three (3) or more dwelling units within a specified period (i.e. five (5) years).

6.) Expansion of the amount of impervious or paved surfaces. The construction or expansion of paved areas or other impervious surfaces, including walkways, access drives, and parking lots involving an area of more than 1,500 square feet within a five (5) year period.

7.) Commercial uses of land that do not involve buildings or structures. The establishment of a new nonresidential use even if no buildings or structures are proposed, including uses such as cemeteries, golf courses, groundwater extraction, and other nonstructural nonresidential uses.

B. Activities not requiring site plan review.

The following activities do not require approval from the Planning Board under the provisions of this article. Certain of these activities will, however, require the owner to obtain a building permit, plumbing permit or other state or local approvals:

1.) All land use activities set forth in Article 2, Section 5 as not requiring site plan approval from the Planning Board.

C. Prohibition.

No permit, plumbing permit or certificate of occupancy shall be issued by the Code Enforcement Officer for any use or development within the scope of Article 6 until a site plan development application, or subdivision application has been reviewed and approved by the Planning Board, unless otherwise exempted or allowed.

D. Waivers.

Waiver. In cases where development or expansion will not significantly change the nature or intensity of the use or the exterior dimensions of any existing structure, or where

a proposed use is deemed by the Planning Board to have no discernable impact on adjoining property or the environment or public infrastructure, the Planning Board may waive the review procedure and all or portions of the submission requirements in order that the project may be expedited if the information is not required to determine compliance with the standards of this Ordinance.

3. SITE PLAN AND SUBDIVISION SUBMISSION REQUIREMENTS

Applications for subdivision or site plan review shall be submitted an application forms provided by the Town. The complete application form, evidence of payment of the required fees, and the required plans and related information shall be submitted to the Code Enforcement Officer no later than the first business day of the month prior to the meeting at which the item is to be heard. The Code Enforcement Officer shall forward the application package to the Planning Board ten (10) days prior to the meeting. The submission shall contain the following information and exhibits unless specifically waived by the Planning Board.

A. Application submittal. The applicant shall submit eight (8) copies of a fully completed and signed copy of the application form to the Code Enforcement Officer.

B. Evidence of fee payment. The applicant shall present evidence of payment of the application and applicable technical review fees authorized by Section 5.

C. Plan submittals and map scale. The applicant shall submit three sets of all plans no larger than 24 inches by 36 inches drawn to a scale not smaller than one inch per forty (40) feet (1:480) for sites less than or equal to ten (10) acres, or not smaller than one inch per one hundred (100) feet (1:1200) for sites greater than ten (10) acres but less than or equal to one hundred (100) acres, but no map or drawing shall be drawn at a scale larger than one inch per ten (10) feet (1:120), and eight (8) copies of all site plans, maps and drawings no larger than 11inches x 17 inches. No font size shall be smaller than 8 point. If the complete plat cannot be shown on one sheet, it may be shown on more than one sheet with an index map on a separate sheet of the same size. The Planning Board may, if project uniqueness warrants, permit plans for sites containing more than one hundred (100) acres to be drawn at a smaller scale, provided all necessary detail can easily be read or identified, unaided. Plans 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. All plans shall include the site plan or subdivision name, the date, magnetic north arrow, graphic scale, Planning Board approval block, and the name, registration number and seal of the person who prepared the plan(s), if applicable.

All final plans that require a boundary survey shall be submitted in both printed and digital forms. The digital files shall contain all of the lot lines as geometrically closed polygons and be geographically referenced with at least sub-meter GPS control. The digital files shall have no fewer than four non-linear (well dispersed across the project area) projected control points of at least sub-meter accuracy and shall be submitted as follows:

1. Projection: Universal Transverse Mercator (UTM), Zone19; or U. S. State Plane coordinate System Maine East 1983 Feet,
2. Datum: North American Datum (NAD83)
3. File Format: ESRI shape files, or MapInfo Tab files, or Global Mapper gmp files.

1.) **General map.** A general map shall be included on the site plan which shows the general location of the site within the municipality.

2.) **Location map.** The applicant shall include a location map with a Graphic Scale Bar on the site plan or separate sheet, drawn at a scale that shows all features within 300 feet of the project boundary. The location map shall include the tax map and lot number of the parcel or parcels on which the project is located. No font shall be smaller than 8 point. All necessary detail shall be easily read or identified, unaided.

3.) **Boundary survey.** Identify the bearings and length of all property lines of the property to be developed and the source of the information including surveyor identification and the location of all required building setbacks, yards, and buffers and the boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time. The Planning Board may waive this requirement of a boundary survey when sufficient information is available to establish, on the ground, all property boundaries within three-hundred (300) feet of the proposed development.

D. **Existing site conditions plan(s).** The existing site conditions plan(s) shall show the following information and existing conditions and any limitations for its use and development.

1.) **Title block.** The record owner's name, address, project title and location of the subdivision or site plan and the applicant's name and address if different.

2.) **Land use district classification(s).** Identify on the site plan the land use district(s) classification for the project.

3.) **Existing contour lines.** Contour lines at intervals of not more than five (5) feet unless otherwise prescribed by the Planning Board.

4.) **Buildings.** The location, dimensions, size, ground floor elevation and setbacks of existing buildings. Dimensions shall be shown in units of feet and inches, or foot measurement to a maximum of 3 decimal places, or meters to a maximum of 4 decimal places, and chosen measurement style/units shall be consistent throughout the plan.

5). **Streets and driveways.** The location, names and widths of existing streets, driveways, parking and loading areas, walkways and rights-of-way within or adjacent to the proposed development.

6.) **Utilities.** The location, dimensions and size of all existing utility locations for sewer and water mains, wells, on-site subsurface wastewater disposal systems, underground tanks or installations, gas, power and telephone lines and poles, outside lighting or other utilities including size and elevation of buried or underground utilities on the property to be developed, and on abutting streets, or land that may serve the development and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of flow.

7.) **Significant features.** The location of drainage courses, culverts, catch basins, wetlands, stone walls, graveyards, fences, stands of trees, and other significant natural areas, wildlife habitats, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.

8.) **Wetland delineation.** A full delineation of all wetland boundaries by a professional wetlands delineator.

9.) **Drainage.** The direction of existing surface water drainage across the site.

10.) **Signs**. The location, front view, dimensions, and lighting of existing signs.

11.) **Easements.** The location and dimension of any existing easements and copies of existing covenants or deed restrictions.

12.) **Fire protection.** The location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.

13.) **Name of consultant.** The name, registration number, and seal of the person who prepared the plan, if applicable.

E. **Proposed site plan(s) or subdivision.** The proposed site plan or subdivision and supporting materials must provide a picture of what changes will be made on the site and how they will be carried out. In addition to the existing site plan(s), the applicant shall provide typical site development plan(s) including the following information. The information about the development proposal should be of a preliminary nature, not detailed construction drawings.

1.) **Title block.** Proposed subdivision or site plan name or identifying title.

2.) **Lots, lot lines and temporary markers.** Number of lots, proposed lot lines and location of temporary markers adequately located to enable the Planning Board to locate lots readily and appraise basic lot layouts in the field.

3.) **Contour lines.** All proposed contours and proposed finished grade elevations of the entire site and the system of drainage proposed to be constructed. Contour lines shall be at two (2) foot intervals unless otherwise prescribed by the Planning Board.

4.) **Road, driveways & parking plan.** The location, names, sight distances, dimensions and design details of all existing and proposed driveways, roads, easements, parking and loading areas, and walkways. All proposed improvements shall fully comply with applicable design standards and requirements.

5.) **Rights-of ways and easements.** All proposed rights-of-way, easements and other legal restrictions which may affect the premises in question.

6.) **Proposed building location.** The location, dimensions, including heights and ground floor elevations, setback dimensions, and buffers of all proposed buildings or building expansions on the site and proposed use thereof shall be provided. Dimensions shall be shown in units of feet and inches or foot measurement to a maximum of 3 decimal places, or meters to a maximum of 4 decimal places, and chosen unit of measurement shall be consistent throughout the plan.

7.) **Signs.** The proposed location, front view, dimensions, materials and size of all proposed signs, together with the material for securing the signs, and all permanent outdoor fixtures.

8.) **Soil erosion and sedimentation control plan.** An erosion and sedimentation control plan.

9.) **Storm water management plan.** A storm water management plan shall be prepared by a registered professional engineer which plan shall include flood flows and elevations from 25, 50 and 100 year flood flows.

