Town of Mt. Vernon, Maine

LAND USE ORDINANCE

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SECTION 1 GENERAL

A. TITLE

This ordinance shall be known and cited as the LAND USE ORDINANCE**:** of the Town of Mt. Vernon, Maine, and will be referred to as "this Ordinance".

B. AUTHORITY

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part Second, Section 1 of the Maine Constitution, the provisions of 30-A M.R.S. § 3001 et seq., and the Mandatory Shoreland Zoning Act, 38 M.R.S. § 435 et seq.

C. PURPOSES

The purposes of this Ordinance are:

- To implement the provisions of the Town's Comprehensive Plan;
- To encourage the most appropriate use of land throughout the community;
- To encourage growth in the identified growth areas of the community, and to limit growth in rural areas;
- To conserve natural resources;
- In watershed and shoreland areas;
    - To further the maintenance of safe and healthful conditions;
    - To prevent and control water pollution; to protect buildings and lands from flooding and accelerated erosion;
    - To protect freshwater wetlands;
    - To control building sites, placement of structures and land uses;
    - To conserve shore cover, and visual as well as actual points of access to inland waters;
    - To conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas;
- To promote the health, safety, and general welfare of the residents of the community;
- To promote traffic safety;
- To provide safety from fire and other elements;

D. APPLICABILITY

The provisions of this Ordinance shall govern all land and all structures within the boundaries of the Town of Mt. Vernon.

E. 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, the more restrictive provision shall control. This Ordinance supersedes and replaces the following ordinances, which became effective as noted.

Land Use Ordinance**:**	6/10/91 amended 6/19/93, 6/18/94
Building Code Ordinance	3/9/91 amended 6/19/91, 6/19/93
Road Ordinance	3/9/91
Site Plan Review Ordinance	6/21/88 amended 3/11/89, 6/19/93, 6/18/94
Automobile & Junkyard Licensing Ordinance	3/9/91
Flood Plain Management Ordinance	6/10/87 amended 6/18/94
Subdivision Ordinance	6/19/89

F. VALIDITY AND SEVERABILITY

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

G. EFFECTIVE DATE

1. GENERAL

The effective date of this Ordinance shall be the date of the adoption by the legislative body on May 4, 1995.

2. SHORELAND ZONE

The Shoreland Zoning provisions of this Ordinance, having been adopted by the Legislative body on May 4, 1995, shall be effective upon the date of adoption, provided that it is subsequently approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner of the Department Environmental Protection for approval. If the Commissioner fails to act on the Shoreland Zoning provisions of this Ordinance within forty-five (45) days of his/her receipt of the Ordinance, it shall be deemed approved. Upon approval of the Shoreland Zoning provisions of this Ordinance, the Shoreland Zoning Ordinance previously adopted on 6/19/91 and amended 6/19/93 and 6/18/94 is hereby repealed.

H. AMENDMENTS

1. GENERAL

This Ordinance may be amended by the majority vote of the Legislative body.

2. SHORELAND ZONE

For amendments involving the Shoreland Zoning provisions of this Ordinance, copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the

Commissioner of the Department of Environmental Protection following adoption by the Legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

SECTION 2 NON-CONFORMANCE

A. PURPOSE

It is the intent of these provisions to promote land use conformities, except that non-conforming conditions that legally existed before the effective date of this Ordinance, or any amendment thereto shall be allowed to continue, subject to the requirements set forth in this section.

Note: A legally existing non-conforming condition is one which conformed to the regulations in effect at the time such condition was created, be it a use, structure or lot size. To determine legally existing conditions it is necessary to research the ordinance in effect at the time the condition was created.

B. GENERAL REQUIREMENTS

1. TRANSFER OF OWNERSHIP

Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

2. REPAIR AND MAINTENANCE

This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses, structures or attachments including repairs or renovations which do not involve expansion or total rebuilding of the non-conforming use or structure or attachment and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

C. NON-CONFORMING STRUCTURES

1. EXPANSIONS

All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 5(C)(2). A non-conforming structure may be added to or expanded after obtaining a permit from the same Administrative Authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure.

Further Limitations:

a)

Expansion of any portion of a structure within twenty-five (25) feet of the normal high-water line of a water body, tributary stream or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the waterbody, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to

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

b)

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

i.

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

c)

All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable standards of land use adopted by the municipality are met and the expansion is not prohibited by Section 2(C)(1) or Section 2(C)(1)(a), above.

i.

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

ii.

For structures located less than one hundred (100) feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than one thousand five hundred (1,500) square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than twenty-five (25) feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than seventy-five (75) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 2(C)(1)(b)(i) and Section 2(C)(1)(c)(i), above.

iii.

In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than two hundred fifty (250) feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than fifteen hundred (1,500) square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than twenty-five (25) feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than seventy-five (75) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 2(C)(1)(b)(i) and Section 2(C)(1)(c)(i), above.

d)

A plan approved by the municipal permitting authority for an expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds for the county in which the property is located, within ninety (90) days of approval. Plans must include, at a minimum:

i.

The method of expansion (whether the applicant utilized the thirty (30) percent or the footprint expansion option);

ii.

The existing and proposed footprint of the structure, in addition to the footprint of other nonconforming structures on the parcel;

iii.

The existing and proposed structure height;

iv.

A scaled drawing showing the location of the structure and other structures on the lot, in relation to the water body, tributary stream or wetland.

2. FOUNDATIONS

Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 2(C)(3) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 2(C)(1) above, and 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 original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

3. RELOCATION

A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 5(C)(21). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

a)
Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

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

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

4. RECONSTRUCTION OR REPLACEMENT

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained

within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 2(C)(1) above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 2(C)(3) above.

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

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 2(C)(3) above, the physical condition and type of foundation present, if any.

5. CHANGE OF USE OF A NON-CONFORMING STRUCTURE

The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

D. NON-CONFORMING USES

1. EXPANSIONS

Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing

residential structures or within expansions of such structures as allowed in Section 2(C)(1) above.

2. RESUMPTION PROHIBITED

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

3. CHANGE OF USE

Except in the Village District, an existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA district, 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 2(C)(5) above.

4. CHANGE OF USE - VILLAGE DISTRICT

A non-conforming use can be changed to another use provided that the Administrative Authority, after receiving a written application, determines that:

a)
The changed use is a permitted use in the Village District; and

b)
The applicant provides evidence to the satisfaction of the LPI that the existing wastewater disposal system is adequate to accommodate the new use in accordance with the State of Maine subsurface wastewater Disposal Rules or the applicant provides the design and agrees to install a replacement system to serve the new use, in accordance with the State of Maine Subsurface Wastewater Disposal Rules; and

c)
The changed use will have no greater impact on any adjacent waterbody or wetlands, or on subject or adjacent properties and resources than the existing use; and

d)
The changed use complies with all other applicable land use requirements.

E. 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.

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. §§ 4807(A-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 the effective date of June 19, 1991 of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

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

b)
Any lots that do not meet the frontage and lot size requirements of Section 2(E)(3)(a) are reconfigured or combined so that each new lot contains at least one hundred (100) feet of shore frontage and twenty thousand (20,000) square feet of lot area.

F. VESTED RIGHTS

Non-conforming rights cannot arise by the mere filing of a notice of intent to build, submitting an application for building permits, or submitting an application for required State permits and approvals. Vested rights usually arise when actual substantial construction has begun, or, in the case of pending applications, when a submitted application has been accepted as complete. Such

construction must be legal at the time it is commenced and the owner must be in possession of, and in compliance with, all validly issued permits, both State and local.

SECTION 3 DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall be given their customary dictionary meaning and be viewed in such a way as 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.

Abutter: The owner of a lot that is next to the lot on which the proposed activity will occur and which shares a common boundary or portion of a boundary with the lot on which proposed activity will occur. The owner of a lot that is separated by a road from the lot on which the proposed activity will occur and which is directly across the road from the lot on which the proposed activity will occur is also considered an abutter.

Accessory Dwelling Unit ("ADU"): A self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the same parcel of land. An ADU must be a minimum of one-hundred ninety (190) square feet, unless the Technical Building Code and Standards Board, pursuant to 10 M.R.S. § 9722, adopts a different minimum standard; if so, that standard applies. ADUs may not exceed eight-hundred (800) square feet.

Accessory Structure or Accessory Use: A use or structure one hundred (100) square feet or greater, (except in the shoreland zone, where there is no minimum size), which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered an attachment to the principal structure. Attachments to the principal structure require separate permits unless included in the original building permit application.

Adequate Signal Coverage: Coverage is "adequate" within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that the majority of time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error rate for digital) and without calls being dropped. It is acceptable for there to be holes within the area of adequate coverage as long as the signal regains its strength further away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain.

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

Adjacent Lot: A lot that is next to the lot on which the proposed activity will occur and which shares a common boundary or portion of a boundary with the lot on which proposed activity will occur. A lot that is separated by a road from the lot on which the proposed activity will occur and

which is directly across the road from the lot on which the proposed activity will occur is also considered an adjacent lot.

Administrative Authority: Any of the following Town officials or Boards as designated to administer specific Sections of this Ordinance:

- The Code Enforcement Officer
- The Mt. Vernon Planning Board
- The Municipal Officers (Select Board)
- The Mt. Vernon Board of Appeals
- The Licensed Local Plumbing Inspector
- The Building Inspector

Adult Establishment: A retail, service, entertainment, or commercial establishment which limits entry or use of the establishment or portion thereof to persons over the age of eighteen (18) years of age, or which is a common nuisance as defined in 17 M.R.S. § 2741, or which distributes or exhibits or offers to distribute or exhibit obscene matter to persons under the age of 18 in violation of 17 M.R.S. chapter 93-A or 93-B, or which exhibits motion pictures or displays any other visual representation described or advertised as being "X-rated" or "for adults only", or which exhibits or employs persons who are attired so as to expose to view the breast, genital, or buttock.

Affordable Housing Development:

1) For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs; and
2) For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs.
    - For purposes of this definition, "majority" means more than half.
    - For purposes of this definition, "housing costs" means:
        - For a rental unit, the cost of rent and any utilities (and electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and
        - For an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner's insurance, condominium fees, and homeowners' association fees.

Aggrieved Party: An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this 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.

Agricultural Land Management Practices: Those devices and procedures utilized in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources. Medical Marijuana Home Occupation and Medical Marijuana Production Facility shall not be considered agriculture for purposes of Site Plan Review.

Agricultural Structure: Any structure, excluding fences, cages, row covers and ground cloths, used for agricultural purposes.

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

Alteration: Structural changes, rearrangement, change of location, or addition to a building or structure (other than repairs and modification in building equipment) involving more than 25% increase in the overall floor space or bulk of the building or structure at any one time or in total.

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

Antenna: The surface from which wireless radio signals are sent and/or received by a Personal Wireless Services Facility.

Antenna Array: A collection of antennas attached to a mount to send and receive radio signals.

Antique Auto: Pursuant to 29-A M.R.S. § 101, "Antique auto" means an automobile or truck manufactured in or after model year 1916 that is:

1) More than twenty-five (25) years old;
2) Equipped with an engine manufactured either at the same time as the vehicle or to the specifications of the original engine;
3) Substantially maintained in original or restored condition primarily for use in exhibitions, club activities, parades or other functions of public interest;
4) Not used as its owner's primary mode of transportation of passengers or goods;
5) Not a reconstructed vehicle; and
6) Not an altered vehicle.

Antique Motorcycle: Pursuant to 29-A M.R.S. § 101, "Antique motorcycle" means a motorcycle or a motor-driven cycle that is:

1) More than twenty-five (25) years old;
2) Equipped with an engine manufactured either at the same time as the vehicle or to the specifications of the original engine;
3) Maintained primarily for use in exhibitions, club activities, parades or other functions of public interest; and
4) Not used as its owner's primary mode of transportation of passengers or goods.

Applicant: The legal entity, including successors and assigns, that files an application under this Ordinance.

Approved Residential Subdivision: A residential subdivision for which all-applicable land use permits have been issued, provided that the time for beginning construction under such permit has not expired.

Aquiculture: The growing or propagation of harvestable freshwater, animal species.

Area Median Income: The midpoint of a region's income distribution calculated on an annual basis by the U.S. Department of Housing & Urban Development.

Area of a Shallow Flooding: A designated AO and AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area used by an Automobile Hobbyist: An area used by an automobile hobbyist to store, organize, restore or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods or parts of these vehicles as these vehicles are defined in 29-A M.R.S. § 101 so long as the hobbyist's activities comply with all applicable federal and state statutes and rules and this Land Use Ordinance**:**, other than any provision of this Ordinance that is more restrictive than 30 M.R.S. § 3752 regarding the storage of vehicles or vehicle parts that are collected by a hobbyist. An automobile hobbyist is a person who is not primarily engaged in the business of selling any of those vehicles or parts from those vehicles.

Associated Facilities: Elements of a Wind Energy Facility other than its Generating Facility that are necessary to the proper operation and maintenance of the Wind facility, including but not limited to buildings, access roads, generator lead lines and substations.

Attached: Connected by a shared wall to the principal structure or having physically connected finished spaces.

Automobile Graveyard: Automobile Graveyard, as defined in 30-A M.R.S. § 3752, means a yard, field or other outdoor area used to store 3 or more unregistered or uninspected motor vehicles as defined in 29 M.R.S. § 102(42), or parts of the vehicles. . Automobile graveyard includes an area used for automobile dismantling, salvage and recycling operations.

The term automobile graveyard does not include:

1) The area used for temporary storage of vehicles or vehicle parts by an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable. In order for a vehicle's storage to be considered temporary, it must be removed from the site within one hundred and eighty (180) calendar days of its receipt;
2) An area used by an automobile hobbyist to store, organize, restore or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods or parts of these vehicles as these vehicles are defined in 29 M.R.S. § 101 as long as the hobbyist's activities comply with all applicable federal and state statutes and rules and the Town of Mount Vernon Land Use Ordinance. The requirements of Section10(C-1) shall control with regard to requirements for automobile hobbyists in the event of a conflict between Section 10(C-1) and any other provisions of this Ordinance. For the purposes of this subparagraph, an automobile hobbyist is a person who is not primarily engaged in the business of selling any of those vehicles or parts from those vehicles;
3) An area used for the parking or storage of vehicles, vehicle parts or equipment intended for use by a municipality, quasi-municipal entity or state or federal agency;
4) An area used for the storage of operational farm tractors and related farm equipment, log skidders, logging tractors or other vehicles exempted from registration under 29 M.R.S. §§ 351-562;
5) An area used for the parking or storage of vehicles or equipment being offered for sale by a dealer, equipment dealer, trailer dealer or vehicle auction business as defined in 29A M.R.S. § 851;
6) An area used for the storage of vehicles by an establishment or place of business that is primarily engaged in business as a new vehicle dealer as defined in 29A M.R.S. § 851;
7) An area used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business; or
8) An area used for the parking or storage of operational commercial motor vehicles, special equipment or special mobile equipment as defined in 29 M.R.S. § 101 as that is temporarily out of service but is expected to be used by the vehicle or equipment owner or by an operator designated by the owner. This subsection does not exempt an area used for the parking or storage of equipment or vehicles that are not operational while stored or parked in the area.

Automobile Recycling Business: Automobile Recycling Business, as defined in 30-A M.R.S. § 3752, means the business premises of a dealer or a recycler licensed under 29-A M.R.S. § 89-112

who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, as long as 80% of the business premises as described in the site plan included in the application to the municipal officers for an automobile recycling business permit is used for automobile recycling operations.

The term automobile recycling business does not include:

1) Financial institutions as defined in 9-B M.R.S. § 131(17), 131(17-A);
2) Insurance companies licensed to do business in the State;
3) New vehicle dealers, as defined in 29-1 § 851, licensed to do business in the State; or
4) That portion of the business premises that is used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicles storage to be considered temporary, the vehicle must be removed from the site within one-hundred and eighty (180) days of receipt of title by the business.

Back Lot: A back lot is any parcel of land, which has no frontage on a public or private way.

Back Lot Driveway: A back lot drive way is any way created or maintained for the purpose of providing vehicular access to a lot with no frontage on a public or private way as required pursuant to Section 5(B)(7).

Basal Area: The area of cross section of a tree stem at four and one half (4 ½) feet above the ground level and inclusive of the bark.

Base Density: The maximum number of units allowed on a lot not used for affordable housing based on dimensional requirements in a local land use or zoning ordinance. This does not include local density bonuses, transferable development rights, or other similar means that could increase the density of lots not used for affordable housing.

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

Base Gravel: The aggregate base gravel shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the parts that pass a four (4) inch square mesh sieve shall meet the following grading requirements.

Sieve Designation	% by Weight Passing Square Mesh Sieves
½ inch	35-75%
¼ inch	25-60%
No. 40	0-25%
No. 200	0- 5%

Aggregate for the base shall contain no particles of rock exceeding 4 inches in any direction.

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

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 and its attachments such as decks, breezeways, and porches having a roof or partial roof which is supported by columns or walls and used for the shelter or enclosure of persons, animals, goods or property of any kind. The term "building" shall include multiple family dwellings. (see Structure)

Building Inspector: A town official appointed by the Municipal Officers to administer building permits.

Bulk Storage: The separated storing on site of expendable materials or energy sources, in quantities that are in excess of operational amounts, for the purposes of stand-by supply in operations or for the economies or large quantity purchases.

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

Camouflaged: A Personal Wireless Services Facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.

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 cover formed by tree crowns in a wooded area.

Carrier: A company that provides personal wireless services also sometimes referred to as a provider.

Centrally Managed Water System: A water system that provides water for human consumption through pipes or other constructed conveyances to at least fifteen (15) service connections or serves an average of at least twenty-five (25) people for at least sixty (60) days a year as regulated by 10-144 C.M.R. Ch. 231, Rules Relating to Drinking Water. This system may be privately owned.

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

Change in Use: A change in use, is a use, which fails to reflect the nature and purpose of a prior use which is different in quality or character as well as in degree, or if it is different in kind in its effect on the neighborhood where it is located.

Class A Restaurant Eligible to Receive Class I License to Sell Liquor: A restaurant as defined in 28-A M.R.S § 2(15)(R) which meets the minimum requirements of gross annual income from the sale of food as follows:

1) Year-round Class A restaurants must have a minimum gross annual income of $20,000 per year in sale of food to the public on their premises; and
2) Part-time Class A restaurants must have a minimum gross annual income of $15,000 from the sale of food to the public on their premises, not in excess of six (6) consecutive months.

Classic Vehicle: Pursuant to 29-A M.R.S. § 101, Classic Vehicle means a motor vehicle that is at least sixteen (16) years old but less than twenty-six (26) years old that the Secretary of State determines is of significance to vehicle collectors because of its make, model and condition and is valued at more than $5,000.

Cluster Subdivision: A subdivision utilizing the allowable reductions in certain performance standards in order to preserve open space.

Co-Location: The use of a single mount by more than one carrier (vertical co-location), or the use of more than one mount on the same site by more than one carrier (horizontal colocation), or the use of several mounts on an existing building or structure by more than one carrier.

Code Enforcement Officer: Any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

Commercial Building: A commercial building is a structure which is designed, equipped or intended to be used, or is in fact being used, principally for the buying, selling, manufacture or storage of goods, the provision of services or the provision of facilities for a fee. For the purposes of this Ordinance, the term commercial building shall also include a "place of public accommodation", as defined in 5 M.R.S. § 4553(8), which includes any establishment which in fact caters to, or offers its goods, facilities or services to, or solicits or accepts patronage from the general public, including without limitation schools, governmental buildings, or community service facilities.

Commercial Timber Harvesting: Includes pesticide application, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, the construction, creation, or maintenance of land management roads, and other associated activities, involving the removal of more than fifty (50) cords of wood annually.

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, or the provision of facilities for a fee exclusive of rental of residential buildings and/or dwelling units. The processing of fifty (50) cord of firewood or more per year.

Common Shoreland Access: The use of any shore front property to provide a point of access for the occupants of three or more dwelling units, whether accomplished through ownership, lease, easement, or any other arrangement.

Community and Service Organizations: An association of persons for social, religious, benevolent, academic, or recreational purposes for the promotion of some common objective, which usually includes as an incident of membership the use of common property owned by the organization.

Community Scale: Compatibility between the proposed Personal Wireless Services Facility and its surroundings in relation to the height, mass, materials, contrasts, and proportion of the proposed facility and its surroundings.

Comparable Sewer System: Any subsurface wastewater disposal system that discharges over two thousand (2,000) gallons of wastewater per day as regulated by 10-144 C.M.R. Ch. 241, Subsurface Wastewater Disposal Rules.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by this Ordinance, or for a plan, preliminary or final, whichever is being submitted, or all information required after a vote by the Planning Board to waive the submission of required information according to appropriate Sections of this Ordinance.

Comprehensive Plan: Any part of the overall plan or policy for development and conservation within the municipality as defined in 30 M.R.S. § 4961 and consistent with 30-A M.R.S. §4326(1)-(4); or as subsequently developed pursuant to the Comprehensive Planning and Land Use Regulation Act, 30-A, § 4311 et seq.; specifically, the Comprehensive Plan of the Town of Mt. Vernon including the strategies for an implementation program which are consistent with the goals and guidelines established pursuant to Title 30-A Chapter 187 Subchapter II.

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

Contiguous Lots: Lots which adjoin at any line or point, or are separated at any point by a body of water less than fifteen (15) feet wide.

Cross-sectional-area: The cross-sectional-area of a stream or tributary stream channel is determined by multiplying the stream channel width by the average stream channel depth. The stream channel width is the straight line distance from the normal high-water-mark on one side of the channel to the normal high-water mark on the other side of the channel. The average stream channel depth is the average of the vertical distances from the straight line between the normal the high-water lines of the stream to the bottom of the channel.

dBm: Unit of measure of the power level of a signal expressed in decibels above 1 milliwatt.

Density Bonus: The allowance for additional subdivision lots, beyond those allowed under conventional subdivision requirements, when a clustered development is considered.

Density Requirements: The maximum number of dwelling units allowed on a lot, subject to dimensional requirements.

DEP Certification: A certification issued by the Department of Environmental Protection pursuant to 35-A M.R.S. § 3456 for a Wind Energy Development.

Designated Growth Area: Designated growth area means an area that is designated in a municipality's or multi-municipal region's comprehensive plan as suitable for orderly residential, commercial, or industrial development, or any combination of those types of development, and into which most development projected over ten (10) years is directed. Designated growth areas may also be referred to as priority development zones or other terms with a similar intent. If a municipality does not have a comprehensive plan, “designated growth area” means an area served by a public sewer system that has the capacity for the growth-related project, an area identified in the latest Federal Decennial Census as a census-designated place or a compact area of an urban compact municipality as defined by 23 M.R.S. §754. The location of the Limited Commercial District in the Town of Mount Vernon is as defined in Section 4(C)(4) and as designated on the Official Land Use Map in APPENDIX VII of this Land use Ordinance**:**.

Designed Impervious Area: The extent of land of a proposed development, measured in square feet, which has been designed to accommodate such impervious development as structures of any kind, roads, driveways, parking areas, concrete pads, sidewalks, patios, or other constructed uses which would inhibit or prohibit the natural drainage or percolation of rainwater or snow melt, or the natural, unrestricted growth of vegetation.

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

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

Dimensional Requirements: Requirements which govern the size and placement of structures including, but not limited to, the following requirements: building height, lot area, minimum frontage, and lot depth.

Disability: A physical or mental disability as defined in 5 M.R.S. § 4553-A.

Disruption of Shoreline Integrity: The alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and or rutted soil, an abnormal channel or shoreline cross-section, and the case of flowing water, a profile and character altered from natural conditions.

Driveway: A vehicular access-way less than five hundred (500) feet in length serving up to two single-family dwellings or one two-family dwelling, or up to two back lots in accordance with Section 9(D) of this Ordinance.

Driveway to a Back lot: See Back lot Driveway

Dwelling Unit: Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multi-family housing, condominiums, time-share units, and apartments.

Electromagnetic Interference ("EMI"): Electrical or electronic radiation that interferes with legitimate reception/ communication, television, video, or radio controls in the radio frequency spectrum. EMI can also be conducted as well as radiated.

Elevated Building: A non-basement building:

1) Built, in the case of a building in Zones A1-30, AE, A, A99, AO, or AH, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
2) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A1-30, AE, A, A99, AO, or AH, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls less than three (3) feet in height with openings sufficient to facilitate the unimpeded movement of flood waters.

Elevation Certificate: An official form (FEMA Form 81-31, 05/93, as amended) that:

1) Is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and
2) Is required for purchasing flood insurance.

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

Enlargement: Enlargement shall mean a structural expansion which increases overall floor area of a building or structure by one hundred (100) square feet or more.

Environmental Assessment ("EA"): An EA is a document required by the Federal Communications Commission ("FCC") and the National Environmental Policy Act

Equipment/Equipment Shelter: An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for Personal Wireless Services Facility such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.

Erosion and Sediment Control Plan: A plan depicting effective soil conservation measures for the activity proposed. This plan shall contain, but not be limited to topographic features; types, depth, slope and extent of soils; staging of activities; temporary and permanent erosion control measures and facilities and guidelines for their interim and continued maintenance.

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

Existing Dwelling Unit: A residential unit in existence on a lot at the time of submission of a permit application to build additional units on that lot. If a municipality does not have a permitting process, the dwelling unit on a lot must be in existence at the time construction begins for additional units on a lot.

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

Expansion of Use: The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more footprint of a structure devoted to a particular use.

Facility: See Personal Wireless Service Facility

Fall Zone: The area on the ground from the base of a structure mounted Personal Wireless Services Facility that forms a circle with a diameter equal to 105% of the height of the facility, including any antennas or other appurtenances.
The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

Family: One or more persons occupying a premises and living as a single housekeeping unit.

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

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 Administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study: See Flood Elevation Study

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

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

Floodplain Management Regulations: Zoning 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.

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

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

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.

Forest Stand: A contiguous group of trees sufficiently uniform in age class distribution, composition and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

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 including but not limited to basements, slabs, sills, posts or frost walls.

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.

Freshwater Wetland: Freshwater swamps, marshes, bogs and similar areas which are:

1) Of ten (10) or more contiguous acres; or of less than ten (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 ten (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.

Functionally Water-Dependent Uses: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access. For Flood Management 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. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

Generating Facilities: Wind Turbines and electrical lines, not including Generator Lead Lines, that are immediately associated with the Wind Turbines.

Generator Lead Line: A "generator interconnection transmission facility" as defined by 35-A M.R.S. § 3132(1-B).

Gravel Pit: The term gravel pit shall mean all of the land area disturbed or otherwise involved in the excavation, processing or storage of sand, gravel, crushed stone or soil. Gravel pits operated and/or owned by the same person, firm or corporation and separated by less than eight hundred (800) horizontal feet of undisturbed land shall be considered one and the same gravel pit provided that all such pits and partial pits are located on the same deeded land parcel as recorded in the Registry of Deeds, Kennebec County.

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

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

Guyed Tower: A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.

Harvest Area: The area where timber harvesting and related activities, included the cutting of trees, skidding yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than ten (10) acres within the area affected by a harvest.

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

Height: The height above ground level (AGL) from the natural grade of a site to the highest point of a structure.

Height of a Structure: The vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

Historic Area: A historic site administered by the Bureau of Parks and Recreation of the Maine Department of Conservation, with the exception of the Arnold Trail.

Historic Site: Any site, structure, district or archaeological site which has been officially included on the National Register of Historic Places and/or on the Maine Historic Resource Inventory, or which is established by qualified testimony as being of historic significance.

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 district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic 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: A commercial or industrial enterprise, the providing of a service, or the practice of an occupation or profession which occurs wholly within the principal residential structure, is clearly incidental and subordinate to the use of the dwelling place as a place of residence, is conducted by a member or members of the immediate family and does not involve the employment of outside employees; does not involve the outdoor storage of materials or goods used in connection with the home occupation; does not generate more than ten (10) auto trips by clients/customers in any one day; and does not involve the alteration of the structure or premises in such a way as to violate the residential appearance or character of the home occupation site by use of colors, lighting, signs, the emission of sounds, odors, vibrations, the placement or use of materials or premises layout.

Housing: Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multi-family housing, condominiums, time-share units, and apartments. For purposes of this rule, this does not include dormitories, boarding houses or other similar types of housing units. This also does not include transient housing or short-term rentals, unless these uses are otherwise allowed in local ordinance.

Horseless Carriage: Pursuant to 29-A M.R.S. § 101, "Horseless carriage" means an automobile manufactured before model year 1916 that is:

1) Equipped with an engine manufactured either at the same time as the vehicle or to the specifications of the original engine of the vehicle;
2) Maintained primarily for use in exhibitions, club activities, parades and other functions of public interest; and
3) Not used as its owner's primary mode of transportation of passengers or goods.

Hotels/Motels: A structure or group of structures providing lodging for a fee on a per diem basis, and where entrance to each room is made primarily from the outside of the building or through an inside lobby or office.

Impervious Area: Impervious area is including but not limited to, a surface that is impermeable to water, such as exposed compacted gravel, pavement, and rooftops, and prevents the infiltration of water into the soil.

Increase in Non-conformity of a Structure: Any change in a structure or property which causes further deviation from the dimensional standard creating a non-conformity such as, but not limited to, reduction in waterbody, 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 non-conformance of the existing structure shall not be considered to increase non-conformity. For example, there is no increase in non-conformity with the setback requirement for water bodies, wetlands, or tributary

streams if the expansion extends no further into the required setback area than does any portion of the existing non-conforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the waterbody, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

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

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

Inns/Boarding Houses: A building which contains a dwelling unit occupied by an owner or resident manager in which up to ten lodging rooms or lodging rooms and meals are offered to the general public for compensation.

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

Junkyard: Junkyard, as defined in 30-A M.R.S. § 3752, means a yard, field or other area used to store:

1) Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;
2) Discarded, scrap and junked lumber;
3) Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material; and
4) Garbage dumps, waste dumps and sanitary fills.

Kilowatt ("kW"): A unit for measuring power that is equivalent to one thousand (1,000) watts.

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 vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid tails or skid roads. For setback purposes these are not considered roads.

Land Use Ordinance Housing: (Zoning Ordinance**:**) an ordinance or regulation of general application adopted by the municipal legislative body which controls, directs, or delineates allowable uses of land and the standards for those uses.

Lattice Tower: A type of mount with multiple legs and structural cross-bracing between the legs that is self-supporting and freestanding.

Licensed Forester: A forester licensed under 32 M.R.S. Chapter 76.

Light Manufacturing: Manufacturing, Packaging, Processing and Testing - printing or publishing plant, bottling works, manufacturing establishment or other assembling, packaging, finishing or processing use, provided that all operations shall be such as to confine disturbing smoke, fumes, dust, odors, and noise to the premises and that no operations shall constitute a hazard by reason of potential for fire, explosion, radiation release or other casualty.

Locally Designated Passive Recreation Area: Any site or area designated by a municipality for passive recreation that is open and maintained for the public use and which:

1) Has fixed boundaries;
2) Is owned in fee simple by a municipality or is accessible by virtue of a public easement;
3) Is identified and designated at least nine (9) months prior to the submission of the applicant's wind energy facility permit application;
4) Has been identified and designated at least nine (9) months prior to the submission of the Applicant's Wind Energy Facility permit application.

Locally Established Datum: Means, for purposes of this Ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevations 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 lot is an area of land, developed or undeveloped, with ascertainable boundaries established by deed or other instrument of record, or a segment of land ownership, developed or undeveloped, defined by lot boundary line on a subdivision plan duly approved and recorded in the Kennebec County Registry of Deeds.

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.

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 8(G) of this Ordinance.

Maintenance: Maintenance means the normal upkeep of structures and/or attachments such as replacement of components (e.g. roofs, boards, siding, windows), painting and cleaning. Maintenance does not include the replacement of entire structures or attachments to structures.

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 one hundred eighty (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.

Marijuana: As defined in Maine Medical Use of Marijuana Act and Rules, or the Marijuana Legalization Act, as applicable.

Marijuana Paraphernalia: Equipment, products, or materials defined as paraphernalia in Maine Medical Use of Marijuana Act and Rules.

Marijuana Waste and/or Marijuana Residue: Stems, stalks, root and other materials used in the growth, cultivation, production, and storage of marijuana. Marijuana waste and/or residue does not include an incidental amount of marijuana or excess prepared marijuana as defined in the Maine Use of Medical Marijuana Act and Rules or the Marijuana Legalization Act, as appropriate.

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

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.

Mass Gatherings: A group of five hundred (500) or more persons assembled together for any purpose for seven (7) or more continuous or intermittent hours during any seventy-two (72) hour time period. Gatherings held at an established and permitted permanent stadium, athletic field, arena, auditorium, coliseum, fair ground, or other similar permanent place of assembly that has sufficient existing sanitary facilities to handle the expected gathering are not considered mass gatherings.

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

Medical Marijuana: Marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.

Medical Marijuana Home Occupation: A home occupation that is conducted by a registered primary caregiver who resides in the dwelling as his/her primary residence in conformance with standards described in the definition of home occupation in SECTION 3 of this Ordinance and

1. Is performed within a single-family dwelling or within a unit in a multi-family structure;
2. Is for the purpose of assisting one or more qualifying patients with the medical use of marijuana who do not reside in the dwelling and are not family members of the primary caregiver; and
3. Complies with the Maine Medical Use of Marijuana Act and Rules or the Marijuana Legalization Act, as appropriate.

Medical Marijuana Production Facility: A facility which includes a permanent structure equal to or greater than one hundred (100) square feet used for cultivation, processing, storage, and/or distribution of medical marijuana at a location which is not the medical marijuana registered primary caregiver's primary residence in conformance with standards described in SECTION 6 of this Ordinance and the Maine Medical Use of Marijuana Act and Rules. This shall be considered a commercial use, subject to the requirements of Site Plan Review.

Megawatt ("MW"): A unit for measuring power that is equivalent to one million watts, or one thousand (1,000) kilowatts.

Megawatt Hour ("MWh"): A megawatt hour is equal to one thousand (1,000) kilowatt hours (Kwh). It is equal to 1,000 kilowatts of electricity used continuously for one hour.

Meteorological Tower ("MET Tower"): A tower used for the measurement and collection of wind data that supports various types of equipment, including but not limited to anemometers, date recorders, and solar power panels. MET Towers also include wildlife related equipment such as ANABAT detectors, bird diverters and wildlife entanglement protectors.

Mineral: Any of various natural substances such as:

1) An element, such as gold or silver;
2) An organic derivative such as coal or petroleum;
3) A substance such as stone, sand, salt, or coal, that is extracted or obtained from the ground or water and used in economic activities.

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

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

Minimum Lot Width: The closest distance between the side lot lines of a lot.

Minor Public Road: See Public Road

Mobile Home Park: A parcel of land under unified ownership designed for the placement of three (3) or more mobile homes under any form of lease or rental agreement.

Monopole: A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel or concrete, or other material that is designed for the placement of antennas and arrays along the shaft.

Mount: The structure or surface upon which antennas are mounted. (interior or exterior) including the following two types of mounts:

1. **Ground-mounted:** A mount that is a structure affixed to the ground, other than a building, upon which one or more antennas are mounted.
2. **Building-mount:** A mount that is: (1) the roof or side of a building upon which one or more antennas are mounted; or (2) a mount that is a structure affixed directly to the roof or side of a building and not part of the building, upon which one or more antennas are mounted.

Motor Vehicle: A "motor vehicle" shall mean any self-propelled vehicle originally manufactured to include an engine of any kind which propels the vehicle across the ground on wheels, tracks or any combination thereof.

Multi-Family Dwelling: A residential structure consisting of three or more attached dwelling units. Any such development containing less than five (5) dwelling units shall be considered a minor subdivision, and any such development containing between five (5) and fourteen (14) dwelling units shall be considered a major subdivision. Any such development containing fifteen (15) or more units shall be considered a high impact subdivision.

Multi-Unit Residential: See Multi-Family Dwelling

Municipal Reviewing Authority: The municipal Planning Board agency office, or if none, the Municipal Officers.

Nacelle: The frame and housing at the top of the tower that encloses the gearbox and generator.

Native: Indigenous to the local forest or area.

Non-Conforming Lot (of Record): A single lot of record which does not meet the area, frontage, or width requirements of the district in which it is located, but which was legally created pursuant to the requirements of any ordinance or statute in effect at the time of its creation.

Non-Conforming Structure: A structure which does not meet any one or more of the following dimensional requirements; setback, height, lot coverage or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-Conforming Use: Use of buildings, structures, premises, land or parts 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.

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

Non-Participating Landowner: Any landowner, other than a Participating Landowner whose land is located within Mt. Vernon.

Normal High-Water Line: 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 eater are considered part of the river or great pond.

Occupied Building: A residence, school, hospital, house of worship, public library or other building that is occupied frequented by the public at the time when the permit application is submitted.

Official Submittal Date: The date upon which the Administrative Authority issues a receipt indicating a complete application has been submitted.

One Hundred (100) Year Flood: The highest level of flood that, on the average, is likely to occur once every one hundred (100) years (i.e., that has a one percent chance of occurring in any year).

Open Space: Land which remains essentially undeveloped. Certain forestry and agricultural activities and related structures may be allowed.

Ordinary View: The unaided visual access from any point within six (6) feet of ground level that a person has of an automobile graveyard or junk yard from the immediately adjacent public road or abutting property line. Vehicles or junk shall be construed to not be in ordinary view from a public road or abutting property line when they are located more than one thousand (1,000) feet from the abutting property lines or the applicant has constructed a screen in accordance with Section 10(E)(11) of this Ordinance between the storage area and the public road or property line.

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

Parking Space: A parking space is an area designated for the placement of automobiles which is clearly marked by paint, signs, or other means, and which is of a minimum size of 15' in length and 8' in width. Permanent piers, docks, wharves, bridges and other structures- Any structure which remains in or over the water for seven (7) months or more in any period of twelve (12) months.

Participating Landowner: One or more Persons that hold title in fee or a leasehold interest with sublease rights to property on which Generating Facilities or Associated Facilities are proposed to be located pursuant to an agreement with the Applicant or an entity that has entered into an appropriate agreement with the Applicant allowing the Applicant to demonstrate the requisite right title and interest in the property.

Person: An individual, corporation, partnership, firm organization or other legal entity.

Personal Wireless Service Facilities ("PWSF"): Facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1996, as amended and this Ordinance. PWSFs include a mount, antenna, equipment shelter, and other related equipment. A PWSF shall not include any of the following:

1. Wireless communication facilities for emergency communications by public officials.
2. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).
3. Parabolic Antennae less than seven (7) feet in diameter, that are an accessory use of the property.
4. Temporary Personal Wireless Service Facilities in operation for one maximum period of one hundred eighty (180) days. Such temporary facilities shall be removed prior to thirty (30) days following the maximum period.
5. An antenna that is an accessory use to a residential dwelling unit, provided that the PWSF is not used for commercial purposes.

Personal Wireless Services: The three types of services covered by this Ordinance: commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as described in the Telecommunications Act of 1996, as amended.

Piers, Docks, Wharfs, Bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland:

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

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

Planned Residence: A residence for which all applicable building and land use permits have been issued, provided that the time for beginning construction under such permits has not expired.

Potable,: Safe for drinking as defined by the U.S. Environmental Protection Agency's (EPA) Drinking Water Standards and Health Advisories Table and Maine's interim drinking water standards for six different perfluoroalkyl and polyfluoroalkyl substances (PFAS), Resolve 2021 Chapter 82, Resolve, To Protect Consumers of Public Drinking Water by Establishing Maximum Contaminant Level for Certain Substances and Contaminants.

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

Principal Structure: A structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot. Principal structure does not include commercial buildings.

Principal Use: A use other than one, which is wholly incidental or accessory to another use on the same lot.

Private Road: A private road is any road which is not a public road and which is to be placed before the town meeting for acceptance as a public way.

Production Blasting: A blasting operation carried out on a regular basis for the purpose of production of material.

Protected Location: Any location that is:

1. Accessible by foot, on a parcel of land owned by a Non-Participating Landowner containing a residence or planned residence, or an approved residential subdivision, house of worship, academic school, college, library, duly licensed hospital or nursing home near the development site at the time an application for a Wind Energy Facility is submitted under this Ordinance.
2. Within a State Park, Baxter State Park, a National Park, a nature preserve owned by a land trust, the Maine Audubon Society or the Maine chapter of the Nature Conservancy, the Appalachian Trail, the Moosehorn National Wildlife refuge, a federally designated wilderness area, a state wilderness area designated by statute, municipal park or a locally designated passive recreation area, or any location within consolidated public reserve lands designated by rule by the Bureau of Public Lands as a Protected Location, or;
3. A hotel, motel, campsite or duly licensed campground that the municipal authority responsible for review and approval of the pending application has designated a protected location after making a determination that the health and welfare of the guests or the

economic viability of the establishment will be unreasonably impacted by noise in excess of that allowed under Section 5(C)(28).

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

Public Road: A public road is any road, town way or state highway which is either maintained by the town or state, owned in fee simple by the town or state, or over which the public has the uninhibited right to travel by virtue of a public easement. Minor public roads are public roads which do not connect with other public roads at both ends, regardless of whether those connections are now seasonal or not maintained. The following roads are considered to be minor public roads: Barter; Bog; Carr Hill; Currier Hill; Dill; Five Seasons; Hovey Luce; Journey's End; Old Rome; Spring Hill.

Pure Tone: The simplest periodic sound: a constant sound created as a pressure disturbance that fluctuates sinusoidally as a fixed frequency.

Quarry: A place where rock or large stone is excavated and/or extracted.

Quarrying: A type of mineral extraction or mining involving the excavation and/or extraction of rock or large stone from a quarry.

Radio Frequency ("RF") Engineer: An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

Radio Frequency Radiation ("RFR"): The emissions from PWSF.

Rated Nameplate Capacity: The maximum rated output of electric power production of the photovoltaic system in watts of Direct Current (DC).

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

Alluvial	Cornish	Podunk
Charles(Limerick)	Rumney	Suncook
Fryeburg(Hadley)	Sunday	Winooski(Lovewell)
Ondawa	Saco(Medomak)	

Reconstructed Vehicle: Pursuant to 29-A M.R.S. § 101, "Reconstructed vehicle" means a vehicle that has been reconstructed to change the original steering, braking system, suspension system or body design, including, but not limited to, a dune buggy, a street rod, a passenger car converted to a pickup truck or a manufactured vehicle body mounted on another manufactured chassis. Repair to a vehicle that replaces parts with similar parts is not reconstruction.

Recreational Business: A business, including, without limitation, the activities of a non-profit organization that conducts activities for recreation, including Summer Camps, sports, leisure time activities, and other customary and usual recreational activities, excluding marinas and campgrounds. A Recreational Business does not include a Home Occupation, as defined in this Ordinance.

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 pickup camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Regulatory Floodway:

1. Means 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 one foot; and
2. In riverine areas is considered to be the channel of a river or other water coarse 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.

Repair: To repair means to restore after partial destruction due to decay, dilapidation, or injury. Repair does not mean to totally rebuild structures or attachments including decks and/or additions.

Replacement System: A Subsurface Wastewater Disposal 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 waste water discharge.

Residence: A building or structure, including manufactured housing, maintained for permanent or seasonal residential occupancy providing living, cooking and sleeping facilities and having permanent indoor and outdoor sanitary facilities, excluding recreational vehicles, tents and watercraft.

Residential Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time and containing cooking sleeping, and toilet facilities. The term includes mobile homes and rental units that contain cooking, sleeping and toilet facilities regardless of the time period rented. Recreational vehicles are not dwelling units unless placed on site for more than one hundred twenty (120) days per year.

Residual Basal Area: The average of the basal area of trees remaining on a harvested site.

Restaurant/Bar: An establishment where meals and/or beverages are prepared and served to the public for compensation.

Restrictive Covenant: A provision in a deed, or other covenant conveying real property, restrictive the use of the land.

Re-Subdivision: The division of an existing subdivision or any change in the plan for an approved subdivision, which affects the lot lines, including land transactions by the Applicant not indicated on the approved plan.

Right-of-Way: A street or other area which is given legal right of passage. A public right-of-way is a way dedicated to the use of the public (and accepted for ownership by the Town or other level of government).

Rip-Rap: 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 (10) unit vertical or less.

River: A free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

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

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. For setback purposes roads do not include driveways or tracks that are not normally traveled by vehicles such as automobiles and light trucks.

Road Bed Area: The term “road bed area” refers to the land area which must be prepared to accommodate the actual width of the traveled way and the road shoulders.

Road Frontage: Road(s) Frontage means the distance a lot line runs parallel to an adjacent road. When determining road frontage properties having road frontage on both sides of a road may not add the frontage on each side to determine the total frontage of the property.

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

Scenic Resource: Means either a scenic resource of state or national significance, as defined in 35-A M.R.S. § 3451(9) or a scenic resource of local significance located within the municipality

and identified as such in a comprehensive plan, open space plan or scenic inventory adopted by the municipal legislative body.

Security Barrier: A wall, fence, or berm that restricts an area from unauthorized entry or trespass.

Security Measures: Measures to reduce the potential for trespass and safety issues, including, but not limited to perimeter fencing, signage, gates, cameras, and emergency communication systems.

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

Service Drop: Any utility line extension 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 waterbody or tributary stream, or the upland edge of a wetland to the nearest part of a structure, road, parking space or other regulated object or area.

Setback Requirements: The minimum horizontal distance from a lot line, shoreline, or road to the nearest part of a structure, or other regulated object or area as defined in local ordinance.

Shadow Flicker: Alternating changes in light intensity caused by the movement of Wind Turbine blades casting shadows on the ground or a stationary object.

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 at normal high-water elevation or the upland edge of the wetland.

Shoreland Zone: The land area located within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, river; within two hundred fifty (250) feet of the upland edge of a 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 wetland.

Short Duration Repetitive Sounds: A sequence of repetitive sounds which occur more than once within an hour, each clearly discernible as an event and causing an increase in the sound level if at least 6 dBA on the fast meter response above the sound level observed immediately before and after the event, each typically less than ten seconds in duration, and which are inherent to the process or operation of the development and are foreseeable.

Sight Line Representation: A profile drawing showing prominent features, including but not limited to topography, buildings, and trees, along and in relation to a line of sight extending from an observer's eye to the lowest point visible on a proposed tower.

Significant Wildlife Habitat: A Significant Wildlife Habitat as defined in 38 M.R.S. § 480B(10).

Single-Component Manufactured Housing: Manufactured housing that is constructed and transported in one (1) section that is a habitable dwelling unit.

Single-Family Dwelling Unit: A structure containing one (1) dwelling unit.

Skid Road or 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. For setback purposes these are not considered roads.

Slash: The residue, e.g., treetops and branches, left on the ground after a timber harvest.

Solar Array: A grouping of multiple solar modules with the purpose of harvesting solar energy.

Solar Energy: Radiant energy (direct, diffuse and/or reflective) received from the sun.

Solar Energy System ("SES"): A solar photovoltaic cell, module, or array, or solar hot air or water collector device, including all Solar Related Equipment, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat.

Solar Energy System, Ground-Mounted: A Solar Energy System that is structurally mounted to the ground and is not roof-mounted; may be of any size (small, medium, or large-scale).

Solar Energy System, Large-Scale: A Solar Energy System whose physical size based on total airspace projected over the ground is equal to or greater than four (4) acres (174,240 square feet), and/or that generates a nameplate capacity of 1 MW or greater.

Solar Energy System, Medium-Scale: A Solar Energy System whose physical size based on total airspace projected over the ground is equal to or greater than three thousand (3,000) square feet

but less than four (4) acres (174,240 square feet), and/or that generates a nameplate capacity of twenty (20) kW up to, but not including, 1 MW.

Solar Energy System, Roof-Mounted: A Solar Energy System that is mounted on the roof of a building or structure; may be of any size (small, medium, or large-scale).

Solar Energy System, Small-Scale: Also known as an *Accessory-Scale System.* A Solar Energy System whose physical size based on total airspace projected over the ground is less than three thousand (3,000) square feet and/or that generates a nameplate capacity of less than twenty (20) kW. Such a system may consist of one or more freestanding ground, or roof mounted, solar arrays, or solar related equipment, and is intended to primarily reduce on-site consumption of utility power or fuels. Such a system generally occupies ~1,750 square feet of surface area or less (equivalent to a rated nameplate capacity of about ten (10) kW or less).

Solar Farm: See Solar Energy System

Solar Related Equipment: Items including a solar photovoltaic cell, module, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing, fencing, foundations or other structures used or intended to be used for collection and management of solar energy.

Special Flood Hazard Area: See Area of Special Flood Hazard

Start of Construction (Flood Plain): 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 three hundred sixty (360) 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, whether or not that alteration affects the external dimensions of the building.

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

Stream: A free flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey, on the website of the

United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

Street: Public and private ways such as alleys, avenues, boulevards, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way.

Street Rod: Pursuant to 29-A M.R.S. § 101, "Street rod" means a replica of or a modified antique auto manufactured prior to 1949 that complies with standards adopted by the Chief of the State Police.

Structure: Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected on or in the ground as defined in 38 M.R.S. §436-A(12). The term includes structures temporarily or permanently located, such as decks, patios and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in 30-A M.R.S. § 4201(5); geothermal heat exchange wells as defined in 32 M.R.S. § 4700-E(3-C); or wells or water wells as defined in 32 M.R.S. § 4700-E(8).

Subdivision: A subdivision is the division of a tract or parcel of land into three (3) or more lots within any (5) five year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings or otherwise. The term “subdivision” shall also include the division of a new structure or structures on a tract or parcel of land into three (3) or more dwelling units within a five (5) year period and the division of an existing structure or structures previously used for commercial or industrial use, or use as a single-family dwelling unit into three (3) or more dwelling units within a five (5) year period.

1. In determining whether a tract or parcel of land is divided into three (3) or more lots, the first dividing of the tract or parcel is considered to create the first two (2) lots and the next dividing of either of the first two (2) lots, by whomever accomplished is considered to create a third (3rd) lot, unless;
    a. Both dividing’s are accomplished by a subdivider who has retained one of the lots that has been the subdivider's principal residence for a period of at least five (5) years immediately prior to that second (2nd) division; or,
    b. The division of a tract or parcel is otherwise exempt under this Ordinance.
2. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this section, do not become subject to this section by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The Planning Board shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.
3. A lot of forty (40) or more acres shall not be counted as a lot, except where the lot or parcel from which it was divided is located wholly or partly within any shoreland area as defined in 38 M.R.S. § 435 or SECTION 3 of the Mount Vernon Land Use Ordinance**:**.

4. A division accomplished by devise does not create a lot or lots for the purpose of this definition, unless the intent of the transferor is to avoid the objectives of SECTION 7 of this Land Use Ordinance**:**.
5. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of SECTION 7 of this Land Use Ordinance**:**.
6. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of SECTION 7 of this Land Use Ordinance**:**.
7. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of five (5) years prior to a division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of SECTION 7 of this land Use Ordinance**:**. If the real estate exempt under this paragraph is transferred within five (5) years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot a lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child, or grandchild related by blood, marriage or adoption. A gift under this paragraph cannot be given for consideration that is more than ½ the assessed value of the real estate.
8. A division accomplish by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transfer is to avoid the objectives of SECTION 7 of this Land Use Ordinance**:**.
9. A division accomplished by the transfer of any interest in land to the owners of land abutting the at land that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of SECTION 7 of this Land Use Ordinance**:**. If the real estate exempt under this paragraph is transferred within five (5) years to another person without all the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection.
10. The division of a tract or parcel of land into three (3) or more lots and upon each of which lots permanent dwelling units legally existed before September 23, 1971 is not a subdivision.
11. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exceptions from the definition of a subdivision of land.
12. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under Paragraphs 4-a to 4-f, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent if the transferor is to avoid the objectives of this Ordinance.
13. For the purposes of this Ordinance, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands 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.

14. The term "subdivision" shall include mobile home parks, apartments, condominiums, cooperative housing, campgrounds where the property interest in individual campsites is conveyed, and other multi-family housing if any of the above contain three or more living units. The term subdivision shall also include re-subdivision.

Subdivision, High Impact: Any subdivision containing fifteen (15) or more lots or dwelling units.

Subdivision, Major: Any subdivision containing five (5) or more lots or dwelling units.

Subdivision, Minor: Any subdivision containing less than five (5) lots or dwelling units.

Subdivision Road: For the purposes of this Ordinance, a "subdivision road" is any road created as part of a subdivision approved by the Planning Board after the effective date of this Ordinance

Substantial Construction: Substantial construction shall mean 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 mobile or manufactured home on a foundation, slab or pad. Substantial construction does not mean land preparation, such as clearing, grading and filling.

Substantial Construction (Roads): Substantial construction shall mean any road building construction beyond the initial clearing of the road bed area.

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 fifty (50) percent of the market value of the structure before the damage occurred.

Substantial Enlargement: An expansion of the land area of the development site by more than 25% at any one time or in total since 6/21/88.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (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.

Substantial Start (Shoreland Zone): Completion of thirty (30) percent of a permitted structure or use measured as a percentage of the estimated total cost.

Substantial Start (Outside the Shoreland Zone): Means that construction shall be considered to be substantially commenced when any work beyond excavation, including but not limited to, the pouring of a slab or footings, the installation of piles, the construction of columns, or the placement of a tower on a foundation has begun.

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

Summer Camp: A type of Recreational Business for the accommodation of children or other organized groups or educational or recreational purposes during the summer season. The term is distinct from campgrounds generally and does not include parks for recreational vehicles.

Surface Gravel: The aggregate "surface gravel" shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of that part that passes a two (2) inch square mesh sieve shall meet the following grading requirements.

Sieve Designation	% by Weight Passing Square Mesh Sieves
½ inch	45-70%
¼ inch	30-55%
No. 40	0-20%
No. 200	0- 5%

Aggregate for the surface shall contain no particles of rock exceeding two inches in any dimension.

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

Temporary Piers, Docks, Wharves, Bridges and other Structures: Any structure which remains in or over the water seven (7) months or less in any period of twelve (12) consecutive months.

Temporary Storage: Temporary storage refers to a period of time not to exceed ninety (90) days during which a vehicle is parked at a facility being serviced or awaiting service.

Timber Harvesting: The cutting and removal of timber for the primary purpose of selling or processing forest products. "Timber harvesting" does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to the section dealing with Clearing or removal of vegetation for activities other than timber harvesting. (see Commercial Timber Harvesting)

Timber Harvesting and Related Activities: Timber harvesting and the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

Tract, or Parcel, of Land: All contiguous land in the same ownership, whether or not the tract is separated at any point by an intermittent or non-navigable stream, or a private road established by the abutting landowners.

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

Tributary Stream: A channel between defined banks created by the action of surface water, whether intermittent or perennial, 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 water borne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. 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 shore land zone of the receiving water body or wetland. Tributary stream does not include rills or gullies formed by accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity where no tributary stream existed before such activity.

Topsoil Removal: Shall mean the excavation of loam or loamy materials from an area for placement elsewhere.

Tower: The free-standing structure on which a wind measuring or energy conversion system is mounted.

Turbine Height: The distance measured from the surface of a tower foundation to the highest point of any turbine rotor blade measured at the highest arc of the blade.