10.) **Public use.** Location of all parcels to be dedicated to public use such as parks or green space, the condition of such dedication, and the location of all natural features or site elements to be preserved.

11.) **Utility plan.** A utility plan showing the design details and provision for water supply, wastewater disposal, the location and nature of electrical, telephone, cable TV, and any other utility services to be installed on the site.

12.) **Landscaping plan.** A proposed plan for landscaping, buffering and screening should be provided. The applicant shall provide a planting schedule keyed to the site plan indicating the general varieties and sizes of trees, shrubs, and other vegetation to be planted on the site, as well as information pertaining to provisions that will be made to retain and protect existing trees, shrubs, and other vegetation.

13.) Professional certification. The name, registration number and seal of the architect, engineer, landscape architect, and/or similar professional who prepared the plan, if applicable.

14.) Approval block. Space shall be provided on the plan drawings for the signatures of the Orrington Planning Board and date together with the words, "Approved: Town of Orrington, Maine Planning Board."

F. Written supporting information. The applicant shall submit eight (8) copies of all written supporting information. Evidence submitted shall document that all performance standards contained in this Ordinance and State law can be met and that all of the subdivision or site plan review criteria will be satisfied. The written material must be contained in a bound report and contain the following information in the following order:

1.) Evidence of legal interest. A copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title, or interest in the property.

2.) General description of proposed use. A general description of the proposed use or activity.

3.) Hydrological groundwater assessment. When a hydrogeological groundwater assessment is required, it shall be prepared and submitted in accordance with the requirements of the performance standards.

4.) Net residential acreage calculation. Evidence that the project will meet the net residential acreage calculation standard.

5.) Refuse disposal. Document provisions for handling all solid waste, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities.

6.) Soils. Evidence that the soils will support the project.

7.) Subsurface disposal system report. Subsurface Disposal System Report. An on-site soils investigation report by a soil scientist certified by the State of Maine Department of Human Services. This report shall contain the types of soil, location of test sites and proposed location and design of the most appropriate and suitable subsurface wastewater disposal systems of each lot in the project and be signed by the soil scientist.

8.) Water and sewer demand. The estimated demand for water and sewage disposal together with the location and dimension of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data if on-site wastewater disposal is proposed.

9.) **Utility statement.** A written statement from any utility providing services to the project as to the adequacy of the water supply in terms of quantity and pressure for both domestic and fire flows, and the capacity of the sewer system to accommodate additional wastewater if public water or sewerage will be utilized.

10.) **Storage of material & equipment.** The type, size and location of all machinery or equipment likely to generate appreciable noise at the lot lines. The amount and type of any raw, finished or waste materials to be stored outside of roofed buildings, including their physical and chemical properties, if appropriate.

11.) **Traffic impact analysis.** When required, a traffic impact analysis shall be prepared.

12.) **Evidence of technical capability.** Documentation that the applicant has retained qualified contractors and consultants to supervise, construct, and inspect the proposed development.

13.) **Evidence of financial capability.** Documentation that the applicant has adequate financial resources to construct the proposed improvements. Evidence could include a letter from a financing institution regarding a loan, letter of credit, or bank account or a certified accountant or annual report indicating adequate cash flow to cover anticipated expenses. The applicant should document a semi-detailed budget estimate for all costs associated with the capital investment including: engineering, legal, financial and capital expenses and documentation on financing package available to cover the project expenses.

14.) **Construction schedule.** A schedule of construction, including anticipated beginning and completion dates.

4. REVIEW PROCEDURES

A. Informal pre-application conference.

Prior to submitting a formal subdivision or site plan review application, the applicant or his/her representative may request a pre-application conference with the Planning Board. A pre-application conference is strongly advised. The pre-application conference shall be informal and informational in nature. There shall be no fee for a pre-application review, and such review shall not cause the plan to be a pending application or proceeding under 1 M.R.S.A. Section 302. No decision on the substance of the plan shall be made at the pre-application conference.

1.) **Purpose.** The purpose of the pre-application conference is:

a. To give the applicant the opportunity to explain the nature of the project before submission of an application.

b. Allow the Planning Board to understand the nature of the proposed use and the issues involved in the proposal.

c. Allow the applicant to understand required submissions and the development review process.

d. Identify issues that need to be addressed in future submissions.

e. Make the applicant aware of any opportunities for coordinating the development with community policies, programs or facilities.

2.) Site inspection. In addition, the Board shall schedule a site inspection for subdivision proposals if there is no snow on the ground. The Planning Board may schedule a site visit for site plan review applications if the Planning Board deems it necessary. At this time, the Planning Board may also resolve any requests for waivers and variations from the submission requirements.

3.) Information required. There are no formal submission requirements for a pre-application conference. However, the applicant should be prepared to discuss the following with the Board:

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

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

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

d. Any requests for waivers from the submission requirements.

B. Review procedure.

The procedures for site plan review and subdivision review are as follows:

1.) Step One. Submission of completed application to the Code Enforcement Officer. The applicant shall submit a minimum of eight (8) copies of his/her application and the required supporting information by the first business day of the month prior to the meeting at which the item is to be heard.

2.) Step Two. Code Enforcement Officer and Orrington Fire Chief review.

a. Dated receipt. The Code Enforcement Officer shall issue the applicant a dated receipt.

b. **Fees submitted.** The applicant shall provide the Code Enforcement Officer with the applicable fees.

c. **Review for completeness.** The Code Enforcement Officer shall initially review the application and determine whether or not it is complete.

d. **Review by the Orrington Fire Chief.** The Fire Chief shall review the plan and may make recommendations for safety considerations.

e. **Notice of incomplete application.** If the application is found to be incomplete, the Code Enforcement Officer shall, within ten (10) work days, notify the applicant in writing, of the information needed to complete the application. Upon the applicant's submission of such additional information, steps one and two shall be repeated.

f. **Application forwarded.** The Code Enforcement Officer shall forward copies of the application and supporting documents to the members of the Planning Board ten (10) days prior to the meeting of the Planning Board and copies may also be distributed to the road commissioner, fire chief, police chief and ambulance director.

g. **Notice to abutters.** Abutting property owners shall be notified by mail, seven (7) days prior to the meeting, by the Town, of all pending project applications. This notice shall indicate the time, date and place of Planning Board consideration of the application.

h. **Review Comment(s) Submittal.** Review written comments from all the municipal officials who received notice.

3.) **Step Three. Preliminary plan review.** At the meeting of the Planning Board at which the proposed development is scheduled to be reviewed, the Planning Board shall:

a. **Code Enforcement Officer report.** Present to Board members written copies of comments from municipal officials, and hear any report from the Code Enforcement Officer.

b. **Applicant's response.** Hear any comments of the applicant regarding the Code Enforcement Officer's report.

c. **Request for waivers.** Hear any requests from the applicant for waivers pursuant to Article 6, Section 2.D.

d. **Determination of completeness.** Determine whether or not the application is complete.

e. **Notice of incompleteness.** If the application is determined to be incomplete, the Board shall inform the Code Enforcement Officer of the information required to make the application complete. The Code Enforcement Officer shall, within ten (10) work days, inform the applicant, in writing, of the additional information required by the Planning Board. Upon the applicant's submission of such additional material, steps one, two and three shall be repeated.

f. **Decide on public hearing.** If the application is determined to be complete, the Planning Board shall deem the application pending and shall determine whether or not to set the matter to public hearing.

The Planning Board shall have the discretion to hold a public hearing to maximize public input and provide the applicant with more of an opportunity to prepare a response to any criticism of the proposal before it.

i **Hearing date.** If a public hearing is set, such hearing shall take place within thirty (30) days of the Planning Board's determination that the application is complete. This deadline may be extended by mutual agreement of the Planning Board and the applicant, either in writing or orally, on the record at a public meeting.

ii **Public hearing rules.** Public hearing held for the purpose of hearing testimony regarding proposals requiring approval under this Ordinance, and notice thereof, shall be governed by Article 6, Section 5.

4.) Step Four. Planning Board deliberation and decision.

a. Within sixty (60) days of the completed application being placed on the Planning Board agenda if no public hearing is held, the Planning Board shall reach a decision on a development application and shall inform the Code Enforcement Office of its decision and the reasons therefore. This time period may be extended by written, mutual agreement of the Planning Board and the applicant. If a public hearing is held, a decision shall be made within thirty (30) days of the public hearing.

b. If no public hearing is held, the Planning Board may at its discretion act upon the application at the same meeting at which completeness is determined.

5.) Step Five. Code Enforcement Officer permit.

Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall within ten (10) working days, issue with conditions prescribed by the Planning Board or deny a permit.

C. One (1) year approval limitation.

Unless a specific extension of time is granted by the Planning Board, the approval of the applicant's preliminary plan shall expire one (1) year from the date of approval.

D. Final review

1.). Within one (1) year. The final plat shall be submitted within one (1) year after the date of approval of the preliminary plan.

If the proposed subdivision or site plan falls within the jurisdiction of and is subject to review by the State of Maine Board of Environmental Protection, then the approval of the Board of Environmental Protection shall be secured in writing before official submission of the final plat.

2.) Plat to be attested. The approval of a final plat shall be attested on two (2) original drafting films and three (3) copies by the signatures of a legal majority of the Planning Board.

3.) Filing. Two (2) signed copies of the final plat, as approved, along with one drafting film set shall be filed with the municipality. The applicant shall be required to record and file the signed original drafting film of the final plat with the Penobscot County Registry of Deeds within thirty (30) days of its approval by the Planning Board.

4.) The final plat shall show the following:

a. Preliminary plan requirements. All the information required for the preliminary plan and amendments thereto excepting that information not deemed necessary by the Planning Board.

b. Surveyor. Date and seal of the registered land surveyor who prepared the final plat.

c. Streets. Existing and proposed names and lines of all streets, lengths of all straight lines, the deflection of angles, radii, length of curves, and central angles of all curves, and tangent distances and bearings.

d. Easements. Location, dimensions and purposes of all easements, areas reserved for or dedicated to public use and areas reserved by the applicant.

e. **Lot numbers.** Lot numbers and letters in accordance with the prevailing policy on existing tax maps.

f. **Permanent markers.** Location and description of permanent markers to be set prior to lot conveyance. No lots shall be sold until permanent markers are in place.

g. **Performance guarantee.** A performance guarantee to secure completion of all public improvements required by the Planning Board.

h. **Land dedication.** Written copies of any documents of land dedication, and written evidence that the Board of Selectmen is satisfied with the legal sufficiency of any documents conveying such land dedication.

i. **Signature lines.** Five (5) lines for signatures of the Town of Orrington Planning Board and a line for date of approval.

j. **Certification.** A professional seal stating that all construction standards of Article 6, Sections 9 and 10 have been met.

k. **Lot frontage.** The plan shall show that all lots have frontage on public roads.

5.) **Changes need approval.** No changes, erasures, modifications or revisions shall be made in any subdivision or site plan review after approval has been given by the Planning Board, unless the revised plan is first submitted and the Planning Board approves any modifications.

6.) **Fees.** All applications for final subdivision plan approval shall be accompanied by an application fee payable by check to the Town of Orrington, Maine.

E. Project commencement and completion.

After final approval all projects must be commenced within one (1) year and completed within two (2) years unless a special schedule has been approved or an extension has been granted by the Planning Board.

F. Other required permits.

The granting of project approval does not relieve the applicant from the need to obtain any other permits or approvals required prior to the commencement of any activity or use. Such other required permits or approvals may include, but are not limited to, subdivision approval, building, plumbing and electrical permits, licenses granted pursuant to Title 38, M.R.S.A. Subsection 1022, as amended, Maine Department of Environment Protection and United States Army Corps of Engineers approvals, subsurface wastewater disposal

permits, sewer connection permits, Maine Department of Transportation approvals, and the like. The fact that the applicant may have obtained or may have been granted such permits or approvals prior to site plan review may be considered by the Planning Board as evidence as to the plan's compliance with applicable review standards but shall not be deemed conclusive evidence as to compliance.

5. PUBLIC HEARING PROCEDURES

Subdivision and site plan review applications shall comply with the following notice and public hearing procedures when required:

A. Newspaper notice.

The Planning Board may, at its discretion, hold a public hearing regarding any subdivision or site plan proposal. In the event that the Planning Board determines to hold a public hearing on an application for subdivision or site plan approval, it shall hold such hearing within thirty (30) days of receipt of a completed application, and shall cause notice of the date, time and place of such hearing to be given to the person making the application and to be published in a newspaper of general circulation in the Town of Orrington, at least twice, the date of the first publication to be at least seven (7) days prior to the hearing. Such notice shall also be posted in three public places in the community at least seven (7) days prior to the hearing.

B. Sequence of presentation.

1.) Presentation by applicant and his or her attorney and witnesses, without interruption;

2.) Questions through the chairperson to the applicant by Planning Board members and people who will be directly affected by the project (e.g. abutters) and requests for more detailed information on the evidence by the applicant;

3.) Presentation by abutters or others who will be directly affected by the project and their attorneys and witnesses;

4.) Questions by the applicant and Planning Board members through the chairperson to the people directly affected and the witnesses who made the presentations;

5.) Rebuttal statements by any of the people who testified previously;

6.) Comments or questions by other interested people in the audience.

7.) Once everyone has had the opportunity to be heard to the extent allowed by the Planning Board's procedures, the chairperson should close the hearing. If more time is needed, the Planning Board may vote to extend the hearing to a later date.

C. Denial or approval.

The Planning Board shall, within thirty (30) days of a public hearing, or within such other time limit as may be otherwise mutually agreed to, issue an order denying or granting approval of the proposed subdivision or site plan or granting approval upon such terms and conditions as it may deem advisable to satisfy the performance standards and criteria of this Ordinance and or Title 30-A, M.R.S.A. , Section 4404.

In all instances the burden of proof shall be upon the persons proposing the plans or subdivisions. In issuing its decision, the Planning Board shall make findings of fact as required by Title 1, M.R.S.A. Section 407.

6. FEES

A. Application fee.

An application for site plan review must be accompanied by an application fee made by check payable to the Town of Orrington, Maine in accordance with the Schedule of Fees adopted by the Board of Selectmen. This fee is intended to cover the cost of the town's administrative processing of the application, including notification, advertising, mailings, and similar costs. The fee shall not be refundable. The application fee shall be paid to the town, and evidence of payment of the fee shall be included with the application.

B. Professional review and assistance.

The Orrington Planning Board reserves the right to require an independent review by a professional of its choice, of any proposed plans/details, specifications, surveys, improvements, or reports submitted by any developer as part of the application. If the Board agrees that such an analysis is necessary, or if they agree that additional professional analysis is required to gauge the impact in the community or local environment due to the proposed development, then the Board shall choose a professional, obtain an estimate for the work, and notify the developer that the amount of the estimate must be deposited with the Town of Orrington before any further consideration is given to the application. No review will be initiated until the developer pays the estimated amount to the Town. Following the completion of the review, the developer will be billed for any reasonable cost incurred over the estimate or will be refunded any remaining balance from the deposit. Refusal to pay for the professional assistance will result in automatic denial of the application and no further action will be taken by the Board until payment is made.

If the Road Commissioner or the Town's representative consider it necessary or advisable that covered work be inspected or tested by others, then the developer, at the Road Commissioner's request, will uncover, expose or otherwise make available for observation, inspection or testing as the Road Commissioner or Town's representative may require, that portion of the work, in question, furnishing all necessary labor, material, tools, and equipment. If it is found that such work is defective, the developer will bear

the expenses including the expense of uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction. If however, such work is not found to be defective, then the developer shall be fully reimbursed for all expenses directly attributable to such uncovering, exposure, observation, inspection, testing and of reconstruction. Furthermore, if the developer refuses to comply with the Road Commissioner's or representative's request, then the Town reserves the right to draw upon the funds deposited by the developer for use by the Town to perform any needed reviews and inspection, and use this money to complete such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction.

C. Establishment of fees.

The Municipal Officers may, from time to time and after consultation with the Code Enforcement Officer, establish the appropriate application and technical review fees.

7. PERFORMANCE GUARANTEES

A. Types of guarantees.

If any proposed development is of a size or nature requiring significant investment in road/street, drainage or other improvements, the Board may require a performance guarantee as a condition of approval. With the submittal of the application for Final Plan, the developer shall provide one of the following performance guarantees, as approved by the Planning Board, for an amount adequate (as determined by the Town's professional representative) to cover construction cost of all required improvements:

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

2.) A performance bond payable to the Town issued by a surety company.

3.) An irrevocable letter of credit from a financial institution establishing funding for the construction of the development, from which the Town may draw if construction is deemed inadequate or incomplete.

B. Contents of guarantee.

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of infrastructure construction reviewed and approved by the Town's engineer taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or 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 subdivider or site plan developer, 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 subdivider or site plan developer.

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 subdivider or site plan developer, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision or site plan 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 or site plan and may not be used for any other project or loan.