Unserviceable Vehicle: An "unserviceable vehicle" shall mean any motor vehicle which is wrecked, dismantled, cannot be operated legally on any public highway or which is not being used for the purpose for which it was manufactured. Operable farm machinery or farm vehicles shall not be considered "unserviceable vehicles".

Upland Edge of a Wetland: The boundary between upland and wetland. For the purposes of a fresh water wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet tall or taller.

Uses: Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; also any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

Variance: A relaxation of the terms of this Ordinance where such variance would not be contrary to the public interest where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance.

The required findings in order to grant a variance are:

1. That the land in question cannot yield a reasonable return unless a variance is granted;
2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood;
3. That the granting of a variance will not alter the essential character of the locality; and
4. That the hardship is not the result of action taken by the applicant or an immediately prior owner.

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

Violation: The failure of a structure, land use, or development to comply with the requirements of this Ordinance.

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.

Volume of Trees of Total Volume of Trees: Is measured as the cross-sectional area (basal) area of the tree stems at four and one half (4.5) feet above the ground. The basal area of a given acreage is the sum of the basal areas of the trees 4" in diameter measured at four and one half (4.5) feet above the ground on that acreage. Basal area of an area of forest land may be determined by conducting an inventory or by estimating from representative plots in accordance with accepted estimated standards recognized by the Maine Department of Conservation, Maine Forest Service.

Water Crossing: Any project extending from one bank to the opposite bank of a river, stream, tributary stream or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables

as well as maintenance work on these crossings. This definition includes crossing for timber harvesting equipment and related activities.

Waterbody: Any great pond, river, stream or reservoir of standing water one acre or more in surface area.

Watercourse: A watercourse is any river or stream, which acts as the drainage mechanism for watershed areas of one hundred (100) acres or more.

Well Distributed Stand of Trees: Maintaining a rating score of twenty-four (24) or more within any twenty-five (25) foot by fifty (50) foot rectangular area (1,250 square feet) area as determined by the following rating system:

Diameter of Tree at 4 ½ feet above ground Level (inches)	Points
2-<4 in.	1
4-<8 in.	2
8-<12 in.	4
12 in. or greater	8

Wetland: Wetlands are land areas of ten (10) or more acres characterized by wetland soils and vegetation as defined by the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" U.S. Fish & Wildlife Service, U.S.EPA, U.S. Dept. of the Army, and U.S. SCS 1987.

Wind Energy Facility: A facility that uses one or more Wind Turbines to convert wind energy to electrical energy. A Wind Energy Facility includes Generating Facilities and Associated Facilities.

Wind Energy Facility, Commercial: A Wind Energy Facility that is not exclusively for residential use and meets the definition of a commercial building or commercial use under this Ordinance.

Wind Energy Facility, Large Scale Residential: A Wind Energy Facility having a maximum generating capacity of less than one hundred (100) kW and either more than one Wind Turbine, or one or more Wind Turbines with a Turbine Height greater than eighty (80) feet.

Wind Energy Facility, Residential: A Wind Energy Facility having a maximum generating capacity of less than twenty (20) kW, a maximum of one Wind Turbine and a maximum Turbine Height of eighty (80) feet.

Wind Turbine: A system for the conversion of wind energy into electricity which is comprised of a Tower, generator, Nacelle, rotor and transformer.

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

Zoning Ordinance: (Land Use Ordinance) a type of land use ordinance**:** that divides a municipality into districts and that prescribes and reasonably applies different regulations in each district.

SECTION 4 LAND USE DISTRICTS

A. PURPOSE

The purpose of these district requirements is to implement the Town's Comprehensive Plan and to provide for orderly growth and development consistent with the purposes stated in SECTION 1.

B. APPLICABILITY

This Ordinance applies to all land areas within the Town of Mt. Vernon. This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending beyond the normal high-water line of a water body or within a wetland.

C. ESTABLISHMENT OF DISTRICTS

1. SHORELAND ZONE

All land areas within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within two hundred fifty (250) feet, horizontal distance, of the upland edge of a wetland; and within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

The Shoreland Zone shall include the following 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 zone, exclusive of the Stream Protection District, except that areas, which are currently developed, and areas, which meet the criteria for the Village District, need not be included within the Resource Protection District.

i.

Areas within two hundred fifty (250) feet, horizontal distance, of the upland edge of wetlands, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value wildlife habitat including nesting and feeding areas by Maine Department of Inland Fisheries and Wildlife (MIFW) that are depicted on a geographic information system (GIS) data layer maintained by either MDIF&W or the Department of Environmental Protection as of December 31, 2008. For the purposes of this paragraph, "wetland associated with great ponds or rivers" shall mean areas characterized by non-forested wetland vegetations and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high-water.

"Wetland associated with great ponds or rivers" are considered to be part of that great pond or river.

ii.
Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100 year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

iii.
Within the Shoreland Zone, areas of two (2) or more contiguous acres with sustained slopes of 20% (2 foot vertical rise over a 10 foot horizontal distance) or greater.

iv.
Within the Shoreland Zone, areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a wetland as defined, and which are not surficially connected to a water body during normal spring high-water.

v.
Land areas along rivers subject to severe bank erosion undercutting, or river bed movement.

b) Limited Residential District

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

c) 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 fifty (250) feet, horizontal distance, of the normal high-water line of a great pond or river, or within two hundred fifty (250) feet, horizontal distance, of the upland edge of a wetland. Where a stream and its associated shoreland area is located within two hundred fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

2. VILLAGE DISTRICT

All the land described by the following property tax map descriptions:

Map U4: Lots 3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25 and 26
Map U5: Lots 1,1A,2,3,4 5,7,9,10,11,12,13, 14,15,17,18,21,22 and 22A
Map U6: Lots 2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19A,20,21,22,24,25,26, 27,28,30,31,32 and 33

Also includes some land within Shoreland Zone as defined in Section 4(C)(1).

3. RURAL DISTRICT

All areas of Mount Vernon not within the Shoreland Zone or Village District, or the Limited Commercial District.

4. LIMITED COMMERCIAL DISTRICT

All land described by the following property tax map descriptions:

Map R-10: Lots 8, 72, 73, 10, 12, 13, 13A, 16, 18, parts of Lot 11 & 14 not in the Shoreland Zone
Map R-3: Lots 10, 11, 12, 13, 14
Map U-3: Lot 2 north of lot 2A
Map U-2: Lot 1

D. DISTRICTS AND ZONING MAP

1. OFFICIAL LAND USE MAP

The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Land Use Map in APPENDIX VII.

- Resource Protection
- Limited Residential
- Stream Protection
- Village District
- Rural District
- Limited Commercial

2. SCALE OF MAP

The Official Land Use Map shall be drawn at a scale of not less than: 1 inch = 2,000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

3. CERTIFICATION OF OFFICIAL LAND USE MAP

The Official Land Use Map shall be certified by the attested signature of the Town Clerk and shall be located in the town office.

4. CHANGES TO THE OFFICIAL ZONING MAP

If amendments, in accordance with Section 1(H), are made in the district boundaries or other matter portrayed on the Official Land Use Map, such changes shall be made on the Official Shoreland Map within thirty (30) days after the amendment has been approved by the Town Meeting or the Department of Environmental Protection, if applicable.

E. INTERPRETATION OF DISTRICT BOUNDARIES

Unless otherwise set forth on the Official Land Use Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein.

With respect to the boundaries of any mapped natural resource area as depicted on the Town's official zoning map(s) (i.e., resource protection, limited residential, and stream protection districts), where the boundary is related to the upland edge of a wetland or the high-water line of a surface water body, the administrative authority may verify an applicant's delineation or representation of the natural resource district's actual boundary by performing an on-site inspection with the permission of the property owner. Where disagreement exists as to the exact location of district boundary lines, the Mt. Vernon Board of Appeals shall be the final authority as to location.

F. TABLE OF LAND USES

All land use activities, in the Town of Mount Vernon shall conform to the provisions of Table 4-1 and Table 4-2. In addition, land uses in the Shoreland Zones, the Village District and the Rural District, shall conform with all of the applicable land use standards in any section of this Ordinance. The district designation for a particular site shall be determined from the Official Land Use Map.

Key to Table 4-1 and Table 4-2:
Yes: Allowed (no permit required but the use must comply with all applicable land use standards)
No: Prohibited
PB: Requires approval by the Planning Board prior to the CEO issuing a permit
CEO: Requires permit issued by the Code Enforcement Officer
LPI: Requires permit issued by the Local Plumbing Inspector
BI: Requires permit from the Building Inspector

Abbreviations:
LC - Limited Commercial
SP - Stream Protection
RP - Resource protection
LR - Limited Residential
RD - Rural District
VD - Village District

	LAND USE	DISTRICT					
		LC	SP	RP	LR	RD	VD
1	Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking.	Yes	Yes	Yes	Yes	Yes	Yes
2	Motorized vehicular traffic on existing roads and trails	Yes	Yes	Yes	Yes	Yes	Yes
3	Forest management activities except for timber harvesting	Yes	Yes	Yes	Yes	Yes	Yes
4	Timber Harvesting						
	A. Commercial (more than 50 cords/yr.)	PB *	PB *	PB/CEO 1	PB *	PB *	No
	B. Non-commercial (less than 50 cords/yr.)	Yes	Yes	CEO 1	Yes	Yes	Yes
5	Clearing of vegetation for approved construction and development	Yes	CEO	CEO 1	Yes	Yes	Yes
6	Fire Prevention Activities	Yes	Yes	Yes	Yes	Yes	Yes
7	Wildlife Management Practices	Yes	Yes	Yes	Yes	Yes	Yes
8	Soil & Water conservation practices	Yes	Yes	Yes	Yes	Yes	Yes
9	Mineral exploration	Yes	No	Yes 2	Yes 2	Yes 2	Yes 2
10	Mineral extraction including sand & gravel	PB	No	PB 3	PB	PB	PB
11	Surveying and resource analysis	Yes	Yes	Yes	Yes	Yes	Yes
12	Emergency Operations	Yes	Yes	Yes	Yes	Yes	Yes
13	Agriculture	Yes	Yes	PB	Yes	Yes	Yes
14	Aquiculture	Yes	PB	PB	PB	Yes	Yes
15	Principal structures and uses						
	A. One & two family residential	CEO/ BI	PB 4	No	CEO/ BI	CEO/ BI	CEO/ BI
	B. Multi-unit residential	PB 13	No	No	PB	PB 13	No
16	Commercial	PB	No	No	No 15	PB 12	PB 9 10
17	Industrial **	PB	No	No	No	PB 12	PB 9 10
18	Governmental & institutional	PB	No	No	No	PB	PB 10
19	Small non-residential facilities for educational scientific, or nature interpretation purposes	PB	PB 4	PB	CEO	CEO	PB 10

Table 4-1 Land Use Activity Table 1 of 2

	LAND USE	DISTRICT					
		LC	**SP**	**RP**	**LR**	**RD**	**VD**
20	Structures accessory to allowed uses	CEO	PB 4 14	PB 14	CEO 14	CEO	PB 14
21	Piers, docks, wharfs, bridges and other structures						
	A. Temporary	CEO 17	CEO 17	CEO 17	CEO 17	CEO 17	CEO 17
	B. Permanent	PB	PB	PB	PB	PB	PB
22	Conversions of seasonal residences to year round	LPI	LPI	No	LPI	LPI	LPI
23	Home Occupations	Yes	PB	No	PB	Yes	Yes
24	Private sewage disposal systems for allowed uses	LPI	LPI	No	LPI	LPI	LPI
25	Essential services	PB	PB 6	PB 6	PB	PB	PB
26	Service drops, as defined, to allowed uses	Yes	Yes	Yes	Yes	Yes	Yes
27	Public & private recreational areas involving minimal structural development	Yes	PB 5	PB 5	PB 5	Yes	Yes 5
28	Individual, private campsites	CEO	CEO	CEO	CEO	CEO	CEO
29	Campgrounds	PB	No	No 7	PB	PB	PB
30	Road & driveway construction	PB	PB	No 8	PB	PB 11	PB
31	Parking facilities	PB	No	No 7	PB	PB	PB
32	Marinas	N/A	PB	No	PB	N/A	PB
33	Filling & earth moving of less than 10 cubic/yards	Yes	CEO	CEO	Yes	Yes	Yes
34	Filling & earth moving of more than 10 cubic/yards	Yes	PB	PB	CEO	Yes	PB
35	Signs	Yes	Yes	Yes	Yes	Yes	Yes
36	Uses similar to allowed uses	PB	CEO	CEO	CEO	PB	PB
37	Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	No
38	Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB	PB
39	Wind Energy Facilities - Residential	CEO	CEO	No	CEO	CEO	CEO
40	Wind Energy Facilities - large Scale Residential	PB	PB	No	PB	PB	PB
41	Wind Energy Facilities - Commercial	PB	PB	No	PB	PB	PB
42	PWSF	PB	No	No	No	PB	No
44	Solar Energy System, Large- Scale	PB	No	No	No	PB	No
45	Solar Energy System, Medium- Scale	PB	No	No	No	PB	No
46	Solar Energy System, Small / Accessory-Scale – Ground Mounted	CEO 18,19	CEO 19	CEO 19	CEO 19	CEO 18,19	CEO 18,19
47	Solar Energy System, Small / Accessory-Scale – Roof Mounted	CEO 18	CEO	CEO	CEO	CEO 18	CEO 18
48	Recreational Business	PB	No	No	No	PB 16	No

Table 4-2 Land Use Activity Table 2 of 2

* See Requirements of Site Plan Review Section 6(E)(14).

** Industrial Uses not permitted within the Shoreland Zone.

1 In RP not permitted within seventy-five (75) feet of the normal high-water line of great ponds, except to remove safety hazards.

2 Requires permit from Code Enforcement Officer if more than 100 (one-hundred) square feet of surface area, in total, is disturbed.

3 In RP not permitted 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 Functionally water-dependent uses and uses accessory to such water dependent uses only.

6 See further restrictions in Section 5(C)(14).

7 Except when area is zoned for resource protection due to flood plain criteria in which case a permit is required from the PB.

8 Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP area, in which case a permit is required from the PB

9 See prohibited uses in Section 5(C)(6).

10 See authorized uses in Section 5(C)(7).

11 Approval required for roads only.

12 See further restrictions in Section 5(C)(8).

13 See further restrictions in Section 5(B) and Section 5(C)(8). See Section 6(E) for allowable reduction of minimum lot size after first unit.

14 Accessory structure in the Shoreland Zone must meet all requirements established by the Department of Environmental Protection under 38 M.R.S. § 3 and this Land Use Ordinance**:**.

15 Except for commercial uses otherwise listed in Table 4-1 and Table 4-2, such as marinas and campgrounds, that are allowed in the respective district.

16 In the Rural District only, expansions of grandfathered, existing Recreational Businesses and Summer Camps are authorized, notwithstanding the provisions of Section 5(C)(8) of this Ordinance.

17 PB review may be required, see additional requirements in Section 5(C)(3)(e)

18 Outside the Shoreland Zone, no permit required if less than 100 sq. ft.

19 See further restrictions in Section 5(C)(5-A)(b)

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection pursuant to 38 M.R.S. § 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:

- Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- Draining or otherwise de-watering;
- Filling, including adding sand or other material to a sand dune; or
- Any construction or alteration of any permanent structure.

SECTION 5 LAND USE STANDARDS

A. PURPOSE

This Section shall establish standards for the construction, placement, relocation, and enlargement of all buildings and accessory structures, and performance standards for land use in Mt. Vernon.

B. GENERAL STANDARDS – BUILDING (ALL DISTRICTS)

No residential building permit shall be issued by the Building Inspector or Code Enforcement Officer unless the application proposal is determined by the Building Inspector or Code Enforcement Officer to comply with all applicable state laws and regulations, local ordinances, and each of the following standards, except as may be allowed for in Section 7(G)(10) for approved Cluster Development.

1. SETBACKS

No building or accessory structure shall be constructed closer than fifteen (15) feet from any boundary line, and all buildings and accessory structures shall have a setback of at least seventy-five (75) feet from the center line of the road except as provided below.

2. ROAD SETBACK IN THE VILLAGE DISTRICT

Notwithstanding any other requirement of this section, in the Village District, the minimum setback from the centerline of the road shall be fifty (50) feet.

3. ROAD SETBACK ON MINOR PUBLIC ROADS AND PRIVATE ROADS

On minor public roads and private roads, accessory structures shall have a minimum setback of at least fifty (50) feet from the centerline of the road. To qualify for the reduced setback, the building must be less than one thousand (1,000) square feet in size at ground level.

3-A. ROAD SETBACK ON PRIVATE RIGHTS OF WAY EQUAL TO OR LESS THAN FIFTEEN (15) FEET IN WIDTH

On private rights of way with a width of fifteen (15) feet or less, accessory structures shall have a minimum setback of at least twenty (20) feet from the centerline of the right of way. To qualify for the reduced setback, the building must be less than one thousand (1,000) square feet in size at ground level. This paragraph only applies in the Shoreland Zone in those instances where the owner of the private right of way owns the land on both sides of the right of way and the land underneath the right of way.

3-B. ROAD SETBACKS ON PRIVATE RIGHTS OF WAY ESTABLISHED PRIOR TO JANUARY 1, 1995 IN THE SHORELAND ZONE

On private rights of way, established prior to January 1, 1995, and located in the Shoreland Zone, other than those private rights of way covered by Section 5(B)(3-A), all structures shall have a minimum setback of at least forty (40) feet from the centerline of the right of way.

4. MINIMUM LOT SIZE

A building may not be constructed on a lot of less than two (2) acres, except that a permit may be issued for the placement of a mobile or manufactured home on a smaller lot when that lot is a part of a mobile home park which has been approved by the Mt. Vernon Planning Board pursuant to the mobile home park design regulations found in the SECTION 7 of this Ordinance. Also, a permit may be issued for construction on a non-conforming lot of record in accordance with SECTION 2 of this Ordinance. The creation of a lot, whether by lease or ownership, of less than two (2) acres is prohibited.

5. MINIMUM LOT SIZE AND ROAD FRONTAGE IN THE VILLAGE DISTRICT

Notwithstanding any other requirement of this section, in the Village District, a legally created single lot of record, which does not meet the minimum lot area and/or road frontage requirements set forth in Section 5(B)(4) & (6), may be built upon provided such lot development adheres to the Maine State Plumbing Code and all other applicable land use requirements.

6. ROAD FRONTAGE

Except as provided in Section 5(B)(5) & (7), all buildings shall be constructed on a lot or parcel of land with a public or private road frontage of at least two hundred (200) feet.

Road frontage for additional dwelling units after the first are as provided in Section 5(B)(8).

7. BACK LOTS

Back lots are exempt from the road frontage requirement of Section 5(B)(6), except that such lots, in the absence of a waiver issued by the Planning Board in accordance with the criteria established in Section 9(F) of this Ordinance, shall be served by a driveway designed at a minimum to the specifications of a driveway to a back lot found in SECTION 9. Back lots must have at least one lot line equal to or greater than two hundred (200) feet. The lot over which the back lot driveway easement passes must be able to meet the minimum lot size requirements of this Ordinance after the subtraction of the area of easement to be used as the right-of-way to the back lot. Driveways serving the buildings of back lots permitted under this Ordinance shall serve as access to no more than two back lots and may also serve as access to the front lot over which it passes.

8. MULTIPLE DWELLING UNITS ON A SINGLE LOT

a) Minimum Lot Size and Road Frontage

If more than one dwelling unit is constructed on a single lot or parcel, the minimum lot size for each additional dwelling unit and/or principal structure is two (2) acres. The minimum lot size for multi-family dwellings containing three or more dwelling units within a single structure are provided in Section 6(E)(1).

If more than one dwelling unit is constructed on a single lot or parcel, no additional road frontage is required for the additional dwelling units, unless the development is not eligible

for additional dwelling unit allowance under Section 5(B)(8)(b). Development involving more than one dwelling unit on a single lot or parcel, which is not eligible under Section 5(B)(8)(b), may be eligible for reduced or no road frontage for the additional dwelling units as provided in Sections 5(B)(5), 5(B)(7), 5(B)(9), 5(B)(10), Sections 6(E)(3), 6(E)(4) and Section 7(G)(10) of this Ordinance. The lot or parcel containing additional dwelling units that is not eligible under Section 5(B)(8)(b), or under the seven other sections of this Ordinance identified in this paragraph that may allow reduced or no road frontage for the additional dwelling units, shall have at least two hundred (200) feet of frontage on a public or private road for each dwelling unit.

If more than one dwelling unit is constructed on a single lot or parcel of land located in the Shoreland Zone, see the requirements in Section 5(C)(1).

b) Additional Dwelling Unit Allowance on a Single Lot per 30-A MRS-4364-A
In all districts in which residential units are allowed, additional dwelling units may be permitted as follows:

i.
Up to two (2) dwelling units per lot shall be permitted if that lot does not contain an existing dwelling unit provided minimum lot size, shoreline frontage requirements, all provisions of this Land Use Ordinance**:** (other than road frontage and density requirements), and all shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 are met. In the Limited Commercial District, up to four (4) dwelling units per lot shall be permitted if that lot does not contain an existing dwelling unit, provided minimum lot size, all provisions of this Land Use Ordinance**:** (other than road frontage and density requirements)).

ii.
On a lot with one existing dwelling unit, the addition of up to two dwelling units, one additional dwelling unit within or attached to an existing structure, or one additional detached dwelling unit, or one of each is permitted, provided minimum lot size), shoreline frontage requirements, all provisions of this Land Use Ordinance**:** (other than road frontage) and density requirements)), and all shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 are met.

iii.
Outside of the Shoreland Zone), additional dwelling units allowed under this Section 5(B)(8)(b)) shall be subject to the same dimensional and setback requirements as a single-family dwelling except that two (2) acres of minimum lot size is required for each additional dwelling unit as shown in the following table:

iv.

If more than one dwelling unit has been constructed on a lot as a result of the allowance under Sections (5)(B)(8)(b)(i) or (ii) or Section 5(B)(10) of this Land Use Ordinance**:**, the lot is not eligible for any additional increases in density.

v.

If a lot becomes vacant as a result of a dwelling unit in existence after July 1, 2024, being torn down, the lot is not eligible for any additional increases in density.

vi. Water and Wastewater

The owner of a housing structure must provide written verification that the structure is connected to adequate water and wastewater services before a Certificate of Compliance) may be issued. Written verification under this provision must include:

aa)

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

bb)

If a housing unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under 30-A M.R.S. § 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with the Subsurface Wastewater Disposal Rules adopted under Title 22, section 42 and 10-144 C.M.R. Ch. 241, Subsurface Wastewater Disposal Rules;

cc)

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

dd)

If a housing unit is connected to a well, proof of access to potable water, including the standards outlined in 02-672 C.M.R. Ch 10, section 10.25(J), Land Use District and Standards. Any test of an existing well or proposed well must indicate that the water supply is potable and accessible for

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

ee)

This section may not be construed to exempt a subdivider from the requirements for a division of a tract or parcel of land in accordance with 30-A M.R.S., chapter 187, subchapter 4, related to subdivisions.

c) Additional Density, Minimum Lot Size, and Road Frontage Requirements

The additional density, minimum lot size, and road frontage requirements for multiple dwelling units on a single lot or parcel of land as allowed by Section 5(B)(8)(a) and (b) are shown on the following table:

Districts	Number of Dwelling Units on a Single Lot	Minimum Lot Size Requirements	Minimum Road Frontage Requirements
Rural District and Village District Outside of Shoreland Zone	1 Single-Family Principal Dwelling	2 acres*	200 feet*
	2 Principal Dwellings (either attached of detached)	4 acres*	200 feet*
	1 Single-Family Principal Dwelling Plus one additional dwelling unit within or attached to an existing structure Plus one detached additional dwelling unit OR One of each for a total of three dwelling units	6 acres	200 feet
	Greater than 3 Dwelling Units (not all in one structure) Maximum determined by lot size and road frontage	6 Acres, + 2 additional acres per dwelling unit greater than 3*	200 feet, + 200 additional feet per dwelling unit greater than 3*
Rural District	Multi-Family Dwelling Unit	See Section 5(B)(4), 5(B)(8)(a), and 6(E)(1)	See Section 5(B)(6). 5(B)(8)(a), and 6(E)(3)
Limited Commercial	1 Dwelling Unit	2 acres	200 feet
	2 Dwelling Units	4 acres	200 feet
	3 Dwelling Units (not all in one structure)	6 acres	200 feet
	4 Dwelling Units (not all in one structure)	8 acres	200 feet
	Multi-Family Dwelling Unit containing 3 Dwelling Units in one structure	4 acres	300 feet
	Multi-Family Dwelling Unit containing 4 Dwelling Units in one structure	5 acres	300 feet
	Greater than 4 Dwelling Units on a lot Maximum determined lot size and road frontage	See Section 5(B)(4), 5(B)(8)(a), and 6(E)(1)	See Section 5(B)(6), 5(B)(8)(a), and 6(E)(3)

* See Sections 5(B)(5) and 5(B)(9) for additional density allowance on legally created single lots of record in the Village District.

9. MULTIPLE DWELLING UNITS IN THE VILLAGE DISTRICT

Notwithstanding any other requirement of this section a multiple dwelling unit, in the Village District, of less than three units may be built or constructed on a legally created single lot of record which does not meet the minimum lot area and road frontage requirements set forth in Section 5(B)(4),(5), and (6), provided such lot development adheres to the Maine State Plumbing Code and all other applicable land use requirements.

10. ACCESSORY DWELLING UNIT ("ADU")

One ADU is allowed on the same lot as a single-family dwelling unit in any area in which housing is allowed, subject to the requirements of this section.

a) ADUs outside the Shoreland Zone

Outside the Shoreland Zone, One ADU may be constructed only within an existing dwelling unit on the lot, attached to or sharing a wall with a single-family dwelling unit, or as a new structure on the lot for the primary purpose of creating an accessory dwelling unit.

ADUs outside the Shoreland Zone must comply with all provisions of this Land Use Ordinance**:**, except for the road frontage and minimum lot size requirements.

b) ADUs in the Shoreland Zone

In all Shoreland Zone areas, one ADU may be constructed only within an existing dwelling unit on the lot, attached to or sharing a wall with a single-family dwelling unit, or as a new structure on the lot for the primary purpose of creating an accessory dwelling unit, provided the minimum lot size, shore frontage requirements, and all other shoreland zoning requirements established by the Department of Environmental Protection under 38 M.R.S. § 3 and shoreland zoning requirements established by this Land Use Ordinance**:** are met.

c)

In all districts in which ADUs are allowed, ADUs must meet the following additional standards:

i.

Either the primary dwelling unit or the ADU must be occupied by the owner of the property.

ii.

An ADU shall not be constructed prior to the issuance of a permit by the Code Enforcement Officer.

iii.

An accessory dwelling unit must be allowed on a lot regardless of whether the lot conforms to existing dimensional requirements. Any new structure constructed on the lot to be an accessory dwelling unit must meet the existing dimensional requirements as required by the municipality for an accessory structure. The owner of an ADU must provide written verification that each of the accessory dwelling units are connected to adequate water and wastewater services prior to issuance of a Certificate of Compliance for occupancy of the ADU pursuant to Section 11(G) of this Ordinance.

iv.

If more than one dwelling unit has been constructed on a lot as a result of the allowance pursuant to this section, the lot is not eligible for any additional units or increases in density.

v.