F. Phasing of development.

The Board may approve plans to develop a project or 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 Planning 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 or she shall so report in writing to the Board of

Selectmen, the Planning Board, and the developer. The Board of Selectmen shall take any steps necessary to preserve the Town's rights.

8. STATUTORY CRITERIA

The Planning Board shall consider the following criteria before granting approval and shall determine that for all site review or subdivision applications that, in addition to complying with the performance standards of this Ordinance including Article 4 (Performance Standards), Article 3 (Shoreland Land Use) and Article 7 (Floodplain Management) the proposed development:

A. **Pollution.** Will not result in undue water or air pollution. In making this determination it shall at least consider:

1.) The elevation of land above sea level and its relation to the flood plains;
2.) The nature of soils and subsoils and their ability to adequately support waste disposal;
3.) The slope of the land and its effect on effluents;
4.) The availability of streams for disposal of effluents; and
5.) The applicable state and local health and water resources rules and regulations.

B. **Sufficient Water.** Has sufficient water available for the reasonably foreseeable needs of the development;

C. **Municipal water supply (not applicable)**

D. **Erosion**. Will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

E. **Traffic.** Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, Section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, Section 704 and any rules adopted under that section;

F. **Sewage Disposal.** Will provide for adequate sewage waste disposal;

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

H. **Aesthetic, Cultural, and Natural Values**. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

I. **Conformity with Local Ordinances and Plans.** Conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any. In making this determination, the Planning Board may interpret these ordinances and plans.

J. **Financial and Technical Capability.** The developer has adequate financial and technical capacity to meet the standards of this section.

K. **Surface waters; outstanding river segments**. Whenever situated entirely or partially within the watershed of any great pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter 1, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

L. **Groundwater.** Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.

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

N. **Freshwater Wetlands.** All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;

O. **River, Stream or Brook.** Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9.

P. **Storm Water.** The proposed development will provide for adequate storm water management.

Q. **Spaghetti-Lots Prohibited.** If any lots in the proposed subdivision have shore frontage on a river, stream, brook or great pond as these features are defined in Title 38, Section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.).

R. Lake Phosphorus Concentration. The long-term cumulative effects of the proposed development will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed development.

S. Impact on Adjoining Municipality. For any proposed development that crosses municipal boundaries, the proposed development will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the development is located.

T. Lands subject to liquidation harvesting. Timber on the parcel being developed has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the development that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require an applicant to provide a determination certified by a licensed forester.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14.

9. SPECIFIC STANDARDS

The Planning Board shall determine that for all site review or subdivision applications the following standards will be met.

A. Buffering of adjacent uses. The development will provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and/or a combination of these or other techniques.

B. Buffering of residential uses. Any lot within the Urban Compact line of the community that is used for nonresidential or multifamily residential purposes shall have a landscaped

buffer on any property line that abuts a residential use or residentially zoned lot. The width of the buffer may vary depending on the treatment of the area. A buffer with dense planting, fencing, or changes in grade may be as little as five (5) feet in width. A buffer with moderate levels of planting should be ten (10) feet to fifteen (15) feet in width.

In all residential settings, the width of the vegetated buffer should be increased to a minimum of twenty-five (25) feet. Areas adjacent to service, loading or storage areas should be screened by dense planting, berms or a combination thereof.

C. Conformance to Major Street plan. Where applicable, streets and other proposals and specifications of the Major Street Plan shall be incorporated into the subdivision plat or site plan, in the location and to the dimensions indicated in the Major Street Plan adopted by the Planning Board. Such streets shall be deeded to the Town of Orrington.

D. Conformance to future land use plan. When a proposed school site, or other public building site, park, playground, or other land for public use is located in whole or in part of the subdivision, the Planning Board may require that, as a prerequisite to plat approval, such sites be reserved by the developer for acquisition by the appropriate municipal agency.

Whenever a plat or plan proposes the dedication of land for public use that the Planning Board finds not required or suitable for public use, the Board shall refuse to approve the plat or plan.

E. Curbs and gutters. The developer shall install curbs and gutters where and as required by the Planning Board.

F. Easements. Easements across lots shall be provided where necessary for utilities or drainage. Such easements shall be centered on rear or side lot lines wherever possible, and be wide enough for the purpose for which they are intended.

G. Exterior lighting.

1.) The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated.

2.) Lighting may be used which serves security, safety and operational needs, but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways. Lighting fixtures must be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings and so that they do not light the night sky.

3.) All exterior lighting, except where security lighting is necessary, must be turned off between 11:00 PM and 6:00 AM unless located on the site of a commercial or industrial use which is conducting business during that period.

4.) Building entrances may be illuminated using recessed lighting in overhangs and soffits, or by use of spotlighting focused on the building entrances with the light source concealed (e.g. in landscaped areas). Direct lighting of exterior building areas is permitted only when necessary for security purposes, in limited areas.

H. Hazardous waste. The applicant shall demonstrate compliance with Federal and State laws and regulations when hazardous waste is generated or stored on site.

I. Landscaping. The development plan will provide for landscaping that breaks up parking areas, softens the appearance of the development and protects abutting properties from any significant adverse impacts of the development. Only native plants shall be used for landscaping. The use of invasive plants shall be discouraged.

J. Large parcels. In case a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow the opening of future streets and logical future re-subdivision.

K. Lots. Lots shall front upon a public street. Lot lines shall be perpendicular or radial to street lines. Lot dimensions shall meet the requirements of the ordinance for the district or districts in which the subdivision is located. Corner lots shall be increased in size wherever necessary so that any structure to be placed thereon shall conform to the minimum setback line of each street as required by this Ordinance.

Flag Lots. The planning board may allow the creation of so-called "flag lots" in any district, provided that:

1. Such lot meets the minimum right of way to street requirement of 50 feet with a minimum road width of 20 feet.

2. Such access strip shall not be used in the computation of minimum lot areas and dimensional requirements of the district for said rear lot.

3. Such rear lot meets the requirements of the district in which it lies (other than the exemption of this section with regard to frontage). For the purposes of lot area and yard requirements, the front yard setback line of such lots will be deemed to be at the prescribed setback distance from the deepest rear property line of the lot or lots between said rear lot and the nearest public street.

4. Only one tier of such rear lots shall be permitted behind the tier of lots fronting on the street.

5. The access strip shall maintain a minimum width of 50 feet to the rear portion of such lot and shall not exceed 200 feet in length.

6. Flag lots shall not be created as part of a subdivision when located on a proposed roadway, but may be proposed off existing roadways.

L. **Monuments**. The developer shall install:

1.) A concrete or stone monuments, not less than four (4) inches square, five (5) feet long and four and one half (4 1/2) feet into the ground, at every street intersection, angle point, beginning of curve and end of curve on either side of the road Right-of-Way line. (Three quarter (3/4) inch drill hole in ledge with an Iron Pin grouted in is acceptable as a monument).

2.) If, in the opinion of the Planning Board, monuments are inappropriate Iron Pins may be substituted. Iron Pins shall not be less than three-quarter (3/4) inches in diameter, five (5) feet long, and four and one half (4 1/2) feet into the ground.

Locations of monuments other than above stated may be approved by the Planning Board upon review.

M. **Noise.** The development will control noise levels such that it will not create unreasonable interference with use and enjoyment of neighboring properties.

N. **Storage of materials.** Exposed nonresidential storage areas, exposed machinery and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse shall have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to screen the proposed use from abutting residential uses and users of public streets.

All dumpsters or similar large collection receptacles for trash or other waste shall be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it shall be screened by fencing or landscaping.

Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and maintained in good condition.

O. **Street name signs**. The municipality shall be responsible for the erection of street name signs at all street intersections. The developer will reimburse the municipality for materials and labor.

P. **Subdivision or site plan names**. The name of the subdivision or site plan shall not duplicate or too closely approximate the name of any other subdivision within the municipality.

10. STREET CONSTRUCTION STANDARDS

A. **Continuation**. The arrangement of streets in the subdivision shall provide for the continuation of the principal streets in adjoining subdivisions or for their proper projection when adjoining property has not yet been subdivided, and in general conform to the Comprehensive Plan. Existing streets should be continued at the same or greater width, but in no case should they be extended at less than the original width. Collector streets which extend continuously from one major street to another, crossing other continuous streets, tend to develop accident patterns and should be avoided.

B. **Names**. Street names shall require the approval of the Planning Board. Streets that are obviously in alignment with streets already existing and named shall be given the name of the existing street. Names of new streets shall not duplicate or closely approximate those of existing streets.

C. **Jogs**. Streets with center line offsets of less than 125 feet shall not be permitted.

D. **Street intersections**. Street intersections shall be as nearly at right angles as possible. No street intersection shall be at an angle of less than 60 degrees unless required by unusual circumstances. The center lines of no more than two streets shall intersect at any point except where approved by the Planning Board.

E. **Table of Geometric and Other Standards for Streets:**

	Arterial Streets	Collector Streets	Local Streets
1. Minimum right-of-way width	80'	66'	50'
2. Minimum width of pavement	24'	24'	20'
3. Minimum grade	1%	1%	1%
4. Maximum grade	7%	8%	8%
5. Maximum grade at intersection	3% within 50 feet of intersection		
6. Minimum angle of intersections	60 deg.	60 deg.	60 deg.
7. Width of shoulders	8'	8'	8'
8. Minimum center-line curve radius	800'	200'	150'
9. Minimum tangent length Between reverse curves	300'	200'	100'

10. Road base: Road base layers shall be installed over properly shaped and compacted sub-grade. Sub-grade must be inspected by Road Commissioner or designees before any aggregate is placed. Any soft spots or otherwise unsuitable soils encountered shall either be over-excavated or otherwise reinforced (i.e., with geotextiles) to Road Commissioner's (or designee) satisfaction before placing aggregate layers.

The Developer shall provide test results of aggregate gradation to the Road Commissioner or designee for review and approval BEFORE construction commences. The following thicknesses of aggregate shall be applied in 6" to 8" layers and compacted to a density equal to at least 95% of Modified Proctor density. The Town reserves the right to hire an independent testing facility to verify that the in-place densities are satisfactory.

	Arterial Streets	Collector Streets	Local Streets
A. Base aggregate layer (MDOT Type-A aggregate installed beneath pavement layer and over subbase);	6"	4"	3"
B. Subbase aggregate layer (MDOT Type-D aggregate or better, Installed beneath base layer and over subgrade):	18"	16"	15"
Total Aggregate Thickness	24"	20"	18"

11. Pavement construction: Pavement shall be applied over approved (by Road Commissioner or designee) aggregate surface only: Pavement shall be applied with bituminous pavers of suitable width to pave roadway width in one pass; each layer shall be applied in one pass and compacted to the depths shown below. Compaction shall be carried out with suitable sized steel drum or pneumatic tire rollers so that the density of in-place pavement is at least 93% of the TMD (theoretical maximum density) as defined by the Maine Department of Transportation. In general, each finished surface (binder and surface) shall be relatively smooth with no dips, tears, or other preventable imperfections caused by careless paving techniques.

	Arterial Streets	Collector Streets	Local Streets
A. Binder layer (MDOT grade-B hot bituminous pavement layer)	2.5"	2"	1.5"
B. Surface course layer (MDOT grade-C hot bituminous pavement layer:	1.5"	1"	1"
Total pavement thickness	4.0"	3.0"	2.5"

	Arterial Streets	Collector Streets	Local Streets
12. Road crown (minimum)	¼"/1 ft.	¼"/1 ft.	¼"/1 ft.

13. Sidewalks (where required)			
Minimum width	6'	5'	5'
Base Course (aggregate)	12"	12"	12"
Surface Course (pavement)	2"	2"	2"
14. Cul-de-sac streets- min. radius:			
A. Property line	75'	65'	55'
B. Outside Edge Pavement	60'	55'	50'
C. Inside Edge Pavement	45'	40'	35'
15. Curb radii at intersections:			
90 degree intersections.	30'	25'	20'
less than 90 degree intersections:	30'-40'	25'-35'	20'-30'

16. Street cut and fill- Side slopes adjacent to travel shoulder shall not be steeper than 4:1 (25%); Slopes on opposite side of ditch can be steeper but no steeper than 2:1.

17. Adequate drainage of streets- A storm water management plan shall be prepared by a registered professional engineer hired by the developer that will insure that all streets shall be provided with adequate drainage facilities, and will also take into account any offsite impacts/watersheds affecting the roadway or subdivision as well. Said plan shall provide for the removal of storm water to prevent flooding of the pavement and erosion of adjacent surface/properties. Open drainage structures shall be sized to safely pass a 10 year, 24 hour storm event (4.65" of rainfall). The Planning Board reserves the right to require storm water detention if necessary to reduce or eliminate the potential for flooding of any developed areas, or areas deemed sensitive to the impact of flooding, as a result of the subdivision development.

    All structures with openings 15" or more in diameter shall be provided with a 4" square intake screens or bars (on inlets only) to prevent children from being lodged in pipes during storm events. Said screens or racks shall be attached in a manner to facilitate removal by maintenance personal with appropriate hand tools and without damage to the culvert.

ARTICLE 8 -- BOARD OF APPEALS

1. ESTABLISHMENT AND ORGANIZATION

A Board of Appeals, hereafter referred to as the Board, is hereby established pursuant to Title 30-A M.R.S.A., Sections 2691 and 4353, Paragraph 1, and the Orrington Town Charter.

The Board shall adopt rules necessary to the conduct of its affairs. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board shall keep minutes of its proceedings and other official actions, all of which shall be a public record and immediately filed in the Town Office.

2. APPEALS

An appeal may be taken from any decision of the Code Enforcement Officer or Planning Board to the Board of Appeals and from the Board of Appeals to the Superior Court, pursuant to Title 30-A M.R.S.A., Section 4353, Paragraph 1.

3. POWERS AND DUTIES OF THE BOARD OF APPEALS

The Board of Appeals shall have the following powers:

A. **Interpretation.** To interpret provisions of the Ordinance which are called into question, in accordance with the provisions of Title 30-A M.R.S.A., Section 4353. An applicant may appeal the denial of a permit that was based on an interpretation of a provision of this Ordinance.

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

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 on the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive written or oral arguments. If the Board of Appeals determines that

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

C. Variance Appeal - To authorize variances upon appeal, within the limitations set forth in this Ordinance. A variance is a setting aside of one or more requirements of this Ordinance, and is equivalent to permission to not comply with one or more of its provisions. A variance is not a permit. An applicant who receives a variance shall comply with all other requirements of this Ordinance including the requirement to obtain a permit from the Code Enforcement Officer or Planning Board, as applicable.

4. STANDARDS FOR VARIANCES

Variances may be permitted only under the following conditions:

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

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

C. The proposed structure or use would meet the provisions of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought.

D. The Board shall not grant a variance unless it finds that the petitioner for such a variance can demonstrate, upon appeal that the strict application of the terms of this Ordinance 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; 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 four elements of an undue hardship are present in the case.

E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering all possible effects including Shoreland Districts and flood hazard, to afford relief. Notwithstanding Section 4.D above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the

dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or the time that the person with the disability live in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railings, wall or roof systems necessary for the safety or effectiveness of the structure.

F. A financial hardship shall not constitute grounds for granting a variance.

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

H. The Board of Appeals shall submit to the Town Manager a report of all variance actions, including justification for the granting of the variance and an authorization for the CEO to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit. In addition a copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal official to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to the 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.

I. A copy of all variances granted by the Board of Appeals, pertaining to shoreland zoned properties shall be submitted to the Department of Environmental Protection within seven (7) days of the decision.

5. FLOODPLAIN MANAGEMENT VARIANCES

In addition to the provisions of Article 8, Section 4, immediately above, the following shall also apply in cases involving requests for variances from the requirements of Article 7, Floodplain Management, of this Ordinance.

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.

C. 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 Article 8, Section 4 and Article 7, Section 6, are met; and,

2.) the structure or other development is protected by methods that minimize flood damages during base flood and create no additional threats to public safety.

D. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places, upon a determination that:

1.) The development meets the criteria of Article 8 Sections 1 through 5D. 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.

E. Any applicant who meets the criteria of Article 8, Section1 through 5.D, above, shall be notified by the Board of Appeals in writing 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;

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 that the applicant may have against the municipality that are related to the use of land located in a floodplain.