For an ADU located within the same structure as a single-family dwelling unit or attached to a single-family dwelling unit, the dimensional requirements and setback requirements must be the same as the dimensional requirements and setback requirements of the single-family dwelling unit.

aa)
For an ADU permitted in an existing accessory building or secondary building or garage as of July 1, 2024, the required setback requirements for the existing accessory or secondary building apply.

vi.
The owner of an accessory dwelling unit must provide written verification to the Code Enforcement Officer that the ADU is connected to adequate water and wastewater services before the issuance of a Certificate of Compliance for occupancy of the ADU pursuant to Section 11(G) of this Ordinance. Written verification under this provision must include:

aa)
If an ADU is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system;

bb)
If an ADU is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under 30-A M.R.S. § 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. Ch. 241, Subsurface Wastewater Disposal Rules;

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

dd)
If an accessory dwelling unit is connected to a well, proof of access to potable water, including the standards outlined in 01-672 C.M.R. Ch. 10, section 10.25(J), Land Use Districts and Standards. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

vii.
ADUs are permitted on non-conforming lots if the ADU does not further increase the non-conformity and, in the Shoreland Zone, also meets the shoreland zoning requirements established by the Department of Environmental Protection under 38 M.R.S. § 3 and the shoreland zoning requirements of this Land Use Ordinance**:**.

viii.
ADUs are subject to the requirements of 30-A M.R.S § 4 and SECTION 7 of this Land Use Ordinance**:** relating to subdivisions .

ix.

For an ADU located within the same structure as a single-family dwelling unit or attached to or sharing a wall with a single-family dwelling unit, the setback requirements and dimensional requirements are the same as the setback requirements and dimensional requirements of the single-family dwelling unit. For ADUs permitted in an existing accessory building or secondary building or garage as of July 1, 2024, the setback requirements for an accessory or secondary structure apply.

x.

An ADU that was not built with municipal approval must be allowed if the ADU otherwise meets the requirements for ADUs under the provisions of this Land Use Ordinance**:** and 30-A M.R.S. § 4364-B. An After-the Fact permit may be obtained for an ADU that was not built with municipal approval if the ADU otherwise meets the requirements set forth in this Ordinance, provided proper documentation has been submitted to the CEO.

C. LAND USE STANDARDS IN ALL DISTRICTS

In addition to the Standards of Section 5(B) above, all land use activities within the Town of Mt. Vernon shall conform with the following provisions within the Districts to which they apply.

1. MINIMUM LOT STANDARDS - SHORELAND AND VILLAGE DISTRICT

	Minimum Lot Area	**Minimum Shore Frontage ** (Feet)**
Residential per dwelling unit	2 acres	200
Governmental, Institutional Commercial per principal Structure	2* acres	300
Public and Private recreational facility	40,000 sq ft	200

* **NOTE**: Refer to SECTION 6 Site Plan Review for additional standards governing minimum lot size.

** **NOTE**: The two hundred (200) foot shore frontage standard is not applicable for properties in the Village District with no shore frontage. For additional standards, see SECTION 6 Site Plan Review.

a)

Land below the normal high-water line of a water body or upland edge of wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

b)

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.

c)
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.

d)
If more than one residential dwelling unit or more than one principal commercial or industrial structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.

2. PRINCIPAL AND ACCESSORY STRUCTURES

a)
All new principal and accessory structures shall be setback at least one hundred (100) feet horizontal distance from the normal high-water line of great ponds and rivers, and seventy-five (75) feet horizontal distance from the normal high-water line of streams, tributary streams, or the upland edge of a wetland in the Shoreland Zone. In the Resource Protection District, the setback requirement shall be 250 feet, horizontal distance except for structures, roads, parking spaces or other regulated objects specifically allowed in that district, in which case the setback requirements specified will apply.

In addition

i. Structures Requiring Direct Access
The water body or wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

ii. Areas Requiring Increased Setbacks
The Administrative Authority may increase the required setback of a proposed structure, as a condition to permit approval and in accordance with this subsection, if necessary to accomplish the purposes of this Ordinance. Instances where a greater setback may be appropriate include, but are not limited to, areas of steep slope; shallow or soils subject to erosion; and/or where an adequate vegetative buffer does not exist. Where the average slope of the land immediately between the high-water mark of the water body and all proposed structures and designed impervious areas exceeds 20%, the Administrative Authority may extend the required setback twenty-five (25) feet for every 5 percentage points (or part thereof) of average slope over 20%, not to exceed a total setback extension of fifty (50) feet.

Where the point value analysis regarding a "well distributed stand of trees and other vegetation", as computed pursuant to Section 5C(18) is less than twelve (12) points, with regard to development proposed in shoreland areas adjacent to great ponds, rivers, or streams, the Administrative Authority may extend the required setback five (5) feet for every point value less than twelve (12), not to exceed a total setback extension of fifty (50) feet.

Where the point value analysis regarding a "well distributed stand of trees and other vegetation" is less than eight (8) points with regard to development proposed in shoreland areas adjacent to wetlands and tributary streams, the Administrative Authority may extend the required setback five (5) feet for every point value less than eight (8), not to exceed a total setback extension of forty (40) feet.

For the purpose of this determination, the applicant shall apply the point value analysis found in Section 5C(18) to three representative parcels twenty-five (25) feet by twenty-five (25) feet in area (625 square feet) which are located within the land area immediately between the high-water mark of the water body and all proposed structures and designed impervious areas. The applicant shall than average the results to reflect the point value for a single, six hundred twenty-five (625) square foot representative parcel.

No combination of extended setback requirements authorized by this subsection shall exceed a total setback requirement, which is greater than fifty (50) feet over the setback otherwise required.

b) Maximum Height of Structures

Principal or accessory structures, other than PWSF, other than Wind Energy Facilities, and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Village District and Stream Protection districts shall not exceed thirty-five (35) feet in height. The maximum height of Wind Energy Facilities shall be determined by SECTION 3 of this Ordinance. The maximum height of PWSF shall be determined by Section 6(E)(35)(c) of this Ordinance. The height limitation shall not apply to a cupola, dome, widow's walk or other similar feature.

c) Structures Located in Floodzones

The first floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.

d) Maximum Non-Vegetated Surface Allowed

The total area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion there of, located within the shoreland zone, including land area previously developed.

e) Stairways to Water

Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided; that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department

of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S. § 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

f) Housing Restrictions – Village District

In the Village District, proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed buildings. The Administrative Authority may require new construction to utilize exterior building materials which harmonize with surrounding properties and to be designed so as not to be architecturally incompatible in terms of scale, height, window size and roof pitch. New or replacement principal structures in this District shall not include single-component manufactured housing and shall have a minimum enclosed first floor living area of six hundred (600) square feet and a minimum total area of one thousand two hundred (1,200) square feet of which four hundred (400) feet may be below the first floor. New or replacement principal structures shall rest on a full masonry foundation which extends to the shallower of frost line or bedrock and have a minimum roof pitch of 6:12 excluding dormers.

3. PIERS, DOCKS, WHARFS, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BEYOND THE NORMAL HIGH-WATER LINE OF A WATER BODY OR WITHIN A WETLAND AND SHORELAND STABILIZATION

a)

No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 5(C)(1), a second structure may be allowed and may remain as long as the lot is not further divided.

b)

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

c)

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

d)

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

e)

The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area. Piers, docks, wharves and other structures shall not extend more than thirty (30) feet from shore or 30% of the width of the water body whichever is less or contain more than two hundred (200) square feet of surface area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six (6) feet. A pier, dock, wharf or other structure longer than thirty (30) feet and larger

than two hundred (200) square feet may be permitted by the Planning Board upon a finding, after a public hearing, that the additional size is necessary for safety and/or operational necessity provided that the pier, dock, wharf or other structure extends no further than that point at which the depth of water reaches six (6) feet as measured from the normal spring high-water mark or 30% of the width of the water body, whichever is less.

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

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

h)
Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

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

NOTE: A structure constructed on a float or floats is prohibited unless it is designed to function as, and is registered with the Maine Department of Inland Fisheries and Wildlife as a watercraft.

j)
New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

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

l)
Vegetation may be removed in excess of the standards in Section 5(C)(18) of this Ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.

i.
When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than twelve (12) feet in width. When the stabilization project is complete the construction equipment accessway must be restored.

ii.
Revegetation must occur in accordance with Section 5(C)(21).

NOTE: Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S. § 480-C.

4. CAMPGROUNDS

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures, SECTION 6 Site Plan Review and the following:

a)
The minimum lot size for campground sites shall conform to the campground lot size standards found in Section 6(E)(1). 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.

b)
The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be setback a minimum of one hundred (100) feet from the normal high-water line of a great pond or river, and seventy-five (75) feet from other water bodies, tributary streams or the upland edge of a wetland.

5. INDIVIDUAL PRIVATE CAMPSITES

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

a)
One campsite per legally created existing lot or two (2) acres in size, whichever is less, may be permitted.

b)
When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.

c)
Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be setback one hundred (100) feet from the normal high-water line of a great pond or river, and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

d)
Only one recreational vehicle shall be allowed on a campsite. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.

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

f)
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.

g)
When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules.

5-A. SMALL-SCALED GROUND-MOUNTED SOLAR ENERGY SYSTEMS

a) Lots
SES shall not exceed 10% coverage of a lot area. Lot coverage shall be calculated based on the total SES airspace projected over the ground. All SES should be designed and located to ensure solar and physical access without reliance on and/or interference to/from adjacent properties.

b) Setback
Structures within a SES shall be setback a minimum of fifty (50) feet from the side and rear property lines and shall meet a front setback of one hundred (100) feet from the centerline of the road. Any solar photovoltaic cells or arrays shall be subject to a maximum height of sixteen (16) feet above the ground surface.

c)
Associated SES structures shall be subject to the maximum height regulations specified for principal and accessory buildings within the applicable zoning district.

d) Prohibited Locations
Components of a ground mounted SES shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.

e) Signage
Solar energy systems shall not be used for displaying any advertising.

f) Screening

Lots on which Ground Mounted Solar Energy Systems are located shall utilize buffers/ screening from roads and residences by plantings, berms, and natural topographical features. Ground mounted SES shall be screened from view of any adjacent property that is residentially zoned or used for residential purposes, as well as any public way. The screen shall consist of a vegetative barrier which provide a visual screen. In lieu of a vegetative screen, a fence that provides visual screening, and meets requirements of the controlling ordinance, may be allowed only if a vegetative screen is deemed impractical by the Planning Board.

g) Glare

All SES will be designed to minimize adverse impact from glare on neighboring properties. Specifically, no SES shall be designed to produce glare beyond its lot lines onto neighboring properties, or onto any town way so as to impair the vision of the driver of any vehicle upon that town way or create a nuisance disturbance for neighboring property owners. Direct or indirect illumination emanating on one lot shall not exceed 0.1 foot candles at the property line. All such arrangements shall also comply with applicable federal and State regulations.

h) Lighting

Lighting shall be limited to that required for safety and operational purposes and shall be shielded from interference with abutting properties. Lighting of the SES shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution and shall otherwise comply with the provisions of Section 6(E)(21) and 6(E)(22) of this Ordinance. Lighting shall not be used / visible between 9 pm and 7 am.

i) Preservation of Town's Character

All reasonable efforts, as determined by the Planning Board, shall be made to ensure any SES is consistent with the character of the community via visual consistency with local neighborhood area, maintenance of scenic views, maintenance of open space land and farms, and the Town Comprehensive Plan, and associated Town planning documents.

5-B. ROOF MOUNTED SOLAR ENERGY SYSTEMS

a)

The owner shall provide evidence certified by an appropriately licensed professional that the roof is capable of supporting the collateral load of the SES.

b)

SES mounted on roofs of any building shall be subject to the maximum height regulations specified for principal and accessory buildings within the applicable zoning district.

c) Glare

All SES will be designed to minimize adverse impact from glare on neighboring properties. Specifically, no SES shall be designed to produce glare beyond its lot lines onto neighboring properties, or onto any town way so as to impair the vision of the driver of any vehicle upon that town way or create a nuisance disturbance for neighboring property

owners. Direct or indirect illumination emanating on one lot shall not exceed 0.1 foot candles at the property line. All such arrangements shall also comply with applicable federal and State regulations.

d)

For firefighter access, a minimum three (3) foot buffer zone is required from the ridge and one foot from the edge of the roof or parapet.

e) Preservation of Town's Character

All reasonable efforts, as determined by the Planning Board, shall be made to ensure any SES is consistent with the character of the community via consistency with local neighborhood area, maintenance of scenic views, maintenance of open space land and farms, and the Town Comprehensive Plan, and associated Town planning documents.

6. COMMERCIAL AND INDUSTRIAL USES

The following new commercial and industrial uses are prohibited within the Shoreland Zone and the Village District:

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 (except for maintaining existing uses), wood preserving, and furniture stripping

f) Dry cleaning establishments

g) Electronic circuit assembly

h) Laundromats

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

m) Adult establishments

n) Solar Energy Systems, large and medium scale

7. ALLOWED USES – VILLAGE DISTRICT

In the Village District, the following uses shall be permitted provided all other applicable land use standards are complied with:

a) **Single-family and two family dwelling units, except that outside the Shoreland Zone, up to three dwelling units in a single structure are an allowed use if the requirements of Section 5(B)(8)(b)(ii) are met**

b) **Governmental/municipal**

c) **Office, business, professional, medical**

d) **Church**

e) **Non-motorized water recreational/rental**

f) **Park/playground**

g) **Day nursery/day care**

h) **Bed and breakfast**

i) **Art gallery**

j) **Retail business or outlet not employing more than five people on the premises at any one time**

k) **Bank**

l) **Barbershop/hairdresser**

m) **Tailor/seamstress**

n) **Community center/club**

o) **Theater**

p) **Museum**

q) **Antique shop**

r) **Home occupation**

s) **Craft shop**

t) **Renting of rooms in a private dwelling**

u) **Farmers market**

v) **Public utility installations, including pumping stations and waste treatment facilities**

w) **School/studio**

x) **Class A restaurant eligible to obtain a Class I license for the sale of liquor**

y) **Service contractor**

z) **Residential Wind Energy Facility**

aa) **Roof mounted, small scale Solar Energy Systems**

Any use not specifically permitted in subsection 7(a)– (aa) above is prohibited in the Village District unless the Planning Board, upon written application, finds that the proposed use is 1) similar to the allowed uses listed in subsection 7(a) - (aa) above, and 2) the proposed use will have no greater adverse impact upon the subject and adjacent properties and resources than the allowed listed in subsection 7(a) - (aa). The determination of no greater adverse impact shall be made upon written findings according to the criteria listed in Section 2(C)(5).

8. RURAL DISTRICT USES

a)

In the Rural District, the following uses shall be permitted provided all other applicable land use standards are complied with:

i. **Residential & two family dwellings**

ii. **Agriculture**

iii. **Forestry**

iv. **Outdoor recreation**

v. **Home occupations**

vi. **Public utility facility**

vii. **Government offices**

viii. **Church**

ix. **Community center/club**

x. **Fire station**

xi. **School/educational facility**

xii. **Studio/gallery**

xiii. **Mobile home park**

xiv. **Multi-family dwellings </= six units**

xv. **Bed & breakfast**

xvi. **Renting of rooms in a private dwelling**

xvii. **Wind Energy Facilities – Residential**

xviii. **Wind Energy Facilities - Large Scale Residential**

xix. **Wind Energy Facilities – Commercial**

xx. **PWSF**

xxi. **Solar Energy Systems (roof and ground mounted), small scale, medium scale, and large scale**

b)

Commercial & Industrial activities provided the following criteria are met to the satisfaction of the Administrative Authority:

i.

The foundation dimensions of any new structure related to the activity shall be no greater than 1600 ft2;

ii.

The operator of the activity must reside on-site or on an adjacent lot;

iii.

Retail operations are permitted only if the sales are less than forty (40) hours per week;

iv.
The activity must employ no more than ten (10) employees on the premises at any one time;

v.
The activity must not require more than fifteen (15) parking spaces;

vi.
The activity must be included in the following list of permitted commercial & Industrial uses:

aa) Boarding/Lodging
bb) Boat building /repair
cc) Building materials, retail sales
dd) Firewood processing
ee) Sawmill
ff) Retail business
gg) Service business
hh) Offices – business, professional & medical
ii) Transportation, communication facility
kk) Farmer's Market, Farm Stand
ll) Agricultural products & processing & storage (excluding abattoirs)
mm) Composting facility
nn) Animal breeding or care
oo) Kennel, Stable, or Veterinary Hospital
pp) Cemetery
qq) Mineral Exploration & Extraction
rr) Commercial Recreation
ss) Campgrounds
tt) Machine Shop
uu) Auto Repair, Car Wash, or Car Sales
vv) Class A Restaurant eligible to obtain a Class I license for liquor sales

vii.
Notwithstanding any other requirement of this Ordinance, in the Rural District the minimum setback from the center line of the road for the following uses shall be 100 feet:

aa) Firewood processing
bb) Kennels
cc) Auto repair, car wash, car sales

Any use not specifically permitted by subsection 8(a), of this section, or as a special exception use in subsection 8(c), is prohibited in the Rural District unless the Planning Board, upon written application, finds that the proposed use is: 1) similar to the allowed uses listed in subsection 8(a), and 2) the proposed use will have no greater adverse impact upon the subject and adjacent properties and resources than the allowed uses listed in subsection 8(a). The

determination of no greater adverse impact shall be made upon written findings of fact according to the criteria listed in subsection 8(c).

c) Special Exceptions in the Rural District

The Planning Board may approve for development within the Rural District those land uses listed as Special exceptions in Section 5(C)(8)(d). The determination of the Board shall be in harmony with the expressed intent of this Land Use Ordinance**:** and with the Comprehensive Plan. Special Exceptions shall be allowed only when they will substantially serve public convenience and welfare and will not involve danger to health & safety. In addition, special exceptions may be granted only upon written findings by the Planning Board that the following conditions have been met in addition to any other conditions of this Ordinance or other applicable ordinance.

i.

That the proposed use will neither create nor aggravate a traffic hazard, a fire hazard or any other safety hazard.

ii.

That the existing road or roadways are adequate to safely accommodate any increase or change in traffic to be generated by the proposed use or that the developer will upgrade the roadway to the required level.

iii.

That the foundation dimension of the proposed structure shall not exceed 3200 Ft2.

iv.

That the proposed use will be compatible with existing uses in the neighborhood, and will not tend to depreciate the value of property adjoining and neighboring the property under application.

v.

That reasonable provisions have been made for adequate land space, lot width, lot area, drainage, parking, landscaping, building separation, sewage, and as applicable a plan or contract for perpetual maintenance of all common green space and clustered parking areas to assure all such areas will be maintained in a satisfactory manner.

vi.

That any municipal services, required by the proposed use including, without limitation, fire, school, or police protection are presently available.

vii.

That no fire or explosion hazards shall exist as to produce dangerous exposure to adjacent property.

viii.

That no objectionable odors shall be detectable beyond the property line.

ix.
That no noxious, toxic, or corrosive fumes or gases shall be emitted. No observable dust or smoke be exhausted into the air.

x.
No heat and glare shall be evident beyond the property line.

xi.
No inherent and recurring generated vibration shall be perceptible at the property line.

xii.
No dangerous radiation shall be detectable outside any structure.

xiii.
Fuel, raw, partially processed, finished, or other material, machinery, supplies, and equipment shall be stored within one hundred (100) feet of the center of the road, and in no case shall be visible from the road.

xiv.
The proposed use will not result in the unreasonable sedimentation or erosion or have an adverse effect on water supplies.

d) Special Exception Uses in the Rural District

The Planning Board may approve the following uses as Special Exception Uses in the Rural District upon written findings that all of the requirements for a Special Exception Use have been met.

i. Light manufacturing

ii. Fabrication

iii. Multi-family dwellings containing more than six units

iv.
Any of the permitted uses listed in Section 5(C)(8)(b)(vi) which do not meet one or more of the criteria set forth in Section 5(C)(8)(b)(i) thru (v).

e) Approval of Special Exceptions

As part of the grant or denial of any petition for a Special Exception, the Planning Board shall make written findings as to whether the proposed use fulfills the foregoing conditions. Approval of a Special Exception may be made subject to such conditions, modification, and restrictions, on the proposed land use, As the Planning Board may deem necessary to carry out the foregoing objectives and conditions. Any development of the land uses allowed by special exception shall be carried out only in conformity to such conditions, modifications, and restrictions in addition to those that may be required by other ordinances. Any change, addition, or enlargement of a Special Exception shall require approval of the Planning Board in the same manner as specified for the original Special Exception.

9. PARKING AREAS

a)

Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located, except such setbacks may be reduced to no less than seventy-five (75) feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.

b)

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

c)

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

i. 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.

ii. Internal travel aisles

Approximately twenty (20) feet wide.

10. ROADS AND DRIVEWAYS

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features in the Shoreland Zone. Where applicable, road construction shall also be accomplished in accordance with the standards in SECTION 9 Roads.

a)

Roads and driveways shall be setback at least one hundred (100) feet from the normal highwater line of a great pond or river, and seventy-five (75) feet from 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 Planning Board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. 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 for each five (5) percent increase in slope above twenty (20) percent.

Section 5(C)(10)(a) 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 requirement with Section 5(C)(10)(a) except for that portion of the road or driveways necessary for direct access to the structure.

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

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

d)
Road banks shall be no steeper than a slope of two (2) horizontal to one vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 5(C)(22).

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

f)
In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road 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.

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

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

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

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

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

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

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

11. SIGNS

The following provisions shall govern the use of signs in all zones. Where stricter than the following standards, the signage standards in SECTION 6 Site Plan Review shall apply to all development reviewed thereunder.

a)
Signs and billboards relating to goods and services sold on the premises shall be permitted, provided that such signs shall not exceed thirty-two (32) square feet in area and shall not exceed two (2) signs per premises. Billboards and signs relating to goods or services not sold or rendered on the premises shall be prohibited.

b)
Name signs shall be permitted, provided such signs shall not exceed two (2) signs per premises.

c)
Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.

d)
Signs relating to trespassing and hunting shall be permitted without restriction as to number provided that no such sign shall exceed two (2) square feet in area.

e)
Signs relating to public safety shall be permitted without restriction.

f)
No sign shall extend higher than twenty (20) feet above the ground.

g)
Signs may be illuminated only by shielded, non-flashing lights.

12. STORMWATER RUN OFF

a)
All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural pre-development 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.

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

13. SEPTIC WASTE DISPOSAL

a)
All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules and the following:

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

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

b) Holding Tanks

i. Policy Statement
Notwithstanding any other provisions of this section, it shall be the policy of the Town of Mount Vernon to permit holding tanks only when it is conclusively demonstrated that due to site conditions, lot configuration, or other constraints, the installation of a system with a disposal field is not feasible.

ii.
Holding tanks may be installed to serve structures on improved property where such structures were in existence at the time of adoption of this Ordinance (June

15,1996) and where the design flow does not exceed two thousand (2,000) gpd. Setback distances for holding tanks serving improved property shall satisfy the same conditions as those for replacement septic tanks.

iii.
Holding tanks may not be used to satisfy the requirements for a Seasonal Conversion Permit under 30-A M.R.S. § 4215(2) or for a first-time system.

iv.
A holding tank application shall be prepared by a licensed Site Evaluator and submitted on DHS form HHE-200. The Site Evaluator shall include a statement indicating that a disposal field is not feasible due to site conditions, lot configuration, or other constraints.

v.
Plumbing fixtures in a structure served by a holding tank shall be modified for maximum water conservation and all water closets shall meet or exceed ASME A 112.19.2 for 1.6 gallons per flush.

vi.
The application shall include a copy of a deed covenant recorded with the Registry of Deeds indicating that a holding tank for the collection and disposal of wastewater is serving the structure.

vii.
The application shall include a copy of the written agreement between the property owner and septic transporter indicating the septic transporter agrees to pump the wastewater from the property and disposed at a Departmental of Environmental Protection approved disposal site.

viii.
The holding tank shall be equipped with a visual and audible alarm device. The alarm shall be located and adjusted in a manner that ensures the tank will be pumped before it becomes full.

ix.
Owners of wastewater holding tanks record and maintain pumping bills for at least a two (2) year period. These records must be submitted to the Licensed Plumbing Inspector, if requested.

x.
Owners of wastewater holding tanks shall maintain the tanks in a water-tight condition. They shall prevent leaks, overflows, or spills of wastewater from the tank.

xi.
Information concerning the Holding Tank must be transferred to new property owners.

13-A. REQUIREMENTS FOR SHORELAND ZONE AREAS

In addition to all other requirements of this Land Use Ordinance**:**, the following provisions apply to the transfer of property within any shoreland area within the Town of Mount Vernon:

a) Shoreland Areas

Any person transferring property on which a subsurface waste water disposal system is located within a shoreland area, as described in 38 M.R.S. § 435, shall provide the transferee with a written statement by the transferor as to whether the system has malfunctioned during the one hundred eighty (180) days preceding the date of transfer.

b) Additional Requirements; Shoreland Areas

In addition to the requirements of Section 5(C)(13-A)(a), the following provisions apply to the transfer of property within a shoreland area as described in 38 M.R.S. § 435.

i.

A person purchasing property on which a subsurface waste water disposal system is located within a shoreland area, as described in 38 M.R.S. § 435, shall prior to purchase have the system inspected by a person certified by the department except that if it is impossible due to weather conditions to perform an inspection of the system prior to the purchase, the inspection must be performed within nine (9) months after transfer of the property. If the inspection finds that the system is malfunctioning, the system must be repaired or replaced within one year after transfer of the property. For purposes of this paragraph only, indications of a malfunctioning system are limited to the indications specified in the definition of "malfunctioning system" in the department's rules regulating subsurface waste water disposal that are in effect on the effective date of this paragraph.

ii.

A subsurface waste water disposal system that has been installed pursuant to 30-A M.R.S. § 4211 and rules adopted under 22 M.R.S. § 42 within three (3) years prior to the closing date of the transfer of property is not subject to the inspection requirements of Section 5(C)(13-A)(b)(i).

iii.

If the seller of the shoreland property has a written inspection report for an inspection of the subsurface waste water disposal system that was performed within three (3) years prior to the date of the transfer of property by a person certified by the department, then the seller shall provide the inspection results to the purchaser, and the purchaser is not required to have the system inspected pursuant to Section 5(C)(13-A)(b)(i).

iv.

The inspection described in Section 5(C)(13-A)(b)(i) is not required if the purchaser certifies to the local plumbing inspector that the purchaser will replace the subsurface waste water disposal system within one year of the transfer of property.

14. ESSENTIAL SERVICES

a)
Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

b)
The installation of essential services is not permitted 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 permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

15. 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, so as to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

a)
A reclamation plan shall be filed with, and approved by, the Planning Board before a permit is granted. Such plan shall describe, in detail, procedures to be undertaken to fulfill the requirements of Section 5(C)(15)(c) below.

b)
No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet of the normal high-water line of a great pond or river, and within seventy-five (75) feet 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 seventy-five (75) feet of any property line without written permission of the owner of such adjacent property.

c)
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:

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

NOTE: The State of Maine Solid Waste Laws, 38 M.R.S. § 1301 of the solid waste management rules, chapter 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

ii.
The final graded slope shall be two to one-half (2 ½ : 1) slope or flatter.

iii.
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.

d)
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.

16. AGRICULTURE

a)
All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the former Maine Department of Agriculture on November 1, 2001 and the Nutrient Management Law (7 M.R.S. §§ 4201-4209).

b)
Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond or river, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

c)
Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. 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 local Soil and water Conservation District office.

d)
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; nor within twenty-five feet, horizontal distance, of

tributary streams, and wetlands. Legally created operations in existence and not in conformance with this provision may be maintained.

e)
After 6/10/91 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, 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

f)
provisions may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan that has been filed with the Planning Board.

NOTE: 7 M.R.S. § 1552 requires a municipality to provide the Commissioner of Agriculture, Conservation and Forestry with a copy of any proposed of any proposed ordinance that impacts farm operations. The law further requires the commissioner to review the proposed ordinance and advise the municipality if the proposed ordinance would restrict or prohibit the use of best management practices. A copy of a shoreland zoning ordinance that regulates no more restrictively than contained in these guidelines need not be provided to the Commissioner of Agriculture, Food and Rural Resources.

17. TIMBER HARVESTING – SHORELAND ZONE

a)
Within the strip of land extending seventy-five (75) feet inland from the normal high-water line in a shoreland area zoned for resource protection abutting a great pond there shall be no timber harvesting, except to remove safety hazards. In order to obtain a permit from the Administrative Authority for timber cutting in a resource protection area abutting a wetland, the applicant for such a permit must provide the Administrative Authority with a clearly mapped delineation of the upland edge of the wetland, as well as a clearly mapped delineation of the seventy-five (75) foot buffer zone when associated with wetlands adjacent to great ponds.

b)
Except in areas as described in Section 5(C)(17)(a) above, timber harvesting shall conform with the following provisions:

i.
Selective cutting of no more than forty (40) percent of the total volume of trees per acre four (4) inches or more in diameter measured at four and one half (4 ½) feet above ground level on any lot in any ten (10) year period is permitted. In addition:

ii.
Within one hundred (100) feet, horizontal distance of the normal high-water line of a great pond or river, 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.

iii.

At distances greater than one hundred (100) feet, horizontal distance, of a great pond or river, and greater than seventy-five (75) feet, horizontal distance, of the normal highwater 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 (5,000) 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.

iv.

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.

v.

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

aa) Surface waters are frozen; and

bb) The activity will not result in any ground disturbance.

vi.

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.

vii.

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.

viii.

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.

ix.

For further requirements in other zones see SECTION 6.

18. CLEARING OF VEGETATION FOR ACTIVITIES OTHER THAN TIMBER HARVESTING IN THE SHORELAND ZONE

a)

In 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 hazard trees as defined in SECTION 3.

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.

b)

Except in areas as described in Section 5(C)(18)(a) above, within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within a strip extending seventy-five (75) feet, horizontal distance, from any tributary stream or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

i.

There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy (or other woody vegetation if the forest canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks or shrub stems is permitted for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.

ii.

Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of this section a “well distributed stand of trees and other vegetation” adjacent to a great pond or a river or stream flowing to a great pond, shall be defined as maintaining a rating score of 24 or more in each twenty-five (25) foot by fifty (50) foot rectangular (1,250 square feet) area as determined by the following rating system:

Diameter of Tree at 4 ½ Feet Above Ground Level	
Inches	**Points**
2-4	1
4-8	2
8-12	4
12 or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of sixteen (16) per twenty-five (25) foot by fifty (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 2 trees between 4 and 8 inches in diameter, three (3) trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is: (4x1) + (2x2) + (3x4) + (2x8) = 36 points

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

c) The following shall govern the point system:

i.
The twenty-five (25) foot by fifty (50) foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

ii.
Each successive plot must be adjacent to, but not overlap a previous plot;

iii.
Any plot not containing the required points may have no vegetation removed except as allowed by this Ordinance;

iv.
Any plot containing the required points may have vegetation over three (3) feet in height removed only 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 twenty-five (25) foot by fifty (50) foot rectangular area may consist of trees greater than twelve (12) inches in diameter.

For the purposes of this section "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 the

ground for every twenty-five (25) foot by fifty (50) foot rectangular area. If five saplings do not exist, no woody stems less than two (2) inches in diameter at four and one half (4 ½) feet above the ground can be removed until five (5) saplings have naturally established themselves 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 four and one half (4 ½) feet above ground level may be removed in any ten (10) year period.

vi.
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 above.

vii.
Pruning of tree branches, on the bottom one-third (1/3) of the tree is allowed.

viii.
In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section 5(C)(19), below, unless existing new tree growth is present.

ix.
In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 5(C)(18)(b).

The provisions contained in Section 5(C)(18)(b) do 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.

d)
Within the Shoreland Zone at distances greater than one hundred (100) feet, horizontal distance, from a great pond or river, and seventy-five (75) feet, horizontal distance, from 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 per acre four (4) inches or more in diameter, measured at four and one half (4 ½) feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the

aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply the general development districts.

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

Within the Shoreland Zone fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

19. HAZARD TREES, STORM-DAMAGED TREES, AND DEAD TREE REMOVAL

a)

Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

i.

Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.

ii.

Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

iii.

The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.

iv.

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

v.

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

b)

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

i.

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

aa)

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

bb)

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

cc)

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

dd)

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

c)

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

20. EXEMPTIONS TO CLEARING AND VEGETATION REMOVAL REQUIREMENTS

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 5(C)(18), provided that all other applicable requirements of this Ordinance are complied with, and the removal of vegetation is limited to that which is necessary:

a)
The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this Ordinance, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 5(C)(18) apply;

b)
The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of Section 5(C)(2) are not applicable;

c)
The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

d)
The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of Section 5(C)(16) are complied with;

e)
The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to cleanup contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S. § 343-E, and that is located along:

i.
A coastal wetland; or

ii.
A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S. § 465-A.

f)
The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

i.
If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;

ii.
Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and

iii.
If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be vegetated with native species to achieve compliance.

NOTE: An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program: http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm

g)
The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

21. REVEGETATION REQUIREMENTS

When revegetation is required in response to violations of the vegetation standards set forth in Section 5(C)(18) to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revelation must comply with the following requirements.

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

b)
Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:

c)
If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

d)
Revegetation activities must meet the following requirements for trees and saplings:

i.
All trees and saplings removed must be replaced with native noninvasive species;

ii.
Replacement vegetation must at a minimum consist of saplings;

iii.
If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;

iv.
No one species shall make up 50% or more of the number of trees and saplings planted;

v.
If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and

vi.
A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.

e)
Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:

i.
All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;

ii.
Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

iii.
If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;

iv.
No one species shall make up 50% or more of the number of planted woody vegetation plants; and

v.
Survival of planted woody vegetation and vegetation under three (3) feet in height must be sufficient to remain in compliance with the standards contained within this Ordinance for minimum of five (5) years

f)

Revegetation activities must meet the following requirements for ground vegetation and ground cover:

i.

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

ii.

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

iii.

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

22. EROSION AND SEDIMENT CONTROL – SHORELAND ZONE

a)

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

i.

Mulching and revegetation of disturbed soil.

ii.

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

iii.

Permanent stabilization structures such as retaining walls or rip-rap.

b)

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.

c)

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.

d)

Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked, by use of rip-rap, 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;

i.

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.

ii.

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

iii.

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.

e)

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.

23. SOILS

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

24. 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.

25. 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 received from the Commission prior to rendering a decision on the application.

26. FENCES AND HEDGES – SHORELAND ZONE

Fences and hedges shall not exceed four (4) feet in height within one hundred (100) feet of the normal high-water mark of a great pond or river flowing to a great pond.

27. GLARE

All exterior lighting and all reflective properties of the proposed land use shall be designed to minimize adverse impact on neighboring properties. Specifically, lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings or public places. Direct or indirect illumination emanating from any land use activity on one lot shall not exceed 0.1 foot candles at the property line. Notwithstanding any other provision of this Ordinance the standards for glare within the Village District, Rural District and Shoreland Zone shall apply to all uses, buildings, structures and land, including, without limitation, uses, buildings, or structures that existed at the time of adoption of this Ordinance. Nothing in this subsection shall be construed to limit the application of other parts of this Ordinance to existing uses, buildings or structures.

28. NOISE

Noise shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or intensity. The maximum permissible sound level of any constant but continuous, constant but intermittent, periodically fluctuating, fluctuating non-periodic, repeated impulse, or single impulse sound produced by any land use activity shall be as established by the time period listed below. Sound levels at property/lot lines shall be measured by a type-accepted sound level meter, preferably with integrated reading capability in dBA and Leq. In contention dealing with claimed excess impulse or impact noise, measurements shall be made by a type- accepted impact sound meter to determine if the impulse/impact noises are perceptibly higher than the limits set below. Sound pressure levels shall be measured on a sound level meter at all major lot lines of the land use activity, at a height of at least four (4) feet above the ground surface.

	Sound Pressure Level Limit	
	7 AM – 8 PM	8 PM – 7 AM
ALL activities	50 dBA	45dBA

The following uses and activities shall be exempt from the sound pressure level regulations:

a)
Noises created by construction and temporary maintenance activities between 8 AM and 8 PM.

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

c)
Traffic noise on public roads.

Notwithstanding any other provision of this Ordinance, the standards for noise within the Village District, Rural District, and Shoreland Zones shall apply to all uses, including without limitation uses that existed at the time of adoption of this Ordinance. Nothing in this subsection shall be construed to limit the application of other parts of this Ordinance to existing uses, buildings, and structures.

29. MOBILE HOME INSTALLATION

After July 1, 1999, all manufactured housing relocated to, or relocated within the Town of Mount Vernon shall meet the following safety criteria.

a) Installation Criteria
Installation of all manufactured housing shall conform to the standards set forth in the State of Maine Manufactured Home Installation Standards, March 1993 Edition adopted by the Manufactured Housing Board.

b) Safety Criteria
Manufactured Homes over fifteen (15) years old shall also meet the following criteria before occupancy.

i.
A person holding a master license issued by the State of Maine Oil and Solid Fuel Examining Board shall inspect and certify that the heating and fuel system is safe and meets the requirements of N.F.P.A.-31 Installation of Oil Burning Equipment as adopted by the Board.

ii.
A person holding a Master License issued by the State of Maine Electricians Examining Board shall inspect and certify that the electrical system is safe or meets the National Electrical Code in effect at the time the home was constructed.

30. WIND ENERGY FACILITIES

No Wind Energy Facility shall be constructed or located with the town of Mt. Vernon without a permit issued in accordance with this Ordinance. Any physical modification to an existing Wind Energy Facility that materially alters the location or increases the area of the development on the site or that increases the Turbine Height or the level of sound emissions

of any wind turbine shall require a permit modification under this Ordinance. Like-kind replacements and routine maintenance and repairs shall not require a permit modification.

a)

The Code Enforcement Officer is authorized to review all applications for Residential Wind Energy Facilities and MET Towers pursuant to Section 11(C) of this Ordnance and may approve, deny or approve such applications with conditions in accordance with the standards of this Ordinance.

b)

The Mount Vernon Planning Board is authorized to review all applications for Large Scale Residential and Commercial Wind Energy Facilities and may approve, deny or approve such applications with conditions in accordance with SECTION 6 Site Plan Review of this Ordinance.

c) Submission Requirements for Residential Wind Energy Facilities

i. Application Forms

The municipality shall provide the application form which shall be signed by: 1) a Person with right, title and interest in the subject property or; 2) a Person having written authorization from a Person with right, title and interest in the subject property. The signature shall be dated and the signatory shall certify that the information in the application is complete and correct and that the proposed facility will be constructed and operated in accordance with the standards of this Ordinance and all approval and permit conditions, if any.

ii. Application Fees

Application fees shall be assessed and paid upon submission of the application in accordance with Section 11(D) of this Ordinance.

iii. Supporting Documents

The application shall include all additional documents necessary to satisfy the applicable submission requirements under SECTION 11 of this Ordinance.

iv.

The Applicant shall promptly notify the municipal entity responsible for review and approval of a pending application under SECTION 11 any changes the Applicant proposes to make to information contained in the application.

v.

An application for a Residential Wind Energy Facility shall include a written statement, signed by the Applicant, that certifies that the proposed facility is designed to meet the applicable noise control standards under Section 5(C)(28) of the Mount Vernon Land Use Ordinance**:** and acknowledges the Applicant's obligation to take remedial action in accordance with Section 11(K) of the Mount Vernon Land Use Ordinance**:** if the Codes Enforcement Officer determines those standards are not being met.

d) Residential Wind Energy Facility Safety Setbacks

A Residential Wind Energy Turbine shall be setback not less than a horizontal distance equivalent to 150% of the Turbine Height from property boundaries, public and private rights-of-way and overhead utility lines that are not part of the proposed Generating Facility except that the entity responsible for review and approval of the application may allow a reduced setback if the Applicant submits, in writing: 1) a waiver of the property boundary setback signed by the pertinent abutting landowner or; 2) evidence, such as operating protocols, safety programs, or recommendations from the manufacturer or a licensed professional engineer with appropriate expertise and experience with Wind Turbines, that demonstrates that the reduced setback proposed by the Applicant is appropriate. In no case shall any Wind Turbine be built on a lot less than two (2) acres.

e) Natural Resource Protection

A Wind Energy Facility shall not have an unreasonable adverse effect on rare, threatened, or endangered wildlife, significant wildlife habitat, rare, threatened or endangered plants and rare and exemplary plant communities. In making its determination under this subsection, the municipal entity responsible for review and approval of the permit application under Section 5(27) of the Mount Vernon Land Use Ordinance**:** shall consider pertinent application materials and the written comments and/or recommendations, if any, of the Maine Department of Inland Fisheries and Wildlife (MDIFW) Environmental Coordinator and the Maine Natural Areas Program (MNAP).

f) Building Permit

All components of the Wind Energy Facility shall conform to relevant and applicable local and state building codes.

g) Overspeed Controls and Brakes

Each Wind Turbine shall be equipped with an overspeed control system that: 1) includes both an aerodynamic control such as stall regulation, variable blade pitch, or other similar system, and a mechanical brake that operates in fail safe mode; or 2) has been designed by the manufacturer or a licensed civil engineer and found by the municipal entity responsible for review and approval of the application, based on its review of a written description of the design and function of the system, to meet the needs of public safety.

h) Electrical Components and Interconnections

All electrical components of the Wind Energy Facility shall conform to relevant and applicable local, state, and national codes.

i) Access

All ground-mounted electrical and control equipment and all access doors to a Wind Turbine shall be labeled and secured to prevent unauthorized access. A Wind Tower shall not be climbable up to a minimum of fifteen (15) feet above ground surface.

j) Blade Clearance

The minimum distance between the ground and all blades of a Wind Turbine shall be twenty-five (25) feet as measured at the lowest arc of the blades.

k) Signal Interference

The Applicant shall make reasonable efforts to avoid and mitigate to the extent practicable any disruption or loss of radio, telephone, television, or similar signals caused by the Wind Energy Facility.

l) Structure Type

With the exception of Meteorological (MET) Towers, Towers shall be monopoles with no guy wires. This requirement may be waived if the Applicant demonstrates to the satisfaction of the municipal entity responsible for review and approval of the permit application that there is no practicable alternative. Bird flight diverters must be installed on any guy wires that are permitted.

m) Erosion Control

Erosion of soil and sedimentation shall be minimized by employing "best management practices" in the "Maine Erosion Control Handbook for Construction: Best Management Practices", March 2003.

n) Building-Mounted Wind Turbines

Building-mounted Wind Turbines are not permitted.

o) Visual Appearance

i.

A Wind Turbine shall be a non-obtrusive color such as white, off white or gray, or as may otherwise be required by another governmental agency with jurisdiction over the Wind Energy Facility.

ii.

A Wind Turbine shall not be lighted artificially, except to the extent consistent with Federal Aviation Administration recommendations or other applicable authority that regulates air safety or as is otherwise required by another governmental agency with jurisdiction over the Wind Energy Facility.

iii.

A Wind Turbine shall not be used to support signs and shall not display advertising except for reasonable and incidental identification of the turbine manufacturer, facility owner and operator, and for warnings.

p) Visibility of Wind Turbine

The following requirements apply, to the extent practicable, to all Wind Energy Facilities within the Town of Mount Vernon:

i.

To the extent that doing so does not inhibit adequate access to the wind resource, each Wind Turbine shall be located to maximize the effectiveness of existing vegetation, structures and topographic features in screening views of the Wind Turbine from Occupied Buildings.

ii.

When existing features do not screen views of a Wind Turbine from Residences, screening may be required, where feasible and effective, through the planting of trees and/or shrubs. In order to maximize the screening effect and minimize wind turbulence near the Wind Turbine, plantings should be situated as near as possible to the point from which the Wind Turbine is being viewed. Such plantings should be of native varieties.

q) Noise Standards for Residential Wind Energy Facilities

Noise emanating from a Residential Wind Energy Facility shall be controlled in accordance with Section 5(C)(28) of the Mount Vernon Land Use Ordinance**:**. The sound level limits do not apply to the facility site or any parcel owned by a participating landowner that are contiguous with the facility site.

r) Discontinued Use

A Residential Wind Energy Facility that is not generating electricity for twelve (12) consecutive months shall be deemed a discontinued use and shall be removed from the property by the Applicant within one hundred twenty (120) days of receipt of notice from the Codes Enforcement Officer, unless the Applicant provides information that the Code Enforcement Officer deems sufficient to demonstrate that the project has not been discontinued and should not be removed. If the Wind Energy Facility is not removed within this time period, the municipality may remove the turbine at the Applicant's expense. The Applicant shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of road and reestablishment of vegetation.

31. DRIVEWAYS ON TOWN ROADS SHALL CONFORM TO THE FOLLOWING SAFETY STANDARDS

a)

The minimum allowable sight distances for all accesses onto all town roads are set forth in Table 5-1.

Posted Speed Miles per Hour (MPH)	Sight Distance (feet)
20	155
25	200
30	250
35	305
40	360
45	425
50	495
55	570
60	645

Table 5-1 Driveways - Posted Speed and Sight Distance

b) Driveway Width and Slope

Driveway widths within the road right of way of a town road must be a minimum of twelve (12) feet wide. Driveways shall have a slope that does not exceed 3% within thirty (30) feet of the entrance onto a town road.

c) Corner Clearance

Unless a waiver is granted by the Planning Board the minimum corner clearance for driveways is seventy-five (75) feet from any other entrance onto a road and one hundred twenty-five (125) feet from road intersections.

d) Turnaround Area / Parking

Driveways will be designed such that all maneuvering and parking of any vehicles will take place outside of the road right of way and such that vehicles may exit the premises without backing onto the road way or shoulder. All driveways will have a turnaround area at least eight (8) feet wide by fifteen (15) feet long. The Planning Board may require a larger turnaround area in commercial development to accommodate larger vehicles that are expected to use the driveway on a regular basis. Where the roadway speed limit is posted at or below 35 mph, a waiver may be granted, for residential driveways by the code officer where no alternative exists.

e) Drainage Standards

i. Culvert Size

The Road commissioner will determine the diameter of culverts placed within the road right of way. The diameter of the culvert required shall be placed on the driveway permit application. All culverts shall have stone or similar rip rap placed at both ends of the culvert where the slope exceeds a 2 to 1 slope.

ii. Construction and Maintenance Standards

Driveways, on-site ditches, swales, pipes and other structures that direct runoff toward town maintained ditches or drainage systems must be constructed, crowned, stabilized and maintained with stable materials and appropriate erosion control measures such as permanent vegetation or stone in such a manner that no material from private property shall enter town maintained ditches both during construction phase and after completion.

32. BLASTING: PERMIT REQUIRED

No person shall possess, store, arrange, or conduct blasting operations within the town of Mount Vernon without holding a valid Blasting Permit issued by the Mount Vernon CEO.

a) Permit Application Procedure

Application for a Blasting shall be made to the CEO at least five (5) days prior to the blasting date.

i.

Blasting in connection with mineral extraction, including quarry operations, shall require prior approval by the Planning Board as required by the Site Plan Review

and shall be subject to all submission and performance standards for blasting in connection with quarry operations. After the Planning Board has approved mineral extraction, a blasting permit may be issued by the CEO.

ii.

Blasting in connection with construction projects required to be reviewed and approved by the Planning Board must receive prior approval by the Planning Board. After the Planning Board has approved the construction project, a blasting permit may be issued by the CEO.

iii. Non-Planning Board Approval

Any construction project that does not require Planning Board review shall be required to obtain a blasting permit from the CEO prior to any blasting.

iv.

The following activities shall not require a blasting permit from the CEO, but shall require notice of blasting to be given to the CEO, in writing, at least one business day prior to the proposed start of blasting:

aa)

Public roadway projects conducted by the State, the Town of Mount Vernon or a contractor under contract with the State of Maine or the Town of Mount Vernon.

bb)

Utility projects undertaken by any entity whose business it is to provide water, sewer, electricity, telephone, gas, cable television or other underground services.

v.

Prior to applying for a Blasting Permit, the applicant must have a valid State of Maine Explosives User Permit issued by the State Fire Marshal's Office.

vi.

At the time of application, the applicant must provide:

aa)
A valid certificate of liability insurance with a policy limit of not less than two million dollars ($2,000,000) that includes a statement clearly indicating that blasting and use of explosives is covered under the policy.
bb)
A scaled map denoting the general blasting location(s) and identifying all structures located within the notification range the blast area.
cc)
A list of all properties within the notification range including the address, owner's name, and a phone number.
dd)
The fee established by the Select Board.

b) Notification

All property owners within five hundred (500) feet must be notified either by phone, in person, or in writing, of the dates, approximate times, and estimated number of blasts that will occur. Notification of blasting in connection with mineral extraction requires notification by phone, in person, or in writing, of the dates, approximate times, and estimated number of blasts that will occur and pre-blast surveys of all property owners within one half mile of the blast area.

i.
Required notification of property owners must be made no more than four (4) days prior to the blasting date.

ii.
A letter certifying that pre-blast surveys were offered to be conducted at each structure on a property located within the notification range, and that oral and/or written notification has been made to all abutters must be sent to the CEO prior to the issuance of the permit.

iii.
The applicant shall notify the Kennebec County Sheriff Department or the Maine State Police via telephone before the first blast and after the last blast each day.

iv.
The applicant shall also sound the required warning horn prior to each blast as outlined in NFPA 495 Explosive Materials Code.

c) Hours of Detonation

Blasting must occur during daylight hours and no earlier than 8:00 AM or later than 6:00 PM. No blasting is allowed on Saturdays, Sundays and State observed holidays.

d) Other Requirements

A calibrated seismograph must be on-site during all blasts. All data obtained from those measurements must be made available upon request by the CEO. Seismographic data must

be maintained for no less than six (6) years. All blasting must comply with all applicable federal, state and local codes and standards.

33. SOLAR ENERGY SYSTEMS ("SES")

Solar Energy Systems are subject to location and permitting requirements as set forth in this Land Use Ordinance**:** All Solar Energy Systems shall be installed, constructed, modified, expanded, or operated in Mount Vernon in accordance with applicable local, state, utility and national codes, regulations, and standards.

a)
All SES shall be installed in compliance with the photovoltaic systems standards of the latest edition of the National Fire Protection Association (NFPA1).

b)
All wiring shall be installed in compliance with the photovoltaic systems standards of the latest edition of the National Electrical Code (NFPA 70).

c)
Unless otherwise permitted by law, electrical connections must be installed by a licensed master electrician or limited electrician authorized to perform such work. Electrical connections made by the person who occupies or will occupy a newly constructed single family dwelling as that person's bona fide personal abode must be inspected and certified by the state electrical inspector, a licensed master electrician or licensed limited electrican in accordance with Maine law. Small scale roof mounted and ground mounted SES in excess of one hundred (100) square feet shall require a building permit from the Code Enforcement Officer prior to installation, modification, construction, or expansion, except in the shoreland zone where a permit is required regardless of size Small scale SES shall be permitted, unless the Code Enforcement, with input from the Fire Chief, determines that the SES presents one or more unreasonable safety risks, including, but not limited to weight load, wind resistance, ingress, or egress in the event of fire or other emergency, or proximity of a ground-mounted system relative to buildings.

34. MODIFICATIONS TO EXISTING SES

a)
Any physical modification to any existing SES, whether or not existing prior to the effective date of this Ordinance, shall require review and approval under this Ordinance.

b)
Any modifications to a Medium to Large Scaled Ground-Mounted Solar Energy System made after issuance of the required town permit(s) shall require approval by the Planning Board.

c)
Any modifications to a Small-Scaled Ground-Mounted Solar Energy System made after issuance of the required town permit(s) shall require approval by the Code Enforcement Officer.

d)
Application fees for modifications shall be consistent with the overall size of the SES, not solely the modification.

e)
Permit fees for modifications shall be based on the modified portion of the SES.

35. AFFORDABLE HOUSING

Multi-family housing developments that meet the definition of affordable housing must comply with minimum lot size, road frontage, shoreline frontage requirements, all provisions of this Land Use Ordinance**:**, and must comply with all shoreland zoning requirements established by the Department of Environmental Protection under 38 M.R.S. § 3. Affordable housing developments are not exempt from the requirements for site plan review (SECTION 6) and subdivision (SECTION 7) under this Ordinance and applicable state law. Affordable housing developments located in the Limited Commercial Zone, or which are served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system are eligible for certain density bonuses as required by P.L. 2021, c. 672 (LD 2003) as follows:

a)
Notwithstanding any other provision of this Ordinance, for affordable housing developments, no more than two (2) off-street parking spaces are required for every three (3) units, provided that if the number of parking spaces may be rounded up or down to the nearest whole number; and

b)
In the Rural District, notwithstanding any other provision of this Ordinance, for affordable housing developments, multi-family housing may contain up to fifteen (15) units.

c)
The owner of an affordable housing development provides written verification to the municipality that each unit of the housing development is connected to adequate water and wastewater services before the municipality may certify the development for compliance pursuant to Section 11(G) of this Ordinance. Written certification must include:

i. .
If a housing unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system;

ii.
If a housing unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under 30-A M.R.S. § 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with the Subsurface Wastewater Disposal Rules adopted under Title 22, section 42 and 10-144 C.M.R. Ch. 241, Subsurface Wastewater Disposal Rules;

iii.

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

iv.

If a housing unit is connected to a well, proof of access to potable water, including the standards outlined in 02-672 C.M.R. Ch 10, section 10.25(J), Land Use District and Standards. Any test of an existing well or proposed well must indicate that the water supply is potable and accessible for domestic use. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

d)

This section regarding affordable housing may not be construed to interfere or abrogate or annul the validity of any restrictive covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

SECTION 6 SITE PLAN REVIEW

A. PURPOSE

The purpose of this section is to accomplish the following objectives with the least possible regulation:

1) To establish a Site Review procedure whereby town officials may review new proposals to use land and buildings for commercial, industrial, office, multiple dwelling residential developments, community or service organizations, municipal, institutional, utility, or recreational purposes, or commercial activities occurring at residential sites involving greater impact than home occupations, as defined.
2) To establish a fair and reasonable set of standards for evaluating each development proposal impartially on its own merits;
3) To provide local protection from those particular nuisances which are not governed by State law or regulations;
4) To suggest ways in which development proposals may be modified so that potential problems and nuisances could be minimized or eliminated.
5) To balance the right of land owners to use their land with the corresponding right of abutting and neighboring land owners to live without undue disturbance from noise, smoke, fumes, dust, odor, glare, traffic, storm water run-off, or the pollution of ground or surface water resources.
6) To provide a public hearing process through which Town residents may raise questions and receive answers about how new development proposals would affect them;
7) To provide for a system whereby aggrieved parties may appeal decisions of the Planning Board under this section to the Appeals Board;
8) To protect property values;
9) To reduce the off-site (external) problems created by development, thereby decreasing the cost of maintaining or improving municipal facilities;
10) To prevent impacts caused by development which would negatively affect the Town's natural resources, aesthetic and visual characteristics, and/or ground and surface water quality;
11) To protect the water quality of lakes and ponds in or adjacent to Mt. Vernon from degradation caused by increased levels of phosphorus entering lake water systems from such sources as disturbed soils, large and/or unbuffered impervious surfaces, uncontrolled storm water runoff, inadequate drainage facilities, etc; and
12) To establish a minimally restrictive regulatory and review procedure in conformance with the Town's Comprehensive Plan.