6. APPEAL PROCEDURE

A. Making an Appeal

1.) An administrative or variance appeal, upon written application of an aggrieved party, may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Article 8 Section 3.B above. Such an appeal shall be taken within thirty (30) days of the date of the official written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

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

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

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

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

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

B. Decision by Board of Appeals

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

a. If the Board of Appeals finds that the action or failure to act of the Code Enforcement Officer or Planning Board is clearly contrary to the specific provisions of this Ordinance, it shall order the error to be corrected. The Board of Appeals shall have no authority to take the action of the Code Enforcement Officer or Planning Board, or force compliance or issue a permit. If the Code Enforcement Officer or Planning Board ignores an order of the Board of Appeals, the applicant may take court action to force compliance.

b. An appeal shall not be heard “de novo” by the Board of Appeals, but rather shall be reviewed to determine whether the action of the Code

Enforcement Officer or Planning Board was within the scope of its authority and supported by substantial evidence on the record.

c. In the event that the Board of Appeals finds that the action or failure to act of the Code Enforcement Officer or Planning Board is contrary to the provisions of this Ordinance, or that the decision or record of proceedings is incomplete, the Board of Appeals shall refer the matter back to the Code Enforcement Officer or Planning Board for further proceedings or completion of the decision or record, as appropriate. Upon referral by the Board of Appeals, the Code Enforcement Officer or Planning Board shall complete the necessary further proceedings within sixty (60) days. No matter appealed to the Board of Appeals shall be referred back to the Code Enforcement Officer or Planning Board more than twice, over the objection of any party.

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

3.) 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.

4.) All decisions shall become a part of the record. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection (DEP notification required if matter regards Shoreland Zoned property) within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers. 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 therefore, and the appropriate order, relief or denial thereof.

C. Appeal to Superior Court

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

D. Reconsideration

In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed with 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 reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

ARTICLE 9 -- DEFINITION OF TERMS IN THIS ORDINANCE

1. GENERAL DEFINITIONS

For the purpose of this Ordinance certain words or terms used shall be interpreted as follows:

"Town" or "Municipality" means the Town of Orrington.

"State" means the State of Maine

"Official Zoning Map" means the most recent Land Use District map certified and dated by the Town Clerk.

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

The word "shall" is mandatory; the word "may" is permissive.

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

The word "lot" includes the word "plot" or "parcel", and the word "building" includes the word "structure."

The word "used" or "occupied" shall be construed to include the words "intended, arranged, or designed to be used or occupied."

Drafting film shall refer to polyester drafting media now or formally known as Mylar, polyester film, or transparency.

2. LIST OF DEFINITIONS

Accessory building, structure or use - A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. An 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. An open deck is not considered part of the principal structure except in all of the shoreland districts.

Accessory dwelling unit - An ADU is typically an additional living area independent of the primary dwelling that may have been added to, created within, or detached from a primary dwelling. The primary dwelling being a single family, duplex or multi-family structure. The ADU must provide for living, sleeping, cooking, and bathroom facilities and be on the same parcel as the primary dwelling. An Accessory Dwelling Unit cannot be conveyed as a primary dwelling. Recreational vehicles are not accessory dwelling units.

Accessory structure (for floodplain management purposes) - A structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.

Adjacent grade (for floodplain management purposes) - The natural elevation of the ground surface prior to construction next to the proposed walls of a structure or excavation.

Aggrieved party – An owner whose property is directly or indirectly affected by the granting or denial of a permit or variance under the Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

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

Agricultural Facility – Property used for pasture lands, row crops, orchards, wood lots, beehives, fishponds, and similar agricultural activities. Passive agricultural uses do not include animal production units, packing houses, agricultural stands, plant farms and greenhouses, poultry and egg farms, dairies, public and private stables, farm worker housing and labor camps, agricultural manufacturing, and any agricultural activity with significant structural coverage or off-site impacts.

Agricultural Greenhouses, High Tunnels and Caterpillar Tunnels - Construction of tunnels and greenhouses are intended to extend the growing season and maximize crop production or as cost effective livestock housing or equipment storage on a farm. These uses are considered pieces of farm equipment and not structures that require building permits, provided they can reasonably be relocated or removed without material damage to the soils on the property. They are also exempt from associated fees. If these uses are placed on a slab or a permanent foundation, they would be considered structures and lose the exempt status.

Alteration of building - Any change in the supporting members of a building (such as bearing wall, beams, columns, girders) except such change as may be required for its safety; any additions to a building or moving a building from one location to another.

Alternative Energy Production – Production of alternative clean energy derived from a natural and renewable source such as solar, wind, geothermal, waves, tides, waste, biomass, hydrogen, etc.

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

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 Article 7, Section 1. of this Ordinance.

Automobile graveyard - A yard or field used as a place of storage in which there is displayed to the public view three or more unregistered or uninspected, unserviceable, discarded, worn-out or junked vehicles or bodies or engines thereof.

Automobile repair facility - An individual, corporation or other legal entity which repairs motor vehicles for the general public for compensation.

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

Basal Area - The area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

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

Basement (for floodplain management purposes) - any area of the building having its floor subgrade (below ground level) on all sides.

Bed & breakfast - A dwelling structure which offers sleeping quarters and breakfast to temporary guests for payment.

Boarding and riding stable – A structure that is used commercially for the shelter of horses.

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.

Building - Any structure affording shelter. Also see structure.

Building frontage – Measured in a single straight line from corner to corner of the building, which line would be most parallel to the street address entrance.

Bureau – State of Maine Department of Conservation's Bureau of Forestry.

Business sign - A sign on which is announced the business use of the premises or the name of the operator of the business.

Business Park - A track of land that has been planned and developed as a high density mixed industrial and commercial district that shall permit uses as specified under Industrial District and Commercial District in Article 2, except that no expanded uses beyond those permitted uses for Mixed Residential-Commercial District (MR-C) shall be permitted in any MR-C district as mapped on the Land Use District

Map, and further restricting that no single or multi-family residential uses shall be permitted anywhere in the Industrial or Commercial use portion of the Business Park.

Campground - Any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

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

Certificate of compliance (for floodplain management purposes) - A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Coastal wetland - All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

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

Code Enforcement Officer (CEO) - A person certified under Title 30-A MRSA, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

Commercial recreation - Outdoor recreation activities supplied for a price (including incidental sale of goods) such as: camping area, boat rental, miniature golf, golf and similar outdoor games but excluding places of amusement such as movie theaters, cocktail lounges, dance halls, pool halls, nightclubs, etc.

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

Developable area- Land above the normal high-water line of a water body or upland edge of a wetland.

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

Development (for floodplain management purposes) - any man made change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

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

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

Distribution Facility - A distribution facility is a warehouse or other specialized building, often with refrigeration or air conditioning, which is stocked with products to be redistributed to retailers, to wholesalers, or directly to consumers. A distribution center is a principal part, the order processing element, of the entire order fulfillment process.

Driveway- A vehicular access way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

Duplex – A two family primary dwelling unit.

Ecological Production – Processes that produce organic matter, transfer carbon and nutrients, drive soil formation and enable organisms to reproduce.

Elevated building (for floodplain management purposes)- A non-basement building:

1.) built, in the case of a building in Floodplain Zones (Districts) AE or A, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or shear walls; 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 case of Zones (Districts) 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 Article 7 Section 6. N.

Elevation certificate (for floodplain management purposes)- An official form (FEMA Form 81-31, as amended) that:

1.) is used to verify compliance with 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.

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.

Expansion of a structure - An increase in the floor area or volume 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 floor area or ground area devoted to a particular use.

Family - One or more persons occupying a dwelling unit and living in a single residential dwelling unit.

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~~d~~ 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 (for floodplain management purposes)- An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) (for floodplain management purposes) - An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium districts applicable to the community.

Flood insurance study (for floodplain management purposes)- See Flood elevation study.

Floodplain or **flood-prone area** - Any land area susceptible to being inundated by water from any source (see flooding).

Floodplain management (for floodplain management purposes)- 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 (for floodplain management purposes)- Land Use ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance, and erosion control ordinance) 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.

Floodproofing (for floodplain management purposes) - 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 contents.

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

Floodway (for floodplain management purposes)- see **Regulatory Floodway**.

Floodway encroachment lines (for floodplain management purposes) - 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, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Forest management activities - Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

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

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

Freeboard (for floodplain management purposes) - 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 of 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 which are including forested wetlands:

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 - The horizontal distance between the intersections of the side lot lines and the front building line.

Front yard - Space on the same lot with a principal building extending the full width of the lot and located between the street line and the front line of the building projected to the side lines of the lot. The depth of the front yard is the distance between the street line and the front of the building.

Functionally dependent uses - Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, 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, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water **t**hat cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters.

Functionally dependent use (for floodplain management purposes) - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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

Green Energy Facilities/Services – Facilities that produce energy that can be produced in a way that protects the natural environment with the utilization of wind, water, or the sun.

Greenhouse/Hydroponics Facility – A production facility where plants are grown in nutrient solution rather than soil. The Greenhouse and environment control system are the same whether plants are grown conventionally or with hydroponics.