B. APPLICABILITY

This section shall apply to all development proposals which would use land or buildings for commercial, industrial, office, multiple dwelling residential developments, community or service organizations, non-profit organizations or activities, municipal, institutional, utility or recreational

purposes, or commercial activities occurring at residential sites involving greater impact than home occupations, as defined. In addition to and more specifically than those general types of development, this section shall apply to campgrounds, facilities or land used for outdoor festivals or mass gatherings, commercial mining activities, the accessory uses and structures associated with the uses falling under the review of this section; and commercial timber harvesting operations occurring in areas of ten (10) acres or more in size with an average slope of 25% or more, as depicted on the Mount Vernon Timber Harvesting District Map ≥25%, dated May 4, 2026, as adopted by the Town on June 13, 2026 or within two hundred fifty (250) feet of watercourses, waterbodies or wetlands, as defined, Large Scale Residential Wind Energy Facilities, Commercial Wind Energy Facilities, PWSF, and medium and large-scale Solar Energy Systems (SES).

1.

This section does not apply to detached single and two family dwelling units, agricultural land management practices, as defined, or home occupations, as defined, except that this section does apply to Medical Marijuana Home Occupation and Medical Marijuana Production Facility.

2.

This section does not apply to conventional lot-by-lot residential subdivisions already regulated under the Subdivision Review standards in SECTION 7.

3.

This section does not apply to existing land uses and development except where physical expansions or changes in use are proposed (see Section 6(B)(4)(b) and (d)).

4.

This Site Plan Review section shall apply to the types of development as described in the following situations:

a)
New commercial, industrial, office, multiple dwelling residential, non-profit organizations or activities, municipal, institutional, or community or service organization structures, and new uses of land not exempted;

b)
Changes in use of existing structures to commercial, industrial, office, multiple dwelling residential, non-profit organizations or activities, municipal, institutional, or community or service organization structures, and changes in use from any permitted or exempt land use to another permitted or non-exempt land use;

c)
Resumption of conforming uses which have been discontinued for at least one year;

d)
Existing uses, which seek to expand by either one thousand (1,000) sq. ft. or 25% in area (whichever is lesser) within any ten (10) year period, with regard to floor space, parking area, seating capacity, or outdoor stage area;

e)
Site Review shall not apply to existing buildings or premises legally established prior to the adoption of this section, unless one or more of the factors described in "(a)" through "(d)" above is present.

f)
The mining activity provisions of this section shall not apply to:

i.
The removal of topsoil, sand, gravel or subsoil material necessarily incidental to the construction, alteration, grading of buildings, septic systems, public roads or driveways. For the purposes of this exemption, a "driveway" shall be no more than sixty-six (66) feet wide, nor shall a driveway be allowed to switch back in such a way as to subvert the intention of this section.

ii.
The carrying out of standard soil conservation practices.

iii.
Existing operations as long as no expansion has occurred since 6/21/88. Expansion shall be defined, for the purpose of this section, as excavation which continues beyond the property lines of the lot of record which contains the existing operation as of 6/21/88.

C. APPLICATION PROCEDURES

1. APPROVAL OF SITE PLAN OF DEVELOPMENT REQUIRED

All use activities in the Town of Mt. Vernon to which this section applies are prohibited unless and until a Site Plan of Development Application related to said land use activity is approved by the Planning Board.

2. PROCEDURE

a)
A Development Site Plan meeting the standards of this section shall be submitted to and reviewed by the Planning Board and shall be approved by the Planning Board before any building permit may be issued for any new buildings or construction. In the case of proposed resumptions of uses, which have been discontinued for at least one year, Planning Board approval shall be required before such uses may be resumed. In the case of proposed uses not involving the construction or renovation of a structure, such as applicable mining or timber harvesting activities, Planning Board approval shall be required before such uses may be initiated.

b)
An applicant may come before the Board for a pre-hearing at no fee.

c)
The Planning Board may waive any of the submission requirements listed in Section 6(D), with the exception of Section 6(D)(1)(p), when it determines they would not be applicable or necessary due to the nature of a specific development proposal.

d)
When the effects of proposed new uses or resumption of former uses are uncertain, the Planning Board, after notifying the applicant, may employ such independent, recognized consultants licensed in the State of Maine as necessary and at the expense of the applicant, to enable the Planning Board to apply this section in circumstances where the Planning Board might otherwise lack sufficient expertise. Any "second opinions" desired by the Board shall be paid for out of the Board's budget.

e)
The application shall be filed with the Planning Board for review. Within thirty (30) days of the filing of an application, the Planning Board shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall notify the applicant in writing and begin its review of the proposed development. Within thirty (30) days of receiving a complete application, the Planning Board shall approve, approve with modifications or conditions, deny approval to, or schedule a Public Hearing on the Site Plan submitted in accordance with this section. When a Public Hearing is held, the review period shall be extended an additional thirty (30) days.

f)
An approved Site Plan shall not exempt an applicant from meeting any other local, state or federal requirements.

g)
An applicant may at any time request amendments to this approved Site Plan and its conditions, if any, if they feel that new facts or circumstances would justify such amendments.

3. APPLICATION FORM AND FEE

a)
All applications shall be filed in duplicate and a base proposal review fee as defined in Table 11-1 shall be paid to the Town.

b)
All proposals involving new construction shall pay an additional proposal review fee (over base) of an amount defined in Table 11-1 per sq. ft. of designed impervious area, as defined, of the proposed new construction.

c)
All proposals involving the change of use of an existing structure shall pay an additional review fee (over base) of an amount defined in Table 11-1 per sq. ft. of the structures to be renovated.

d)
All direct costs encountered in the review process by the Planning Board, such as certified mail, newspaper advertisements, and the costs of expert review (see Section 6(C)(2)(d)), shall be paid by the applicant prior to receiving approval.

4. PUBLIC HEARINGS

a)
In scheduling a public hearing, the Planning Board shall publish notice of the hearing at least ten (10) days in advance in a newspaper of general circulation in the area.

b)
The Planning Board shall notify, by certified mail, the applicant and all abutters of the property involved, and owners of property within three hundred (300) feet of any portion of the proposed development site, at least ten (10) days in advance of the hearing, of the nature of the application and of the time and place of the public hearing. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.

c)
Public hearings by the Planning Board shall be conducted according to the procedures outline in 30-A M.R.S. §§ 2691(3(A) - 3(F)).

D. DATA REQUIREMENTS

1. THE SITE PLAN APPLICATION SHALL INCLUDE AS A MINIMUM:

(Note: Any plan shall be drawn at a scale not smaller than one inch equals fifty (50) feet.)

a)
Name and address of the applicant and any authorized agent and name of the proposed development.

b)
Existing soil conditions as described by either a licensed soil scientist, geologist, or engineer or Maine Soil Conservation Service medium intensity soil survey.

c)
An on-site soils investigation report by a Department of Human Services licensed site-evaluator shall be provided. The report shall contain the types of soil, location of test pits, and proposed location and design of the best practical subsurface disposal system for the site which conforms to the standards of the Maine State Plumbing Code.

d)
The property lines and lot numbers of all properties abutting the proposed development, and owners of property within three hundred (300) feet of any portion of the proposed development site, together with the names and addresses of the owners as disclosed on the tax maps on file in the Town Office as of the date of the Site Plan review application.

e)
Perimeter survey of the parcel made and certified by a registered land surveyor relating to reference points, showing true north point, graphic scale, corners of parcel, date of survey, total acreage, and any existing zoning boundaries.

f)
Location, ground floor area, elevations, and setbacks of buildings and other structures located on this parcel, existing and proposed; and the total area and location of parking lots, roads, paved areas or areas to be stripped or graded and not to be revegetated.

g)
The location, type, and size of all curbs, sidewalks, driveways, fences, retaining walls, on-site pedestrian and vehicular access ways, loading and unloading facilities and the layouts thereof, together with the dimensions.

h)
The design of ingress and egress of vehicles to and from the site on to public streets with appropriate State Highway Department approval if required.

i)
The location, names, and widths of all existing and proposed streets abutting and within the proposed development site.

j)
The location, type, and size of all existing and proposed catch basins, storm drainage facilities, streams and water courses, easements, drainage ways, public or private rights of way, and all utilities, both above and below ground, and any other legal restrictions which may affect the premises in question.

k)
Existing and proposed final grade elevations of the entire site, and the system of drainage proposed to be constructed. Contour intervals shall be ten (10) feet unless otherwise specified by the Planning Board.

l)
Location of aquifers and aquifer recharge areas, as delineated on the aquifer and aquifer recharge areas map for the Town of Mt. Vernon.

m)
A location map drawn at a scale of no more than five hundred (500) feet to the inch, to show the relation of the proposed development to the surrounding area; specifically all

water-bodies, watercourses and wetlands, as defined, within one thousand (1,000) ft. of the proposed development.

n)
A sedimentation and erosion control plan.

o)
A brief, accurate, and complete written summary of the scope of activities to be undertaken on the site. Included in this summary will be the timing of proposed construction, construction completion schedule, and other pertinent aspects of the proposed activity, including depth of proposed excavation, seasonally variable aspects of the activity, operative hours per day, operative days per week, expected expansions, anticipated volume, number of employees, anticipated traffic flows, timing and types of traffic, etc.

p)
Proof of notification and the notification letter sent by the applicant to all abutters of the proposed development site, and owners of property within three hundred (300) feet of any portion of the proposed development site, and town officials, including Select Board, Fire Chief, C.E.O., Planning Board Chair and Road Commissioner; said letter being postmarked or received at least seven (7) days prior to the Planning Board meeting accepting initial application.

q)
Proof that the applicant has adequate financial and technical capacity to meet all the standards put forward in Section 6(E). Such proof shall consist of a letter from an established financial institution indicating that adequate funds are available and will continue to be available in accordance with the timing schedule put forward in submission requirement 6(D)(1)(o).

r)
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.

s)
Landscape plan showing location, type and approximate size of plantings and location and dimensions of all fencing and screening.

t)
The size, location, and direction and intensity of illumination of all major outdoor lighting apparatus and signs.

u)
The type, size and location of all incineration devices.

v)
The type, size and location of all electronic amplification equipment or activities, generally, likely to generate noise at the lot lines greater than fifty (50) decibels for durations over 2 consecutive hours on any given day of operation.

w)
An appropriate place for the signatures of the Planning Board.

2. TRAFFIC DATA

A Site Plan may be required to have an accompanying traffic engineering study, should the project be considered one of substantial magnitude along any of the town's highways where fast-moving traffic occurs. Should a traffic study be requested by the Planning Board, the following data shall be included:

a)
The estimated peak-hour traffic to be generated by the proposal;

b)
Existing traffic counts and volumes on surrounding roads;

c)
Traffic accident data covering a recent three (3) year period;

d)
The capacity of surrounding roads and any improvements which may be necessary on such roads to accommodate anticipated traffic generation;

e)
The need for traffic signals and signs or other directional markers to regulate anticipated traffic;

f)
Locations on the road on which the development is proposed within one half mile of the development which do not meet accepted site distance standards according to current speed limits.

3. MINING ACTIVITY DATA

a)
Mining activity proposals will include a reclamation plan.

b)
The Planning Board may require the submission of a hydrogeologic study to determine the effects of the proposed activity on ground water.

4. ADDITIONAL DATA REQUIREMENTS AND THE WAIVING OF REQUIRED DATA

a)
The Planning Board may, at its discretion, require additional data, information, or impact studies. In such cases where a proposed development might have a substantial adverse impact on the natural resources, municipal infrastructure, or ability of the municipality to reasonably supply municipal services, an impact analysis by an acknowledged expert in the respective field will be required for review purposes. Those impact analyses associated with municipal service or infrastructure systems shall include, but not be limited to, all

municipal capital improvements necessitated by the development, a ten (10) year municipal financial (capital and operational) impact projection, a ten (10) year property assessment projection, and suggested alternatives to mitigate the potential impact. Natural resource impact analyses shall detail the necessary controls, development limitations or design features which, when incorporated into the final application, will eliminate the potential for adverse environmental impact.

b)

The Planning Board may waive, with the exception of Section 6(D)(1)(p), any of the requirements of Section 6(D) in those cases where the information provided under that requirement is not germane to the review process or the use proposed, or where the Planning Board determines that the purposes of the section would still be fulfilled and the requirement places an unnecessary burden on the applicant.

4-A. ADDITIONAL DATA REQUIREMENTS FOR LARGE SCALE RESIDENTIAL WIND ENERGY FACILITIES AND COMMERCIAL WIND ENERTY FACILITIES

In addition to all other submission requirements, an applicant for a Large Scale Residential and Commercial Wind Energy Facility shall submit the following information:

a)

Description of the proposed Wind Energy Facility that includes the number and aggregate generating capacity of all Wind Turbines, the Turbine Height and manufacturer's specifications for each Wind Turbine (including but not limited to the make, model, maximum generating capacity, sound emission levels and types of overspeed controls) and a description of Associated Facilities.

b)

Site plan showing the proposed location of each Wind Turbine and Associated Facilities and any of the following features located within one thousand (1,000) feet of any Wind Turbine: parcel boundaries, required setbacks, topographic contour lines (maximum twenty (20) foot interval), roads, rights-of-way, overhead utility lines, buildings (identified by use), land cover, wetlands, streams, water bodies and areas proposed to be regarded or cleared of vegetation.

i.

In addition to the information in b above, site plans for Large Scale Residential or Commercial Wind Energy Facilities shall show the location and average height of tree cover to be retained and the location, variety, planting height and mature height of proposed trees, if any.

c)

Written evidence that the Environmental Coordinator of the Maine Department of Inland Fisheries and Wildlife (MDIFW) and that the Maine Natural Areas Program (MNAP) have both been notified of the pending application and the location and Turbine Height of all proposed Wind Turbines.

d)
Written evidence that the provider of electrical service to the property has been notified of the intent to connect an electric generator to the electricity grid, if such connection is proposed.

e)
Description of emergency and normal shutdown procedures.

f)
Photographs of existing conditions at the site.

g)
An application for a Large Scale Residential or Commercial Wind Energy Facility shall include structural drawings of the Tower foundation and anchoring system:

i.
Prepared by the Wind Turbine or Tower manufacturer,

ii.
Prepared in accordance with the manufacturer's specifications or,

iii.
Prepared and stamped by a Maine licensed professional engineer.

h)
An application for a Large Scale Residential or Commercial Wind Energy Facility shall include:

i.
A written statement, signed by the Applicant, that certifies that the proposed facility is designed to meet the applicable noise control standards under Section 6(E)(11) of this Ordinance and acknowledges the Applicant's obligation to take remedial action in accordance with Section 11(K) of this Ordinance if the Code Enforcement Officer determines those standards are not being met, or;

ii.
A written request for review under Section 6(D)(4-A)(i).

i)
An Application for Large Scale Residential or Commercial Wind Energy Facility shall include the following site line, photographic and, if applicable, screening information;

i.
Sight Line Representations of each Wind Turbine from the nearest Occupied Building and from at least one other representative location within one thousand (1,000) feet of each Large Scale Residential Facility and within one mile of a Commercial Wind Energy Facility of the Wind Turbine, such as another Occupied Building. Each Site Line Representation shall be drawn at a scale sufficiently large to make it legible. If screening is proposed, the proposed screening device, such as

trees, shrubs or fencing, shall be depicted on the drawing along with the sight line as altered by the screening.

ii.
A current four-inch by six-inch color photograph of the proposed site of the Wind Turbine(s) taken from viewpoints corresponding to each of the Site Line Representations.

iii.
One copy of each of the photographs described in b, above, onto which is superimposed an accurately-scaled and sited representation of the Wind Turbine(s).

j)
An application for a Commercial Wind Energy Facility shall include, if issued at the time of application, certification from the Department of Environmental Protection pursuant to 35-A M.R.S. § 3456 that the Wind Energy Facility:

i.
Will meet the requirements of the noise control rules adopted by the Board of Environmental Protection pursuant to the Site Location of Development Act, 38 M.R.S. § 481, et seq.;

ii.
Will be designed and sited to avoid unreasonable adverse Shadow Flicker effects; and

iii.
Will be constructed with setbacks adequate to protect public safety. If such certification has not been issued at the time of application, the Applicant shall include written evidence that the Applicant has applied for certification.

k)
Additional Submission Requirements for Large Scale Residential and Commercial Wind Energy Facility

i.
Certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, or other similar certifying organizations.

ii.
Decommissioning plan in conformance with APPENDIX V.

iii.
Written summary of operation and maintenance procedures for the Wind Energy Facility and a maintenance plan for access roads, erosion and sedimentation controls and storm water management facilities.

iv.
Standard boundary survey of the subject property stamped by a Maine licensed surveyor. The Planning Board may waive this requirement if it determines that the Applicant has provided information sufficient to identify property boundaries to the extent necessary.

v.
Stormwater management plan stamped by a Maine-licensed professional engineer.

vi.
Sound level analysis, prepared by a qualified engineer or noise control specialist, which addresses the standards of Section 6(E)(11) and APPENDIX IV.

vii.
Shadow Flicker analysis based on WindPro or other modeling software approved by the Department of Environmental Protection.

viii.
Foundation and anchoring system drawings that are stamped by a Maine licensed professional engineer.

ix.
Other relevant studies, reports, certifications and approvals as may be reasonably requested by the Planning Board to ensure compliance with this Ordinance.

l)
Meteorological Towers (MET Towers). Applications for Meteorological (MET) Towers shall be subject to the submission and review standards for a Residential Wind Energy Facility, as applicable, except that no height limitation shall apply. A permit for a MET Tower shall be valid for two (2) years and two (2) months from the date of issuance. The Codes Enforcement Officer may grant one or more one-year extensions of this permit period. Within thirty (30) days following removal of a MET Tower, the Applicant shall restore the site to its original condition to the extent practicable. The provisions of this section do not apply to permanent MET Towers included as Associated Facilities in approved Wind Energy Facility applications.

5. ADDITIONAL APPLICATION REQUIREMENTS FOR PWSF

In addition to the foregoing requirements contained in this section, applications for PWSFs shall include:

a)
A proposal to construct or modify a PWSF must include evidence of a commitment from a duly licensed carrier to utilize the tower to provide wireless communication services.

b)
Written approval by all applicable state and federal agencies, including but not limited to the FAA and FCC, including a description of any conditions or criteria for the approval, or a statement from the agency that no approval is required. If written approval from all

applicable federal and state agencies has not yet been obtained at the time of application, the Planning Board may consider the application and may condition any Planning Board approval upon any necessary federal or state agency approval.

c)
An inventory of all of the provider's existing and approved towers, antennae or sites within the Town of Mount Vernon and locations in surrounding communities where wireless telecommunications are proposed to be utilized in conjunction with the facility proposed in the application. Service area maps or network maps of the applicant's existing and proposed facilities in Mount Vernon and within ten (10) miles of the Town's boundaries.

d)
An inventory of all existing and proposed (on file in Town Office) towers, including their heights located in the Town and within five (5) miles of the Town boundaries.

e)
Identification of any other PWSFs existing or proposed on the site.

f)
Details of all existing or proposed accessory structures including buildings, parking areas, utilities, gates, access roads, etc.

g)
Evidence must be provided that written notice was sent, by pre-paid first class United States mail, to all other such tower and alternative tower structure owners and licensed wireless communication providers that could furnish service to the municipality utilizing existing towers and alternative tower structures and to owners of such towers. This notice shall include a request for information of the co-location capabilities of the existing or previously approved facilities. Evidence that this notice requirement has been fulfilled shall include a name and address list, copy of the notice that was sent, and a return receipt request that the notices were sent as required.

h)
Evidence must be provided that existing or previously approved towers and alternative tower structures within the Town of Mount Vernon and within ten (10) miles of the proposed tower cannot accommodate the communications equipment (antennae, cables, etc.) planned for the proposed tower and/or cannot meet the targeted coverage objective of the proposed tower. Such evidence shall include documentation from a qualified and licensed professional engineer that:

i.
Planned necessary equipment would exceed the structural capacity of existing and approved PWSF and alternative tower structures considering (1) the existing and planned use of those PWSFs and alternative tower structures, and (2) the existing and approved PWSFs cannot be reinforced or enlarged to accommodate planned or equivalent equipment at a reasonable cost.

ii.

Planned equipment will cause electromagnetic frequency interference with other existing or planned equipment for that PWSF or alternative tower structure, and the interference cannot be prevented at a reasonable cost;

iii.

Existing or approved PWSFs and alternative tower structures do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or approved; or

iv.

Other documented reasons make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved PWSFs and alternative tower structures.

v.

Evidence must be provided that the proposed PWSF cannot be co-located on existing or previously approved tower sites. Evidence should include an the proposed tower, and a general description of the projected cost of shared use of the existing or approved PWSF site.

i)

A structural report must be provided from a Registered Professional Engineer that describes the PWSF, the technical reasons for the PWSF design and the capacity of the PWSF, including the number(s), type(s), and volume(s) of antennae that it can accommodate and the basis for the calculation of capacity.

i.

When a proposed ground-mounted PWSF does not meet the standards of this Ordinance evidence must be provided demonstrating whether there are alternative sites that can meet the standards and provide adequate signal coverage. Using more than one site each with a shorter PWSF than was originally proposed must be considered.

ii.

A letter of intent must be provided that commits the PWSF owner and its successors in interest to:

aa)
Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant;
bb)
Negotiate in good faith for shared use by third parties that have received an FCC license or permits; and
cc)
Allow shared use if an applicant agrees in writing to pay reasonable charges.

j)
Proof of financial capacity to build, maintain, and remove the proposed PWSF must be submitted.

k)
Photos showing site vegetation, existing and adjacent structures, views of and from the proposed site, topography, and land uses on the proposed parcel and on abutting properties must be provided.

l)
Landscaping plan reflecting location of proposed screening and fencing, planting areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed must be submitted.

m)
Elevation drawings, cross-sectional area or silhouette, of the facility, drawn to scale, and showing all measurements, both linear and volumetric, showing front, sides and rear of the proposed facility including all fencing, supporting system for transmission cables running between the tower and accessory structures, control panels, antennae, and existing structures and trees. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

n)
Detail of the tower base or method of attachment to a structure. If the facility will be attached to an existing building or structure, provide measurements and elevations of the structure.

o)
An analysis of the visual impact of the proposed facility, including tower and supporting structures, which may include photo montage, field mock up, or other techniques, that identify the potential visual impacts, at design capacity, of the proposed facility. Consideration shall be given to views from roads, public areas, private residences, historic resources, including historic districts and structures listed in the National Register of Historic Places, and archaeological resources. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historical Preservation Officer in his/her review capacity for the FCC.

p)
The applicant shall submit written proof that the proposed use and the facility comply with the FCC regulations on radio frequency (RF) exposure guidelines and a propagation map showing the proposed radio frequency coverage.

q)
The applicant shall submit written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and NEPA, submission of the EA or EIS to the Town prior to the beginning of the federal thirty (30) day comment period, and the Town process, shall become part of the application requirement.

6. ADDITIONAL DATA REQUIREMENTS FOR LARGE AND MEDIUM SES

In addition to all other submission requirements, an applicant for a Large or Medium SES shall submit the following information.

a)
A description of the owner of the SES, the operator if different, and detail of qualifications and record to run the facility.

b)
If the operator will be leasing the land, a copy of the agreement (minus financial compensation) clearly outlining the relationship inclusive of the rights and responsibilities of the operator, landowner, and any other responsible party with regard to the SES and the life of the agreement.

c)
A description of how and to whom the energy produced will be sold.

d)
A copy of the agreement and schematic details of the connection arrangement with the transmission system (most likely Central Maine Power), clearly indicating which party is responsible for various requirements and how they will be operated and maintained.

e)
The layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with local ordinances, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.

f)
A description of the panels to be installed, including make and model, and associated major system components.

g)
A construction plan and timeline, identifying known contractors, site control and anticipated on-line date.

h)
An operations and maintenance plan, including site control and the projected operating life of the system; Such a plan shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation. Additionally, such plans shall include efforts to promote beneficial flora and fauna (e.g., honeybees, butterflies, etc.) as well as a commitment to not using pest-control substances (e.g., pesticides, herbicides, fungicides, and/or insecticides).

i)
An emergency management plan for all anticipated hazards.

j)
A stormwater management plan, certified by a licensed Maine engineer, that demonstrates stormwater from the SES will infiltrate into the ground beneath the SES at a rate equal to that of the infiltration rate prior to the placement of the system.

k)
A background noise measurement for the site location as performed by a qualified professional.

l)
Proof of financial capacity to construct and operate the proposed facility.

m)
A decommissioning plan, including:

i.
A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if 10% or less permitted capacity of electricity is generated for a continuous period of twelve (12) months. The Applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation of electricity, that although the project has not generated electricity for a continuous period of twelve (12) months, the project has not been abandoned and should not be decommissioned.

ii.
A description of the work required to physically remove all Solar Energy System and Solar Related Components, including associated foundations, buildings, cabling, electrical components, and any other associated facilities to the extent they are not otherwise in or proposed to be placed into productive use. All earth

disturbed during decommissioning must be graded and re-seeded unless the landowner of the affected land requests otherwise in writing and subject to Planning Board approval.

At the time of decommissioning, the Applicant may provide evidence of plans for continued beneficial use of any or all of the components of the Solar Energy System. Any changes to the approved decommissioning plan shall be subject to review and approval by the Planning Board.

iii.

An estimate of the total cost of decommissioning value of the equipment and itemization of the estimated major expenses, including the projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs may include, but is not limited to, the cost of the following activities: panel removal, panel foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization and road infrastructure removal and permanent stabilization

iv.

Demonstration in the form of a performance bond, surety bond, letter of credit, or other form of financial assurance as may be acceptable to the Planning Board that upon the end of the useful life of the Solar Energy System the Applicant will have the necessary financial assurance in place for 150% of the estimated total cost of decommissioning, subject to a review of such cost by the Code Enforcement Officer. The financial assurance shall include a provision granting the Town the ability to access the funds and property and perform the decommissioning if the facility is abandoned or the Applicant or subsequent responsible party fails to meet their obligations after reasonable notice, to be defined in the agreement and approved by the Planning Board. For a Medium Scaled SES, the Applicant may propose securing the necessary financial assurance in phases, as long as the total required financial assurance is in place a minimum of five (5) years prior to the expected end of the useful life of the Solar Energy System.

Note the applicant may apply to the Code Enforcement Officer for release of the guarantee at such time that it or its assignees remove the system and associated abandoned structures, and such completed removal is found to be satisfactory by the Planning Board.

n)

Soils map which shows any prime farmland or farmland of statewide significance on the site where the SES will be located.

E. PERFORMANCE STANDARDS

The Planning Board shall use the following standards in reviewing Site Plan applications. The Site Plan shall be approved, unless in the judgment of the Planning Board the applicant is not able to reasonably meet one or more of these standards. In all instances the burden of proof shall be on the applicant.

1. MINIMUM LOT SIZES

All developments which fall under the review of this section according to Section 6(B) shall conform to the following minimum lot size standards:

USE	MINIMUM LOT SIZE
Multi-family Housing	2 acres for 1st dwelling unit 1 acre for each added unit
Office/Commercial Industrial/Municipal Institutional/Utility/Non-profit organizations or activities	2 acres/first 20,000 sq. ft. of designed impervious area
Community and Service Organizations	3 acres/designed impervious area between 20,000 – 40,000 sq. ft. 4 acres/designed impervious area between 40,000 – 80,000 sq. ft. For developments with designed impervious areas greater than 80,000 sq. ft., the minimum lot size must be no less than twice the designed impervious area
Campgrounds	10,000 sq. ft. per campground unit, not including roads, for campground sites containing approved water-carried sewage facilities 20,000 sq. ft. per campground unit, not including roads, for each campground site without water-carried sewage facilities
Other Applicable Uses	2 acre minimum

2. MINIMUM LOT SIZE IN THE VILLAGE DISTRICT

Notwithstanding the provisions of Section 6(E)(1), in the Village District, a use which is permitted pursuant to the provisions of the SECTION 5, Land Use Standards may be allowed on a legally created lot of record, which does not meet the minimum lot size requirement set forth in Section 6(E)(1).