Green space - An area of land that features scenic, recreational, or similar amenities encompassed by a development plan or site plan. This space must generally be available for entry and use by the occupants of the site. The site may include a limited area that provides landscaping features or landscape screening for the benefit of the occupants.

Green space shall include, but is not limited to, features such as lawns, decorative plantings, active and passive recreational areas including wooded areas, watercourses and wetlands and any other space maintained in a natural, undisturbed or revegetated condition.

Green space does not include the area of any sidewalks, walkways, parking lots or vehicular surfaces used by any motor vehicle, primary and/or accessory building footprints, or areas of open space so located, or circumscribed by buildings, parking, or drainage areas as to have no substantial value for the purposes stated in this definition.

Group development- A project (residential, commercial, industrial, educational, medical, civic, etc.) with two or more principal buildings constructed on a parcel of at least 2 acres not subdivided into customary lots and streets.

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

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 have no floor area.

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 (district) or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic zone (district);

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: Craft production and other manufacturing of goods, and both professional and personal services, within the limits on number of employees established in other sections of this Ordinance. A home occupation shall offer for sale only those items which are associated with the above activities.

1.) Low Density Residential District Home Occupation: An occupation or profession which is carried on in no more than 25% of the ground floor area of a single family dwelling unit or accessory structure by the full-time occupant(s) of the dwelling unit. The use must be clearly incidental and secondary to the use of the dwelling for residential purposes, and shall not change the character thereof.

2.) Rural Residential and Farming District Home Occupation: An occupation or profession which is carried on in no more than 25% of the ground floor area of a single family dwelling unit or 100% ground floor area of an accessory structure by the full time occupant(s) of the dwelling unit and shall not employ more than three (3) persons who are not permanent residents of the dwelling unit. The use must be clearly incidental and secondary to the use of the dwelling for residential or agricultural purposes, and shall not change the character thereof.

3.) Shoreland Districts Home Occupation: an occupation or profession which is clearly incidental to and compatible with the residential use of the property and surrounding residential use, and which employs no more than two (2) persons other than family members residing in the home.

Impermeable (Impervious) surface: Impermeable (Impervious) surface means those improved, harder-surface areas that either prevent or inhibit the natural entry of water into the soil. Rooftops, buildings, streets, parking lots, sidewalks, asphalt, concrete, other paving, driveways, gravel, patios, artificial turf and storage areas are all examples of impervious surfaces.

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 a gravel pad, parking area, fire place, or tent platform.

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

Industrial Park – A tract of land that has been planned, developed and operated as an integrated facility for a number of industrial uses, with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

In-law apartment - A separate dwelling unit which is located within and subordinate to a single family detached dwelling and which is occupied by a person or persons related to the owner and principal occupant of the dwelling unit by blood, marriage or adoption, whether or not said person(s) pay rent or share expenses with the owner thereof.

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.

Invasive plants – Vegetation which is not native or indigenous to the area and which tends to spread in the natural environment to the detriment of native vegetation.

Junk yard - A yard or field used as a place of storage for old, discarded, worn-out, or junked plumbing, heating supplies, household appliances, furniture, lumber, rope, rags, batteries, paper, trash, rubber, ferrous or non-ferrous metal.

Kennel - Any commercial establishment where dogs are kept, offered for sale or boarded for a fee.

Land Management Road: A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Licensed Forester: - A forester licensed under 32 M.R.S.A. Chapter 76.

Light manufacturing - The fabrication or processing of material into a finished product. Fabrication relates to the stamping, cutting or otherwise shaping the processed materials into useful objects/products. Light manufacturing does not include the refining or other initial processing of basic raw materials such as ore or lumber.

Locally established datum - For purposes of this Ordinance, 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.

Lot - A parcel of land occupied by one building and the accessory buildings used customarily incidental to it, including such yards as are required by this Ordinance, and having frontage upon a roadway, public or private. However, a lot, the closest boundary of which is at least 200 feet from a road, public or

private, shall be acceptable if area and yard requirements as required by this Ordinance are met and said lot is not landlocked. (See also Minimum Lot Width, for shoreland district.)

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

Lot coverage - Lot coverage shall include those areas covered by buildings, other manmade structures, and other impervious (impermeable) areas.

Lot of record - A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by town or county officials.

Lot width - The distance between the side boundaries of the lot measured at the front building line drawn parallel to the chord drawn between the intersections of the side lot lines at the street line. The building line is to be construed at the setback line unless building locations are included in the proposed plan. See applicable tables 2-2 or 3-2 for dimension requirements.

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 Article 7 Section 6.N. of this Ordinance.

Major street - A street designated as such in the Major Street Plan.

Manufacturing/Assembly/Production Facility – A facility or use associated with the mechanical or chemical transformation of materials or substances into new products. Uses such as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Establishments engaged in assembling component parts of manufactured products are also considered under this definition if the new product is neither a fixed structure nor other fixed improvement. Also included is the blending of materials such as lubricating oils, plastics resins, or liquors.

Manufactured homes - As defined by and as amended and in compliance with MRSA Title 30-A, Section 4358.

Manufactured Home (for floodplain management purposes) - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured home park or subdivision (for floodplain management purposes)- A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

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

Mean sea level (MSL) (for floodplain management purposes) - for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD), or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

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 transport**s** the product removed, away from the extraction site.

Mineral Processing - The term mineral processing shall mean the screening, sorting, crushing or other processing of geologic material extracted or excavated.

Mineral Storage – The term mineral storage shall mean the storage of sand, gravel crushed stone, or soil stock piles or other forms.

Mineral Transportation – The term mineral transportation shall mean using the public roads in Orrington to haul sand, mineral, crushed stone or soil except for snow plowing and sanding operations.

Mineral Pit – The term mineral pit shall mean:

1. All of the land area used in the extraction, processing, or storage of sand mineral, crushed stone or soil; and

2. All of the land are owned by the mineral pit owner that is contiguous to an excavated area unless the mineral pit owner can show that some portion of that land cannot or will not be used as a site for mineral extraction or excavation.

   Mineral pits owned and/or operated by the same person, firm, or corporation, and separated by less than 800 horizontal feet of land shall be considered one and the same mineral pit.

Land which has been restored in accordance with Section 7.C.9 of the Orrington Mineral Extraction Ordinance will no longer be considered as part of the mineral pit.

Mineral Pit Owner - Mineral pit owner shall mean the owner of the land where the mineral is excavated, processed or stored. The responsibility to ensure restoration of the mineral pit shall be the obligation of the mineral pit owner.

Mineral Pit Restoration – The term means the stabilization of inactive borrow areas with herbaceous perennial plants.

Discontinued Mineral Pit – Discontinued mineral pit shall mean pit from which less than 200 cubic yards have been removed within twelve (12) consecutive months.

Minimum lot width - The closest distance between the side lot lines of a lot at the front building line (See Lot Width). When only two lot lines extend into the shoreland district, both lot lines shall be considered to be side lot lines. See applicable tables 2-2 or 3-2 for dimension requirements.

Minor development (for floodplain management purposes) - 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 Article 7 Section 6.L., 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 - As defined by and in compliance with MRSA Title 30-A, Section 4358.

Mobile home park - Land upon which two or mobile homes are located for living purposes.

Modular housing - As defined by and in compliance with MRSA Title 30-A, Section 4358.

Multi-family/Multi-unit residential - Two or more Accessory dwelling units.

Native: Indigenous to the local forests.

National Geodetic Vertical Datum (NGVD) - 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)”.

North American Vertical Datum (NAVD) (for floodplain management purposes) – the national datum whose standard was established in 1988, which is the new vertical datum used by the National flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon other vertical data used by other countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth’s crust, glacial rebound and subsidence and the increasing use of satellite technology.

Natural Beauty - of, existing in, or produced by nature, not affected by man or civilization, possessing the quality that gives pleasure to the mind or senses and is associated with such properties as harmony of form or color or uniqueness.

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: Non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Non-conforming lot - A single lot of record which, at the effective date if adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located. **Non-conforming structure** - A structure which does not meet one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect. See: Increase in nonconformity of a structure.

Non-conforming use – The use of buildings, structures, premises, or land thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

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."*

Nuisances - A use of property or course of conduct that interferes with the legal rights of others by causing damage, annoyance, or inconvenience. Any violation of this Ordinance shall be deemed to be a nuisance.

Nursing home - Any dwelling in which 3 or more aged, chronically ill or incurable persons are housed and furnished with meals and nursing care for compensation.