3. FRONTAGE REQUIREMENTS

All developments which fall under the review of this section according to Section 6(B) shall conform to the following road frontage requirements:

USE	ROAD FRONTAGE
Multi-family Housing	300 feet/first 3 dwelling units with 100 additional feet/each additional dwelling uit
Office/Commercial Industrial/Municipal Institutional/Utility Community and Service Organizations	200 feet/first 20,000 sq. ft. of designed impervious area, with 100 additional feet/every 20,000 additional sq. ft. (or part thereof) of designed impervious area
Campgrounds	200 feet/first 4 campground units, with 50 additional feet/every additional unit (or part thereof)
Other Applicable Uses	200 feet

For the purpose of this Section of this Ordinance, all roads will either be public ways or conform to the design requirements of SECTION 9 Roads relating to the acceptance of Town Roads.

4. FRONTAGE REQUIREMENTS IN THE VILLAGE DISTRICT

Notwithstanding the provisions of Section 6(E)(3), in the Village District a use which is permitted pursuant to the provisions of this Ordinance may be allowed on a legally created lot of record which does not meet the frontage requirement set forth in Section 6(E)(3).

5. SETBACKS

a)

All land use activity which falls under the review of this section according to Section 6(B) shall conform to the following setback requirements:

USE	From the Center of the Traveled Right of Way	Adjacent Property Line Setback	Occupied Residences Setback
All structures covered by this section (see 6(B)(1))	75’ (50’ Village District)	25’	N/A
Campground Units	35’	100’	N/A
Designed Impervious Area (excluding driveways)	50’	25’	N/A
Mining Activity	150’	100’	200’
Firewood Processing, Kennels, Auto Repair, Car Wash, Car Sales (Rural District)	100’	25’	N/A

b)

The Planning Board shall, at its discretion, determine whether the setbacks shall be measured horizontally or in accordance with existing topography.

c)
Within fifty (50) feet from the center line of all public right of ways, no commercial timber harvesting operation shall be permitted to take more than 40% of the available timber per acre per ten (10) year period.

d)
Existing buildings with nonconforming setbacks proposing changes in use may be exempted from these requirements by a finding of the Planning Board. The Board must find that no future addition will be allowed unless it meets the required setbacks and that the proposed use will have no increased adverse impact on the adjacent properties with regard to setbacks.

6. HEIGHT OF BUILDING

The height of a principal structure other than Wind Energy Facilities and PWSF is not to exceed thirty-five (35) feet as measured from any point from the ground level around the perimeter of the structure. No accessory structure other than Wind Energy Facilities and PWSF shall exceed seventy (70) feet in height. Existing buildings with nonconforming heights proposing changes in use may be exempted from these requirements by a finding of the Planning Board. The Board must find that no future addition will be allowed unless it meets the required height and that the proposed use will have no increase adverse impact on the adjacent properties with regard to height. The maximum height of Wind Energy Facilities shall be determined by SECTION 3 of this Ordinance.

7. LIFE SAFETY CODE

All new or converted commercial, industrial, multi-family, institutional, office, or community service structures built under the review of this section shall be built in conformance with the NFPA 101 "Life Safety Code" (National Fire Protective Association-Quincy, MA 1991 as amended).

8. TRAFFIC

The proposed development shall provide for safe access to and from public and private roads. Safe access shall be assured by providing an adequate number and location of access points, with respect to sight-distances, intersections and schools or other traffic generators. "Curb cuts" shall be limited to the minimum width necessary for safe entering and exiting. The proposed development shall not have an unreasonable negative impact on the town road system, and shall assure safe interior circulation within its site, by separating pedestrian and vehicular traffic and by providing adequate parking and loading areas. All exit driveways shall be designed according to the following standards of safe sight-distance:

Posted Speed Limit	Recommended Sight Distances	Minimum Sight Distances
25 mph	250’	175’
30 mph	300’	210’
35 mph	350’	245’
40 mph	400’	280’
45 mph	450’	315’
50 mph	500’	350’
55 mph	500’	385’

9. PARKING AND CIRCULATION

The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas, will provide for safe general interior circulation through the separation of pedestrian and vehicular traffic, service traffic, and loading areas.

All parking facilities will meet the following off-road space requirements:

Principal Use	Minimum Number of Spaces Designated for Parking
Multi-family/Condominium Apartment Housing	2 spaces per dwelling unit
Commercial	2 spaces per 1,000 sq. ft. of commercial building plus one space per employee
Industrial	1 space per employee plus 1 space per 1,000 sq. ft. of industrial building for miscellaneous parking (including visitors, salespeople, etc.)
Hotels/Motels	1 space per rentable room and 0.5 per employee
Inns/Boarding Houses	1 space per rentable room and 2 for the owner
Theaters/Stadia/Audatoria/Facilities used for outdoor festivals or mass gatherings	0.3 spaces per seat or expected attendee
Restaurants/Bars	0.3 spaces per seat
Community and Service Organizations	0.3 spaces per seat or 1 space per 75 sq. ft. of floor space
Marina	1 space for each boat slip and mooring
Institutional Uses	1 space per 150 sq. ft. of floor space
Campgrounds	1 space per camp site

10. PARKING AND CIRCULATION IN THE VILLAGE DISTRICT

Notwithstanding the provisions of Section 6(E)(9), in the Village District, a use which is permitted pursuant to the provisions of the SECTION 5, Land Use Standards may be allowed on a legally created lot of record which does not meet the parking and circulation requirements set forth in Section 6(E)(9), provided that the applicant demonstrates to the satisfaction of the Planning Board that adequate and safe provision is made for parking, and vehicular and

pedestrian circulation. Class A Restaurants shall meet the parking performance standards of Section 6(E)(9).

11. NOISE

Excessive noise shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or intensity. The maximum permissible sound level of any constant but continuous, constant but intermittent, periodically fluctuating, fluctuating non-periodic, repeated impulse, or single impulse sound produced by any land use activity regulated by this section shall be as established by the time period listed below. Sound levels at property/lot lines shall be measured by a type accepted sound level meter, preferably with integrated reading capability in dBA and Leq. In contention dealing with claimed excess impulse or impact noise, measurements shall be made by a type-accepted impact sound level meter to determine if the impulse/impact noises are perceptibly higher than the limits set below. Sound pressure levels shall be measured on a sound level meter at all major lot lines of the proposed site, at a height of at least four (4) feet above the ground surface.

Sound Pressure Level Limit

	7 a.m. - 8 p.m.	8 p.m. - 7 a.m.
All Activities	50 dB(A)	45 dB(A)

The following uses and activities shall be exempt from the sound pressure level regulations:

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

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

c)
Traffic noise on public roads or railroads.

12. EROSION CONTROL

Erosion of soil and sedimentation of watercourses and waterbodies shall be minimized by employing the following “best-management” practices.

a)
The least possible amount of disturbance will occur during construction in regard to tree removal, de-vegetation, and soil disturbance. In particular, strips of naturally vegetated areas existing on the down slope side of the construction site shall be maintained as undisturbed buffer areas.

b)
Exposed soils on slopes 10% or greater will be initially stabilized (i.e., mulched, covered, or reseeded) within two (2) working days of disturbance. All exposed soils on slopes less

than 10% shall be stabilized within fifteen (15) days of disturbance. The mulching rate to be adhered to is as follows:

Method of Stabilization	Rate of Application
Hay Mulch	2 tons/acre
Wood Chips/Bark	4" thick
Reseeding (only between April 30-September 30)	The rate of seed application shall be in conformance to the standards put forth in the "Maine Erosion & Sediment Control Handbook for Construction – Best Management Practices" (Cumberland County SWCD & MDEP – March 1991)

c)
All watercourses, water bodies and wetlands will be protected from sedimentation by the installation of silt-fence barriers and/or hay bale barriers.

Such barriers shall be installed whenever and before digging, soil removal, the stripping of vegetation, scarification, or soil disturbance of any kind occurs within five hundred (500) feet of a watercourse, waterbody or wetland or on slopes greater than 10%. The barriers shall be installed at all points immediately down slope of all soil exposing activities.

d)
Permanent (final) vegetation and mechanical erosion control measures shall be installed by the time construction is completed.

e)
Whenever any portion of the designed impervious area falls within five hundred (500) feet of a watercourse, waterbody or wetland and that designed impervious area exceeds ten thousand (10,000) sq. ft. in area, or whenever the Planning Board initiates a review in conjunction with the DEP, the Cobbossee Watershed District, or other qualified water quality experts and it is determined that because of the slope, soil erodibility, designed impervious area, and site location there is a demonstrated need, temporary or permanent sedimentation control mechanisms shall be utilized by which sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods as determined by the Planning Board, and in accordance with the guidelines established in the current "Maine Erosion & Sediment Control Handbook for Construction-Best Management Practices"Cumberland County SWCD & MDEP-March 1991.

f)
The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified by the Planning Board. Extraction operations (sand pits, etc.) shall not be permitted within 100' of any property line. (See Section 6(E)(5))

13. STORM WATER RUN-OFF

Surface water run-off shall be minimized and detained on-site if possible. If it is not possible to detain water on-site, downstream improvements to the channel may be required of the developer to prevent flooding caused by his project. The natural state of watercourses, swales, floodways, or rights-of-way shall be maintained in a functional manner, and increases in peak flow caused by the proposed development will not be allowed to overburden natural or existing drainage ways so as to cause erosion, vegetative loss, or other forms of drainage path degradation. Design period is 100-year storm. All required stormwater run-off control mechanisms will be constructed in accordance with the guidelines of the current "Maine Erosion & Sediment Control Handbook for Construction-Best Management Practices"-(Cumberland County SWCD & MDEP-March 1991).

14. COMMERCIAL TIMBER HARVESTING

The purpose of this section is to minimize erosion on steep slopes.

a)

No more than 40% of the volume of trees per acre on areas of ten (10) acres or more in size with an average slope of 25% or more as depicted on the Mt. Vernon Timber Harvesting Steep Slope District Map ≥ 25% as adopted by the Town on June 13, 2026 or within two hundred fifty (250) feet of waterbodies, watercourses, or wetlands, as defined, can be removed in any ten (10) year period.(See Section 5(C)(17) for additional standards in the Shoreland Zone)

b)

Skid trails, log yards, and other sites where the operation of logging machinery results in the exposure of soil shall be located so that an undisturbed filter strip is retained between the scarified soil and the normal high-water mark of any waterbody, watercourse or wetland. The width of the strip shall vary according to the average slope of the land as follows:

Average Slope of Land Between Logging Road and Normal High-Water Mark (percent)	Width of Strip Between Logging Roads and the Normal High-Water Mark (feet)
0%-10%	50
11%-20%	75
21%-30%	100
31%-40%	150
41%-50%	200
51%-60%	250
61% or greater	300

c)

All skid trails shall be designed, constructed and utilized to run parallel to topographic contour lines to the maximum possible extent. When site conditions do not allow skid trails

to be laid out parallel to topographic contours the Board may allow vertical trails when a plan is presented which adheres to the Best Management Practices in the "Erosion and Sediment Control Handbook for Maine Timber Harvesting Operations" (Maine Forrest Service-June 1991) and provides for appropriate erosion control during and after the harvest.

d)
See Section 5(C)(17) for additional requirements applicable in the Shoreland Zone.

15. HAZARDOUS MATERIALS CONTAINMENT

All outdoor storage facilities for fuel, chemicals, chemical or industrial wastes, and potentially harmful raw materials, shall be located on impervious pavement, and shall be completely enclosed by an impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a 100-year storm, so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for (home heating oil) and diesel fuel, not exceeding 275 gallons in size, may be exempted from this requirement in situations where neither a high seasonal water table (within 15" of the surface) nor rapidly permeable sandy soils are involved.

16. EXPLOSIVE MATERIALS

No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, unless they are located in anchored tanks at least seventy-five (75) feet from any lot line, town way, or interior roadway, or forty (40) feet from lot line for underground tanks. All relevant federal and state regulations shall also be met.

17. SETBACKS AND SCREENING

Exposed storage areas, exposed machinery installation, sand and gravel extraction operations, campgrounds, and areas used for the storage or collection of discarded automobiles, auto parts metal or any other articles of salvage or refuse, shall have setbacks and screening to provide a visual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties (such as a stockade fence or a dense evergreen hedge six (6) feet or more in height). Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and be maintained in good condition.

18. SCREENING (RURAL DISTRICT)

Notwithstanding any other provision of this Ordinance, in the Rural District, screening is required for the following uses: auto repair, car sales, car wash, firewood processing and kennels.

19. GREENSTRIP BUFFER

All uses under the purview of this section according to Section 6(B) will maintain the first twenty-five (25) feet from the edge of the right of way (excluding driveways) in front of all buildings and structures as a greenstrip. The greenstrip shall consist of a maintained vegetated area (e.g., lawn, garden, landscaped shrubbery) or natural growth. Existing properties with

nonconforming buffers proposing changes in use may be exempted from these requirements by a finding of the Planning Board. The Board must find that imposing the required buffer is not possible due to existing limitations imposed by existing structures or parking areas and that the proposed use will have no increased adverse impact on the adjacent properties with regard to buffer. Whenever practical the required buffer shall be installed.

20. PRESERVATION OF LANDSCAPE

The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. Parking lots shall be landscaped with shrubbery along all lot-lines. Boundaries with existing residential properties shall be screened according to the buffering standards in Section 6(E)(19) above.

21. ADVERTISING FEATURES

The size, location, design, lighting and materials of all exterior signs and outdoor advertising structures or features will not detract from the design of proposed buildings and structures and the surrounding properties through conformance with the following standards:

a)
No sign shall be located in, or extended over, the street or road right of way, nor shall any sign reduce or obstruct traffic visibility or present a safety hazard.

b)
No more than two signs, projecting or free-standing, which in combination are not more than thirty-two (32) square feet in size, shall be permitted per premise and per business enterprise.

c)
All projecting or free-standing signs will be made out of wood or metal.

d)
No internally lighted projected or freestanding signs will be permitted.

e)
Exempted from these provisions of this section are signs less than four (4) square feet in size.

22. EXTERIOR LIGHTING

All exterior lighting and all reflective properties of the proposed development will be designed to minimize adverse impact on neighboring properties. Specifically, no land use or establishment shall be permitted to produce a strong, dazzling light, flashing light or reflection of light beyond its lot lines onto neighboring properties, or onto any town way so as to impair the vision of the driver of any vehicle upon that town way or create a nuisance disturbance for neighboring property owners. All such arrangements shall also comply with applicable federal and State regulations.

23. DUST, FUMES, VAPORS AND GASES

Emission of dust, dirt, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property at any point beyond the lot line of the commercial or industrial establishment creating that emission shall be prohibited. All such activities shall also comply with applicable federal and State regulations.

24. ODOR

No land use or establishment shall be permitted to produce offensive, noxious or unnatural odors perceptible beyond their lot lines, either at ground or habitable elevation.

25. AIR POLLUTION

The development will not result in undue air pollution In making this determination the Planning Board will consult Federal and State authorities to determine applicable air quality laws and regulations.

26. WATER AVAILABILITY

The development will have sufficient water available for the reasonably foreseeable needs of the development. Furthermore, the development will not cause an unreasonable burden or deplete an existing or neighboring water supply.

27. SEWAGE DISPOSAL

The development will conform to all acceptable standards, of the Maine State Plumbing Code and, where applicable, the Maine Department of Environmental Protection Overboard Discharge Licensing regulations for sewage waste disposal.

28. MUNICIPAL SERVICES

The development will not have an unreasonable adverse impact on, or exceed the capacity of, the municipal services including municipal road systems, fire department, solid waste program, schools, open spaces, recreational programs and facilities, law enforcement, and other municipal services and facilities.

29. REFUSE DISPOSAL

The applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. The Planning Board shall consider the impact of particular industrial or chemical wastes or by-products upon the Town's solid waste facility (in terms of volume, flammability or toxicity) and may require the applicant to dispose of such wastes elsewhere, in conformance with all applicable State and federal regulations. The Board shall require the applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

30. EMERGENCY VEHICLE ACCESS

Provisions will be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

31. TOXIC, HAZARDOUS, RADIOACTIVE, POISONOUS MATERIALS

The transportation, handling, use, storage, and disposal of any toxic, hazardous, radioactive or poisonous materials shall be accomplished in accordance with all State and federal regulatory standards.

32. ELECTROMAGNETIC INTERFERENCE (EMI)

Emissions generated and conducted during process, production or testing that are in the radio frequency spectrum shall be limited to comply with current Federal Communications Commission Standards, specifically FCC documents Part 15, Part 2 and Part 18.

33. FINANCIAL AND TECHNICAL CAPACITY

The applicant shall have adequate financial and technical capacity to meet the above-stated standards.

34. LARGE SCALE RESIDENTIAL AND COMMERCIAL WIND ENERGY FACILITIES

a) Safety Setbacks

Wind Turbines in a Commercial Wind Energy Facility shall be setback a horizontal distance of one mile from the property line of any nonparticipating parcel and at least one thousand five hundred (1,500) feet from any public way or overhead utility lines. Wind Turbines in a Large Scale Residential Facility shall be setback a horizontal distance of two thousand five hundred (2,500) feet from property boundaries, public rights of way and overhead utilities lines.

b)

A Wind Energy Facility shall not have an unreasonable adverse effect on rare, threatened, or endangered wildlife, significant wildlife habitat, rare, threatened or endangered plants and rare and exemplary plant communities. In making its determination under this subsection, the Planning Board shall consider pertinent application materials and the written comments and/or recommendations, if any, of the Maine Department of Inland Fisheries and Wildlife (MDIFW) Environmental Coordinator and the Maine Natural Areas Program (MNAP).

c) Building Permit

All components of the Wind Energy Facility shall conform to relevant and applicable local and state building codes.

d) Overspeed Controls and Brakes

Each Wind Turbine shall be equipped with an overspeed control system that:

i.

Includes both an aerodynamic control such as stall regulation, variable blade pitch, or other similar system, and a mechanical brake that operates in fail safe mode; or

ii.

Has been designed by the manufacturer or a licensed civil engineer and found by the municipal entity responsible for review and approval of the application, based on its review of a written description of the design and function of the system, to meet the needs of public safety.

e) Electrical Components and Interconnections

All electrical components of the Wind Energy Facility shall conform to relevant and applicable local, state, and national codes.

f) Access

All ground-mounted electrical and control equipment and all access doors to a Wind Turbine shall be labeled and secured to prevent unauthorized access. A Wind Tower shall not be climbable up to a minimum of fifteen (15) feet above ground surface.

g) Blade Clearance

The minimum distance between the ground and all blades of a Wind Turbine shall be twenty-five (25) feet as measured at the lowest arc of the blades.

h) Signal Interference

The Applicant shall make reasonable efforts to avoid and mitigate to the extent practicable any disruption or loss of radio, telephone, television, or similar signals caused by the Wind Energy Facility.

i) Structure Type

With the exception of Meteorological (MET) Towers, Towers shall be monopoles with no guy wires. This requirement may be waived if the Applicant demonstrates to the satisfaction of the municipal entity responsible for review and approval of the permit application that there is no practicable alternative. Bird flight diverters must be installed on any guy wires that are permitted.

j) Erosion Control

Erosion of soil and sedimentation shall be minimized by employing "best management practices" in the "Maine Erosion Control Handbook for Construction: Best Management Practices", March 2003.

k) Building Mounted Wind Turbines

Building-mounted Wind Turbines are not permitted.

l) Visual Appearance

A Wind Turbine shall be a non-obtrusive color such as white, off-white or gray, or as may otherwise be required by another governmental agency with jurisdiction over the Wind Energy Facility. A Wind Turbine shall not be lighted artificially, except to the extent consistent with Federal Aviation Administration recommendations or other applicable authority that regulates air safety or as is otherwise required by another governmental agency with jurisdiction over the Wind Energy Facility. A Wind Turbine shall not be used to support signs and shall not display advertising except for reasonable and incidental identification of the turbine manufacturer, facility owner and operator, and for warnings.

m) Visibility of Wind Turbine

The following requirements apply, to the extent practicable, to Large Scale Residential and Commercial Wind Energy Facilities:

i.

To the extent that doing so does not inhibit adequate access to the wind resource, each Wind Turbine shall be located to maximize the effectiveness of existing vegetation, structures and topographic features in screening views of the Wind Turbine from Occupied Buildings.

ii.

When existing features do not screen views of a Wind Turbine from residences, screening may be required, where feasible and effective, through the planting of trees and/or shrubs. In order to maximize the screening effect and minimize wind turbulence near the Wind Turbine, plantings should be situated as near as possible to the point from which the Wind Turbine is being viewed. Such plantings should be of native varieties.

n) Discontinued Use

A Large Scale residential or Commercial Wind Energy Facility that is not generating electricity for twelve (12) consecutive months shall be deemed a discontinued use and shall be removed from the property by the Applicant within one hundred twenty (120) days of receipt of notice from the Codes Enforcement Officer, unless the Applicant provides information that the Planning Board deems sufficient to demonstrate that the project has not been discontinued and should not be removed. If the Wind Energy Facility is not removed within this time period, the municipality may remove the turbine at the Applicant's expense. The Applicant shall pay all site reclamation costs deemed necessary and reasonable to return the site to its preconstruction condition, including the removal of roads and reestablishment of vegetation. If a surety has been given to the municipality for removal of a Large Scale Residential Wind Energy Facility, the Applicant may apply to the Planning Board for release of the surety when the Wind Energy Facility has been removed to the satisfaction of the Codes Enforcement Officer.

o) Control of Noise

Noise emanating from a Large Scale Residential or Commercial Wind Energy Facility, shall be controlled in accordance with the provisions of Section 6(11) of this Ordinance. If there is a conflict between a provision of Section 6(11) and another provision of this Ordinance, the provision of Section 6(11) shall apply.

p) Use of Public Roads

i.

The Applicant shall identify all state and local public roads to be used within Mount Vernon to transport equipment and parts for construction, operation or maintenance of a Large Scale Residential and Commercial Wind Energy Facility.

ii.

The Town Engineer, Road Commissioner or a qualified third-party engineer reasonably acceptable to both the Mount Vernon Planning Board and the Applicant and paid for by the Applicant pursuant to Section 6(C) of this Ordinance, shall document road conditions prior to construction. The Town Engineer, Road Commissioner or third-party engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.

iii.

The Applicant shall demonstrate, to the satisfaction of the Planning Board that it has financial resources sufficient to comply with subsection iv, below, and the Planning Board may require the Applicant to post a bond or other security in order to ensure such compliance.

iv.

Any road damage caused by the Applicant or its contractors shall be promptly repaired at the Applicant's expense.

q) Warnings

A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

r) Artificial Habitat

To the extent practicable, the creation of artificial habitat for raptors or raptor prey shall be minimized. In making its determination under this subsection the Mount Vernon Planning Board shall consider comments and recommendations, if any, provided by the Maine Department of Inland Fisheries and Wildlife.

s) Shadow Flicker

Large Scale Residential and Commercial Wind Energy Facilities shall be designed so that shadow flicker will not fall on a Non-Participating Landowner's property more than fifteen (15) hours per year.

t) Local Emergency Services

i.

The Applicant shall provide a copy of the project summary and site plan to local emergency service providers, including paid or volunteer fire department(s).

ii.

Upon request, the Applicant shall cooperate with emergency service providers to develop and coordinate implementation of an emergency response plan for a Large Scale Residential or Commercial Wind Energy Facility.

iii.

A Wind Turbine shall be equipped with an appropriate fire suppression system to address fires within the Nacelle portion of the turbine or shall otherwise address the issue of fire safety to the satisfaction of the Planning Board.

u) Liability Insurance

The Applicant or an Applicant's designee acceptable to the Planning Board shall maintain a current general liability policy for the Large Scale Residential and Commercial Wind Energy Facility that covers bodily injury and property damage with limits in an amount commensurate with the scope and scale of the Facility. The Applicant or its designee shall make certificates of insurance available to the Planning Board upon request.

v) Design Safety Certification

Each Wind Turbine shall conform to applicable industry standards including those of the American National Standards Institute (ANSI) and at least one of the following: Underwriters Laboratories, Det Norske Veritas, Germanischer Llloyd Wind Energies, or other similar certifying organization.

w) Public Inquiries and Complaints

The Applicant or its designee shall maintain a phone number and identify a responsible Person for the public to contact with inquiries and complaints throughout the life of the Wind Energy Facility. The Applicant or its designee shall make reasonable efforts to respond to the public's inquiries and complaints and shall provide written copies of all complaints and the company's resolution or response to the Codes Enforcement upon request.

x) Decommissioning

The Applicant shall prepare a decommissioning plan in conformance with APPENDIX V. APPENDIX IV (Control of Noise) and APPENDIX V (Decommissioning) located in Appendix of this Ordinance.

35. PWSF

In addition to all other submission requirements and performance standards, PWSF must meet the following requirements and performance standards:

a)

These standards are designed and intended to balance the interests of the residents of the Town of Mount Vernon, wireless communications providers and wireless communication customers in the siting of wireless communications facilities within the town. Beyond the objectives described in other provisions of this Ordinance, these Personal Wireless Services Facilities standards are also intended to:

i.

Implement a municipal policy concerning the provisions of wireless telecommunications services, and the siting of their facilities;

ii.