One-hundred-year flood (100-year flood) <u>(for floodplain management purposes)</u> - See Base Flood

Open Space - Undeveloped land that is protected by legislation and approved by State guidelines.

Outdoor advertising sign - A sign which directs attention to a business, product, activity, or service which is not conducted, sold or offered on the premises where such sign is located.

Outdoor storage business – A commercial operation for the keeping, in an unenclosed area, of goods, junk, material, merchandise or vehicles in the same place for more than twenty-four hours.

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

Piers, docks, wharfs, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland-

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

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

Premises - A tract of land with buildings thereon.

Primary Dwelling - A primary dwelling is the principal structure on a residential lot. It is typically a single family, duplex, mobile home, or multi-family structure. The primary dwelling is distinguished from an Accessory Dwelling as it is the primary use of the parcel and can be conveyed.

Principal structure - A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premise.

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

Printing Facility – The mass reproduction of text and images using a master form or template.

Private road – A road serving more than two (2) dwellings, which has not been accepted by the Town of Orrington as a public road. Lots with 2 or more dwellings will require road names.

Processing facility - An establishment that prepares, treats, or converts tangible personal property into finished goods or another form of tangible personal property. The term includes a business engaged in processing agricultural, aquacultural, or maricultural products and specifically includes meat, poultry, and any other variety of food processing operations. It does not include an establishment in which retail sales of tangible personal property are made to retail customers.

Production facility - A facility engaged in industrial-scale, large-volume or high concentration production.

Professional/Business Office Building - A building or premises or part thereof whose sole or principal use is for an office or for office purposes or clerical work, “Office purposes” includes the purpose of administration, clerical work, handling money, telephone, computer operation and “clerical work” includes writing, book-keeping, sorting papers, typing, filing, machine calculations, drawing of matter for publication and editing etc.

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, public entity or chartered for public use.

Public road – A road which has been duly accepted by the Town of Orrington or is a road that has been regularly maintained by the Town or the State of Maine.

Real estate sign - A sign pertaining to the lease, rental, or sale of the building or lot upon which it is located.

Rear yard - Space on the same lot with a principal building, unoccupied except by accessory buildings or uses, extending the full width of the lot and located between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

Recent floodplain soils - The following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles
Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

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.

Recreational vehicle (for floodplain management purposes) - A vehicle which is:

1.) built on a single chassis;

2.) 400 square feet or less when measured at the largest horizontal projection, not including slide outs;

3.) designed to be self-propelled or permanently towable by a motor vehicle; and

4.) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway (for floodplain management purposes)-

1.) The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height, and

2.) when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a 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.

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.

Research and Development – Processes by which new products and new forms of old products are brought into being through technological innovation.

Residual basal area - The average of the basal area of trees remaining on a harvested site.

Retail Outlet - One or more retail businesses, so regulated, incorporated, permitted, or licensed by the State or Municipality, operating out of one building.

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

River - A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

Riverine (for floodplain management purposes)- Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

NOTE: The portion of a river that is subject to tidal action is a coastal wetland.

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

Roadside produce stand – A booth or stall from which produce and farm products are sold to the general public.

Roadway - A commonly traveled way.

Seasonal residence - A residential structure used primarily as a recreational home and inhabited continuously for less than 6 months of the year (also "camp" or "cottage").

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

Shopping Center – A group of commercial establishments planned, constructed and managed as a total entity, each business with its own separate entrance, with customer and employee parking provided on-site, provisions for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

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

Shoreland District - 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.

Side yard - Space on the same lot with a principle building, unoccupied except by accessory buildings or uses, between the side of the building and the side line of the lot and extended form the front of the building to the rear line of the building. The depth of the side yard is the distance between the side line of the building and the side line of the lot.

Sign - An attached or free-standing structure used for bringing the subject matter thereon to the attention of the public.

Single-family dwelling - A free standing building on a permanent foundation serving as a dwelling unit not including mobile homes.

Skid Road or Skid Trail - A route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash - The residue, e.g., treetops and branches, left on the ground after a timber harvest.

Special flood hazard area (for floodplain management purposes)- See Area of Special Flood Hazard.

Start of construction - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement 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 a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured 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 basement, 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, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Storage Facility (Commercial/Industrial) – A building or structure used for storing raw materials, and other materials, equipment, and manufactured products.

Stream - A free-flowing body of water from the outlet of a great pond or to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area. Additionally the following are identified as streams or brooks worthy of protection:

1.) So-called Baker Brook from the point of confluence of two intermittent streams that form a brook to Brewer Lake.

2.) Swetts Pond Brook and Mill Creek from Swetts Pond to the Penobscot River and the north and south branches of said brook system from their respectful wetland headwaters.

3.) Trout Pond outlet.

4.) Other unnamed streams or brooks that are shaded as Stream Protection District on the official Town of Orrington Land Use District Map.

Street line - The line along the edge of the surveyed right-of-way line closest to the property in question. In those cases where the roadway does not fall within the surveyed right-of-way width, the street line shall be determined as one-half the right-of-way width as measured from the center of the traveled roadway. In no instance shall the street line fall inside the surveyed right-of-way.

Structure - Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, stairs, ramps, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors, except that within the shoreland district, stairs and ramps are considered structures. The term includes permanently located appurtenances, such as decks, patios, towers, and windmills, and in the shoreland district includes structures that are temporary located. A non-residential gas or liquid storage tank that is principally above ground is also a structure.

Structure (for floodplain management purposes) - a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Subdivision - The division of a tract or parcel of land into 3 or more lots within a five-year period, whether accomplished by sale, lease, development, building or otherwise, as provided in MRSA Title 30-A, Sections 4401-4407.

Substantial damage - Damage of any origin sustained by a structure whereby the 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, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures 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 specifications 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, and a variance is obtained from the community's Board of Appeals.

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

Subsurface wastewater disposal system - Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism,

or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

Supply Facility – Operating units (such as factories), storage facilities (such as warehouses), processing centers, distribution centers, and offices where information is manipulated to trigger, move, and track products and services within and throughout the supply chain.

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

Swimming pool - Any water holding structure above ground or in the ground with a capacity in excess of 2,000 gallons designed in such a way as to be used for swimming, wading, etc.

Temporary - A time period not to exceed ninety (90) calendar days (unless otherwise explicitly specified herein).

Terminal Facility – A facility used for cargo storage and/or loading and unloading cargo on a regular basis.

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

Timber harvesting - The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland district on a lot that has less than two (2) acres within the shoreland district shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated Article 3 Section F, *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

Transport vehicle - Any truck, tractor-trailer or truck-trailer combination, bus, van, coach, or other wheeled or tracked vehicle normally used for carrying, transporting, or moving people, cargo or other materials not within the same lot or parcel.

Transportation Facility – A commercial facility used for the transportation of persons or goods, together with buildings, structures, and parking areas, appurtenances, and other property needed to operate such a facility.

Travel trailer - A portable structure which can be moved on its own wheels, designed as a temporary living place for travel, vacation and recreational use. In no case shall a travel trailer or camper be used as a mobile home.

Travel trailer park - Land on which two or more travel trailers are parked or tents erected for temporary family recreational use on sites arranged specifically for that purpose. The words "travel trailer park" shall include "camping grounds" and "tenting grounds."

Tributary stream - A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of

aquatic vegetation and 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 Ordinance, and only applies to that portion of the tributary stream located within the shoreland district of the receiving water body or wetland.

NOTE: *Water setback requirements apply to tributary streams within the shoreland district*.

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.

Utilities - A commodity or service, such as electricity, water, or public transportation, that is provided by a municipal or private utility entity.

Variance - A relaxation of the provisions of this Ordinance in cases where literal enforcement would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Ordinance. Variances may be permitted only under all of the conditions set forth in Article 8, Section 4.D.

Variance (for floodplain management purposes) - a grant of relief by a community from the terms of a floodplain management regulation.

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

Veterinary hospital or clinic - A place used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals and may include overnight accommodations on the premises for treatment, observation, and or recuperation. It may also include boarding that is incidental to the principal activity or use.

Violation - The failure of a structure, use or development to comply with a community's ordinances including floodplain management regulations.

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.

Warehouse - A structure or room for the storage, deposit, or stocking of merchandise or commodities.

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, through, or over the water wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Wetland – See Coastal wetland and Freshwater wetland.

Wholesale Distribution - Establishments engaged in selling merchandise to retailers, to industrial, commercial, institutional, or professional business users or to other wholesalers.

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

Yard sale - Includes so-called garage sales, porch sales, tag sales, and the like.