Establish clear guidelines, standards and time frames for the town to regulate wireless communications facilities;

iii.
Ensure that all entities providing Telecommunications Towers within the municipality comply with the ordinances of the Town of Mount Vernon;

iv.
Permit the Town of Mount Vernon to fairly and responsibly protect public health, safety and welfare;

v.
Encourage co-location, thus minimizing adverse visual impacts on the community;

vi.
Support the goals and policies of the Comprehensive Plan, especially the orderly development of the Town of Mount Vernon with minimal impacts on existing residential uses;

vii.
Protect the Town of Mount Vernon environmental resources and rural character as consistent with the goals and objectives outlined by the Town of Mount Vernon's Comprehensive Plan;

viii.
Provide for the removal of towers and associated structures that are no longer being used for wireless communications purposes;

ix.
Minimize any potential adverse effect of Telecommunications Towers on property values; and

x.
Protect the scenic and visual character of the Town of Mount Vernon.

b) Permits

i.
PWSF may be permitted in the Limited Commercial Zone and in the Rural Zone upon compliance with this Section or other applicable provisions of this Ordinance.

ii.
No construction, alteration, modification, or installation of any PWSF shall commence without approval of a Site Plan review application having been obtained from the Planning Board and a permit first being obtained from the Code Enforcement Officer except for antenna installations as per Section 6(E)(35)(e)(v) of this Ordinance.

c) Dimensional Standards

i. Height
The vertical distance between the highest point of a PWSF (ground mounted or building mounted) and the mean natural grade at the base of the structure or

building shall not exceed one hundred (100) feet. The planning board may enlarge the maximum height to one hundred ninety (190) feet upon a showing by the applicant, by substantial evidence, that an enlargement of up to one hundred ninety (190) feet is the only feasible alternative to fill a significant coverage gap within the meaning of the Telecommunications Act of 1996, 47 U.S.C. § 332(C)(7)(B). In making its determination, the planning board may require an independent review of alternatives at the applicant's expense, pursuant to Section 6(E)(35)(d)(xxii) of this Ordinance.

ii. Height, Utility Structures

If antennas are located on an existing utility structure, including water tower or utility pole, the vertical height of the existing structure may not be increased by more than ten (10) feet. The height of an existing electrical transmission tower may be increased by more than ten (10) feet if required to eliminate an electrical hazard.

iii. Height, Existing Buildings

The highest point of a building mounted PWSF on an existing building may not be ten (10) feet higher than the existing building unless the PWSF is completely camouflaged as provided in Section 6(E)(35)(d)(v) and (vi); and

iv. Setbacks

All PWSF and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. Fences shall comply with the setback provisions of the zoning district in which the facility is located.

v. Fall Zone for Ground Mounts

In order to ensure public safety, the minimum distance from the base of any ground-mounted PWSF to any property line, public road, habitable dwelling, business or institutional use, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in SECTION 3 of this Ordinance. The fall zone may cross property lines, so long as the applicant secures a fall zone easement from the affected property owner(s). The area of the easement shall be shown on all applicable plans submitted to the Town, and the terms of the easement shall be provided as part of the site plan review. Fall zones for PWSF may overlap.

vi. Fall Zone for Mounts

In the event that an existing structure is proposed as a mount for a PWSF, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing nonconforming structures, PWSF and their equipment shelters shall not increase any nonconformities.

vii. Minimum Lot Size

No PWSF shall be located on a lot less than two (2) acres.

d) Performance and Design Standards

i. Visibility

The applicant is encouraged to utilize enhancements to the property and must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the municipality.

ii. Visual impacts are measured on the bases of:

aa)
Change in community scale, as exhibited in relative height, mass or proportion of the PWSF within their proposed surroundings.

bb)
New visible elements proposed on a contrasting background.

cc)
Different colors and textures proposed against a contrasting background.

dd)
Use of materials that are foreign to the existing environment.

iii. Enhancements are measured on the basis of:

aa)
Conservation of opportunities to maintain community scale. e.g. buffering areas and low-lying building should not be compromised so as to start a trend away from the existing community scale.

bb)
Amount and type of landscaping and/or natural vegetation.

cc)
Preservation of view corridors, vistas, and view sheds.

dd)
Continuation of existing colors, textures, and materials.

iv. Visibility focuses on:

aa)
Eliminating or mitigating visual impact.

bb)
Protecting, continuing, and enhancing the existing environment.

v. Camouflage for Facilities on Roof of Existing Buildings

PWSF shall be concealed or camouflaged within or behind existing or new architectural features to limit its visibility when PWSF extends above roof height of a building on which it is mounted. Facilities mounted on a roof of a building shall be stepped back from the front façade in order to limit their impact on the building's silhouette.

vi. Camouflage for Facilities on Side of Existing Buildings

PWSF mounted on a side of a building, shall blend with the existing building's architecture and the panels shall be painted or shielded with material consistent with

the design features and materials of the building. All surfaces shall be non-reflective.

vii. Camouflage for Ground-Mounted Facilities

Ground-mounted PWSF shall be surrounded by a buffer of a well distributed stand of trees that begins at and extends continuously from ten (10) feet beyond the security barrier and portion of equipment shelter outside security barrier for a minimum distance of one hundred fifty (150) feet and screens views of the facility in all directions. These trees must be pre-existing (preexisting trees are preferred) on the subject property, planted on site, or be within a landscape easement on an adjoining site.

The one hundred fifty (150) foot treed buffer area shall be protected by a landscape easement or be within the area of the PWSF owner's lease. The easement or lease shall specify that the trees within the buffer shall not be removed or topped, unless the trees are dead or dying and present a hazard to persons or property.

viii. Color

To the extent that a PWSF extends above the height of the vegetation immediately surrounding it, it shall be of a color, which blends with the background or surroundings. All surfaces shall be non-reflective.

ix. Equipment Shelters

PWSF equipment shelters shall be designed consistent with one of the following design standards:

aa)
Equipment shelters shall be located in underground vaults; or

bb)
Equipment shelters shall be designed so that the shelters are architecturallyconsistent, with respect to materials and appearance, to the buildings in the area of the PWSF or

cc)
Equipment shelters shall be camouflaged behind an effective year-round landscape screen, equal to the height of the proposed building and/or fence. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood; or

dd)
If mounted on the roof of a building, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be a part of the original structure.

x. Lighting, Signage and Security

aa) Lighting
The mounts of PWSF shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any

other facilities on site shall be shielded from abutting properties. Foot-candle measurements at the property line shall be 0.5 initial foot-candles above ambient light conditions.

bb) Signage

Signage: PWSF shall not contain any permanent or temporary signs, writing, symbols or any graphic representation of any kind except those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of this Ordinance.

cc) Security Barrier

Ground-mounted PWSF shall be enclosed by security fencing equipped with an anti-climbing mechanism.

xi. Historic Buildings and Districts

aa)

A PWSF located on or within an historic structure shall not alter the character defining features, distinctive construction methods, or original historic materials of the building.

bb)

Any alteration made to an historic structure to accommodate a PWSF shall be fully reversible.

cc)

PWSF within a historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas.

xii. Scenic Landscapes and Vistas

Ground-mounted facilities outside shall not be located within open areas that are clearly visible from public roads, recreational areas, nearby or abutting properties unless these PWSF are hidden or disguised in such a way so as to blend in with their surroundings to the maximum extent feasible.

aa) Driveways

If available, existing entrances and driveways to serve a PWSF shall be utilized, unless the applicant can demonstrate that a new entrance and driveway will result in less visual traffic, and environmental impact. New driveways to serve a PWSF shall not exceed twelve (12) feet in width. A gravel or crushed stone surface is required.

bb) Antenna Types

Any antenna dish array placed upon an existing or proposed ground mount, utility pole, or transmission line mount shall have a diameter of no more than

four (4) feet, exclusive of the diameter of the mount. A close mount may be required to minimize visual impacts.

cc) Mounts

Ground mounts of a mast or monopole type mount are preferred.

xiii. Hazardous Waste

No hazardous waste shall be discharged on the site of any PWSF. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor designed to contain at least one hundred ten percent (110%) of the volume of the hazardous materials stored or used on the site.

xiv. Noise

PWSF shall not generate noise in excess of limits permitted under the Section 6(E)(11) of this Land Use Ordinance**:**.

xv. Radio Frequency Radiation (RFR) Standards

All equipment proposed for a PWSF shall be fully compliant with the FCC Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation (FCC Guidelines), under Report and Order, FCC 93-326, published on August 1, 1996, and all subsequent amendments.

xvi. Federal and State Requirements

All PWSF must meet or exceed current standards and regulations of the FAA, FCC and any other agency of the federal or state government with the authority to regulate PWSF. If such standards and regulations are changed, then the owners of the facilities governed by this Ordinance shall bring such facilities into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule if mandated by the controlling agency. Failure to bring a PWSF into compliance with such revised standards and regulations shall constitute grounds for removal of the PWSF as abandoned, in accordance with Section 6(E)(35)(f)(vi), at the owner(s) expense through the execution of the posted security.

xvii. Building Code – Safety Standards

To ensure the structural integrity of PWSF, the owner of the facility shall ensure that it is constructed and maintained in compliance with the standards contained in applicable local building codes and the applicable standards for PWSF that are published by the Electronics Industries Association, as amended from time to time. If, upon inspection, the Town concludes that a PWSF fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the PWSF, the owner shall have thirty (30) days to bring such PWSF into compliance with such standards. If the owner fails to bring such PWSF into compliance within thirty (30) days, such action shall constitute abandonment and grounds for the removal of the facility as abandoned at the owner(s) expense through execution of the posted security.

xviii. Balloon Test

The Planning Board may require a balloon test accurately simulating the height and location of the proposed PWSF. Public notice shall be given of the date and time of such test not less than ten (10) days prior thereto. The applicant shall provide photographs of such test from locations around the Town and within twenty (20) miles from which the balloon(s) is visible.

xix.

The owner of the PWSF, as a condition of approval, shall execute an agreement that it will indemnify and hold the Town, its officials and employees harmless from all claims against the Town for personal injury, property damages, and loss, including costs of defense and reasonable attorney's fees, arising from or related to the construction, operation repair and removal of the PWSF or any part thereof.

xx. Independent Review of Alternatives

If the applicant determines that there are no suitable alternative sites and structures and if the proposed PWSF does not meet the standards of this Ordinance because of excessive height, insufficient camouflage or a lack of screening by existing trees or buildings the municipality shall hire at the applicant's expense a radio frequency engineer to independently assess if there are suitable alternative sites and structures. More than one site or structure each with a PWSF (that may be shorter than originally proposed) could be required.

xxi. Co-Location

aa)

The applicant and/or owner of non-residential telecommunication facilities shall allow other future wireless service carriers, including public agencies (such as police, fire, ambulance, communications and highway if requested at the time of review by the Planning Board) using functionally equivalent personal wireless technology to co-locate antennae, equipment and facilities on a Telecommunications Tower and site, unless satisfactory evidence is presented and the Planning Board concurs that technical constraints prohibit co-location. Applicant and/or owner of other wireless service carriers shall provide for reasonable sharing of cost in accordance with industry standards.

bb)

To ensure co-location, the Planning Board may require co-location on a tower so as to prevent the need for new carriers to build new towers, may deny an application for a telecommunication facility because of inadequate provisions and/or arrangements for co-location and may require an existing tower to be extended in height (provided that a structural analysis indicates that such extension is structurally feasible and safe) but not to exceed the maximum height set forth in this Ordinance in order to provide for co-location provided, however, that the Planning Board may do so only if the co-location fee or payment required of the applicant by the owner of the existing tower is no more than ten (10%) above the industry average for

similar co-location arrangements or the owner shall demonstrate that any fee above this amount is reasonable and justified.

xxii. Professional Services

The Planning Board may require that an independent radio frequency engineer be hired at the applicant's expense to substantiate the applicant's claim of technical necessity, the applicant's evaluation of proposed site(s) and alternative sites and to propose suitable alternative sites. An independent landscape architect may be hired at the applicant's expense to evaluate the applicant's visual impact analysis and proposed mitigation and to propose visual impact mitigation alternatives.

e) Conditions of Approval

i. Maintenance

The owner of the facility shall maintain the Telecommunications Tower in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, maintenance of the buffer areas, landscaping, and camouflage materials. The Planning Board may direct the owner to perform maintenance that it determines to be required.

ii. Monitoring

The property owner and the owner of the Telecommunications Tower shall agree that the Town and its appointed representative(s) may enter the subject property to obtain RFR measurements, noise measurements, and to perform maintenance and safety inspections at the expense of the carrier. In the case of taking RFR and or noise measurements, the municipality may enter the subject property, other than areas restricted for safety reasons, without any advance notice to either the Telecommunications Tower owner or the property owner. In all other cases, the municipality shall provide reasonable written notice to the carrier and landowner and provide them the opportunity to accompany the municipal representatives when the inspections are conducted.

iii. Certificate of Insurance

The applicant shall submit annually to the Municipal Reviewing Authority a Certificate of Insurance showing public liability insurance coverage of not less than $1 million Combined Single Limit.

iv. Security for Removal

Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunications facilities in the event that a facility is abandoned and the facility owner is unwilling or unable to remove the facility in accordance with SECTION 6 of this Ordinance. The amount of the security shall be based upon the removal cost plus, fifteen percent (15%) provided by the applicant and certified by a professional civil engineer licensed in Maine. No building permit may be issued until the applicant has deposited the just described amount of the security with the

Town. The owner of the facility shall provide the Planning Board with revised removal cost estimate and structural evaluation prepared by a professional civil engineer licensed in Maine every five (5) years from the date of the Planning Board's approval of the site plan. If the cost has increased more than fifteen percent (15%) then the owner of the facility shall provide additional security in the amount of the increase.

v. Antenna Installation

An antenna or antenna array may be located, without further approval, on any structure mounted Telecommunications Tower legally existing prior to effective date of SECTION 6 , and on any Telecommunications Tower subsequently approved under the provisions of this Ordinance, provided that:

aa)
All carriers using the Telecommunications Tower comply with provisions of this Ordinance including the requirements of co-location;

bb)
All carriers using the Telecommunications Tower comply with the terms and conditions of approval of the Telecommunications Tower by the Planning Board; and

cc)
There is no increase in the Telecommunications Tower height or area of the security barrier.

f) Commencement, Abandonment, or Discontinuation of Use

i. Commencement of Operation

Operation of a Telecommunications Tower shall commence no later than one year from the date the application was approved. If the Telecommunications Tower is not operating within this time period, the Planning Board, at its discretion, may revoke its approval, regardless of whether construction has begun.

ii. Notification of Continued Use

Beginning twelve (12) months after Planning Board approval and continuing on an annual basis thereafter, the owner of a Telecommunications Tower shall provide the Planning Board with written, signed certification that the Telecommunications Tower is being used to provide Personal Wireless Services as defined. Failure to comply with this requirement shall constitute an admission that the Telecommunications Tower is not in use and has been abandoned.

iii. Discontinuance

At such time that the owner plans to discontinue operation of a Telecommunications Tower the owner will notify the municipality by certified U.S. Mail of the proposed date of discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to discontinuation of operations. In the event that the owner fails to give such notice, the Telecommunications Tower shall be considered abandoned upon such discontinuation of operations.

iv. Removal

Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the Telecommunications Tower within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

aa)

Removal of antennas, mount, equipment shelters and security barriers from the subject property.

bb)

Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

cc)

Restoring the site of the Telecommunications Tower to its natural condition, except that any landscaping and grading shall remain in the after-condition.

v. Failure to Remove

If the owner of the facility does not remove the facility upon the Planning Board's order, then the Municipal Reviewing Authority shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Planning Board. If the abandoned facility is not removed within ninety (90) days, the municipality may execute the security to pay for this action.

vi. Failure to Maintain

If the owner of the facility fails to maintain the facility in accordance with the directions of the Planning Board pursuant to Section 6(E)(35)(e)(i), then the Planning Board shall after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Planning Board. If the abandoned facility is not removed within ninety (90) days, the Municipality may execute the security to pay for this action.

36. QUARRY

In addition to all other submission requirements and performance standards, a quarry that involves the excavation and/or extraction of five thousand (5,000) square feet of surface area or more must meet the following requirements and performance standards:

a)

The quarry (except for quarries involving less than five thousand (5,000) square feet of surface) must meet the State performance standards for quarries contained in 38 M.R.S. § 490-Z and any regulations promulgated thereunder, unless a stricter standard is provided in the Mount Vernon Land Use Ordinance**:**, in which case the Mount Vernon Land Use Ordinance shall control.

b) Submission Requirements

In addition to other requirements set forth in SECTION 6, an applicant for a quarry shall submit the following to the Planning Board:

i.
A plan showing how security at the site will be controlled.

ii.
Location of structures and wells within one thousand five hundred (1,500) feet of property boundaries.

iii.
Operations statement, including the approximate date of commencement of excavation, duration of operation, proposed phasing of operation, proposed hours and days of operation, estimated volume of excavation, method of extracting and processing (if applicable), disposition of topsoil or overburden, equipment proposed to be used in operation, and operational practices to be used to prevent surface or groundwater pollution, and minimize noise, dust, air contaminants and vibration.

iv.
Blasting plan, if any.

v.
A plan showing, in addition to location of hazardous materials, provision for safe storage of such material. No hazardous materials shall be located or stored such that they will enter the ground and surface water.

vi.
Preservation of Natural & Historic Features map.

vii.
Maps and narrative description of the impact on significant wildlife habitat, including any proposed mitigation plan. Letters from the appropriate authoritative agencies shall be required as proof of compliance with performance standards for significant wildlife habitat.

viii.
Spill Prevention, Control and Countermeasure Plan.

ix.
Plan for screening the operation from abutters and public roads.

x.
An erosion and sedimentation control plan, prepared with standards contained in the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, current edition.

xi. Reclamation Plan

In the same scale as the site plan, prepared by a licensed professional engineer or licensed landscape architect, requiring, at a minimum the following:

aa)
Final contours of the site after reclamation at least two (2) feet or less contour intervals.

bb)
Areas which will be back-filled and restored with topsoil and other overburden, and depth of same.

cc)
Areas which will contain water with measures to be taken to avoid stagnation and erosion.

dd)
Phasing program of reclamation and timing.

ee)
Landscape plan, indicating location and type of proposed landscape features including plant list.

ff)
Location of driveways, roads, fences, and gates to be part of restoration program.

gg)
Description of proposed final care of site.

xii.

Identification of all required state and/or federal permits, including, if applicable, a Department of Environmental Protection permit as well as copies of all submissions made to any federal or state agency concerning the operation.

xiii.

A proposed performance guarantee deemed satisfactory to the Planning Board, covering the cost of the reclamation plan or next phase when reclamation plan is divided into distinct sections. The guarantee shall be in place upon approval of the application and prior to commencement of operations.

xiv.

A written statement, signed by the Applicant, that certifies that the proposed operation is designed to meet the applicable noise control standards under Section 6(E)(11) of this Ordinance and acknowledges the Applicant's obligation to take remedial action in accordance with Section 11(K) of this Ordinance if the Code Enforcement Officer determines those standards are not being met.

c) Performance Standards

Unless expressly noted, these standards apply to all quarries in operations of five thousand (5,000) square feet and above. Existing quarries may continue to operate at their present

size. However any expansions or new operations shall be required to conform the Performance Standards herein.

i.

The owner and/or operator of a quarry shall be responsible, both jointly and severally, for ensuring the maintenance of all infrastructure, structures and their sites in a safe manner as outlined in state and local building codes, other applicable state regulations, and state and local land use ordinances**:**.

ii.

In all cases, the applicant shall have the burden of proof that all requirements, standards, and conditions of these Performance Standards and Planning Board conditions of approval are met.

iii.

Significant wildlife habituate and other protected areas. Affected land may not be located in, on or over a significant wildlife habitat or other type of protected natural resource, as defined in 38 M.R.S. § 480-B, or in an area listed pursuant to the Natural Areas Program, 12 M.R. S. § 544.

iv. Solid Waste

Solid waste, including stumps, wood waste and land-clearing debris generated on the affected land must be disposed of in accordance with MDEP Regulations, Chapter 404.

v. Groundwater Protection

To ensure adequate groundwater protection, the following setback requirements must be met:

aa)

A one thousand five hundred (1,500) foot separation must be maintained between an excavation and any public or private water supply.

bb)
Refueling operations, oil changes, other maintenance activities requiring the handling of fuels, petroleum products and hydraulic fluids and other onsite activity involving storage or use of products that, if spilled, may contaminate groundwater, must be conducted in accordance with the Department of Environmental Protection's spill prevention, control and countermeasures plan. Petroleum products and other substances that may contaminate groundwater must be stored and handled over impervious surfaces that are designed to contain spills. The spill prevention, control and countermeasures plan must be posted at the site.
cc)
The Planning Board may not grant a waiver from the provisions of subparagraphs aa) or bb).
dd)
Excavation below the seasonal high-water table is prohibited.
ee)
The Planning Board may grant a waiver allowing excavation below the seasonal high-water table if the applicant demonstrates that the yield of groundwater flow to protected waters or wetlands or public drinking water sources or private drinking water supplies will not be adversely affected by the excavation.
ff)
In the event of excavation below the seasonal high-water table, the operator of a mining activity that affects by excavation activities a public drinking water source or private drinking water supply by contamination, interruption or diminution must restore or replace the affected water supply with an alternate source of water, adequate in quantity and quality for the purpose served by the supply. This provision is not intended to replace any independent action that a person may have whose water supply is affected by a mining activity.

vi. Natural Buffer Strip

Existing vegetation within a natural buffer strip may not be removed. If vegetation within the natural buffer strip has been removed or disturbed by the excavation or activities related to operation of a quarry before submission of a notice of intent to comply, that vegetation must be reestablished as soon as practicable after filing the notice of intent to comply. No waiver may be granted from the provisions of this subsection.

vii. Protected Natural Resources Buffers

A natural buffer strip must be maintained between the working edge of an excavation and a river, stream, brook, great pond or coastal wetland as defined in 38 M.R.S. § 480-B. A natural buffer strip must also be maintained between the working edge of an excavation and certain freshwater wetlands as defined in 38

M.R.S. § 480-B and have the characteristics listed in Section 6(E)(36)(c)(vii)(bb). Excavation activities conducted within one hundred (100) feet of a protected natural resource must comply with the applicable permit requirements under 38 M.R.S. § 480-A et seq. ("article 5-A"). The width requirements for natural buffer strips are as follows:

aa)

A natural buffer strip at least one hundred (100) feet wide must be maintained between the working edge of the excavation and the normal high-water line of a great pond classified as GPA, a river flowing to a great pond classified as GPA or a segment of the Kennebec River identified in 12 M.R.S. § 403(7).

bb)

A natural buffer strip at least seventy-five (75) feet wide must be maintained between the working edge of the excavation and a body of water other than as described in Section 6(E)(36)(c)(vii)(bb), a river, stream or brook, coastal wetland or significant wildlife habitat contained within a freshwater wetland consisting of or containing:

1))

Under normal circumstances, at least twenty thousand (20,000) square feet of aquatic vegetation, emergent marsh vegetation or open water, except for artificial ponds or impoundments; or Peat lands dominated by shrubs, sedges and sphagnum moss.

2))

For purposes of this subsection, the width of a natural buffer strip is measured from the upland edge of a floodplain wetland. If no floodplain wetlands are present, the width is measured from the normal high-water mark of the river, stream or brook. The width is measured from the normal high-water mark of a great pond and upland edge of a freshwater or coastal wetland.

3))

The Planning Board may allow excavation to occur under this subsection as long as a permit by rule is obtained pursuant to article 5A. A quarry is not eligible for a permit by rule under MDEP rules regarding activities adjacent to a protected natural resource.

viii. Roads

A natural buffer strip must be maintained between the working edge of an excavation and a road or right-of-way as follows:

aa)

A natural buffer strip at least one hundred fifty (150) feet wide must be maintained between the working edge of an excavation and a road designated as a scenic highway by the Department of Transportation. A natural buffer

strip at least one hundred (100) feet wide must be maintained between the working edge of the excavation and any other public road.

bb)

A natural buffer strip at least fifty (50) feet wide must be maintained between the working edge of an excavation and any public right-of-way that does not contain a road. The width of a natural buffer strip adjacent to a public road or right-of-way may be reduced if there is a public entity or entities with authority to grant permission and the applicant receives permission from each authority in writing.

cc)

A natural buffer strip at least fifty (50) feet wide must be maintained between the working edge of an excavation and a private road or a right-of-way. If a private road is contained within a wider right-of-way, the buffer is measured from the edge of the right-of-way. The width of the natural buffer strip adjacent to a private road may be reduced if the applicant receives written permission from the persons having a right of-way over the private road.

dd)

The Planning Board may not grant a waiver from the provisions of Section 6(E)(36)(c)(viii)(aa) or (cc). The Planning Board may grant a waiver from 6(E)(36)(c)(viii)(aa) if the waiver does not result in the natural buffer strip being reduced to less than fifty (50) feet between the working edge of the excavation and any road or right-of-way, whichever is farther from the excavation, and if the owner or operator installs visual screening and safety measures as required by the Planning Board.

ee)

A distance specified in this subsection is measured from the outside edge of the shoulder of the road or edge of the right-of-way unless otherwise specifically provided.

ix. Property Boundary

A natural buffer strip at least one hundred (100) feet wide must be maintained between an excavation and any property boundary. This distance may be reduced to ten (10) feet with the written permission of the affected abutting property owner or owners, except that the distance may not be reduced to less than twenty-five (25) feet from the boundary of a cemetery or burial ground. The natural buffer strip between quarries owned by abutting owners may be eliminated with the abutter's written permission if the elimination of this natural buffer strip does not increase the runoff from either excavation across the property boundary. Any written permission to reduce a buffer must provide that it remains in effect until mining ceases and must be recorded in the registry of deeds. All property boundaries must be identified in the field by markings such as metal posts, stakes, flagging or blazed trees. The Planning Board may not grant a variance from the provisions of this subsection.

x. Minimum Setback from Residence, Business or Farm Building

The minimum setback from the excavation site to any residence, business or farm building, not owned by the applicant is one thousand five hundred (1,500) feet.

xi. Erosion and Sedimentation Control

A working pit must be naturally internally drained at all times unless a variance is obtained from the Planning Board. Stockpiles consisting of topsoil to be used for reclamation must be seeded, mulched or otherwise temporarily stabilized.

aa)

Sediment may not leave the parcel or enter a protected natural resource.

bb)

Grubbed areas not internally drained must be stabilized.

cc)

Erosion and sedimentation control for access roads must be conducted in accordance with the Department of Environmental Protection's best management practices for erosion and sedimentation control.

dd)

All areas other than a working pit area that are not naturally internally drained must meet the erosion and sedimentation control standards of 38 M.R.S. § 420-C. No waiver of the provisions of Section 6(E)(36)(c)(xi)(aa) - (dd) may be granted. Areas are not considered "naturally internally drained" if surface discharge is impeded through the use of structures such as detention ponds, retention ponds and undersized culverts.

xii. Water Quality Protection and Storm Water Management

Standards of the laws governing storm water management and waste discharge must be met as provided in this subsection.

aa)

A variance must be obtained and storm water standards adopted pursuant to 38 M.R.S. § 420-D must be met for any part of a project, other than the working pit area, that is not naturally internally drained if that part of the project would require a storm water management permit pursuant to § 420-D but for the exception for certain excavations in § 420-D(5). A storm water management permit pursuant to § 420-D is not required.

bb)

A waste discharge must meet standards and obtain authorization if required pursuant to 38 M.R.S. § 413.

xiii. Traffic

The following provisions govern traffic. Any excavation activity that generates 100 or more passenger car equivalents at peak hour must comply with the applicable permit requirements under 23 M.R.S § 704-A.

xiv. Noise

Noise levels for the quarrying operation may not exceed applicable noise limits in Section 6(E)(11) of this Ordinance.

xv. Dust

Dust generated by activities at a quarry, including dust associated with traffic to and from a quarry, must be controlled by sweeping, paving, watering or other best management practices for control of fugitive emissions. Dust control methods may include calcium chloride as long as the manufacturer's labeling guidelines are followed. The Planning Board may not grant a variance from the provisions of this subsection. Visible emissions from a fugitive emission source may not exceed an opacity of twenty percent (20%) for more than five (5) minutes in any one-hour period.

xvi. Reclamation

The affected land must be restored to a condition that is similar to or compatible with the conditions that existed before excavation. Reclamation may be conducted in accordance with the Department of Environmental Protection's best management practices for erosion and sedimentation control and must include the following.

aa)

Highwalls, or quarry faces, must be treated in such a manner as to leave them in a condition that minimizes the possibility of rock falls, slope failures and collapse. A highwall that is loose must be controlled by the use of blasting or scaling, the use of safety benches, the use of flatter slopes or reduced face heights or the use of benching near the top of the face or rounding the edge of the face.

bb)
Vegetative cover must be established by seeding or planting within one year of the completion of excavation. Vegetative cover must be established on all affected land except for quarry walls and flooded areas. A vegetative cover must be established on safety benches, unless otherwise approved by the Planning Board. Topsoil must be placed, seeded and mulched within thirty (30) days of final grading. Vegetative cover is acceptable if within one year of seeding:

cc)
The planting of trees and shrubs results in a permanent stand or a stand capable of regeneration and succession sufficient to ensure a 75% survival rate; and

dd)
The planting of all material results in permanent 90% ground cover. Vegetative cover used in reclamation must consist of grasses, legumes, herbaceous or woody plants, shrubs, trees or a mixture of these.

ee)
All structures, once no longer in use, and all access roads, haul roads and other support roads must be reclaimed.

ff)
All affected lands must be reclaimed within two (2) years after final grading.

gg)
Topsoil that is stripped or removed must be stockpiled for use in reclaiming disturbed land areas. The Planning Board may grant a variance from this paragraph if the applicant demonstrates that the soil is not needed for reclamation purposes.

hh)
The Planning Board may require a bond payable to the Town of Mount Vernon with sureties satisfactory to the Planning Board or such other security as the Planning Board determines adequately secures compliance with this article, conditioned upon the faithful performance of the requirements set forth in this article. Other security may include a security deposit with the Town of Mount Vernon, an escrow account and agreement, insurance or an irrevocable trust. In determining the amount of the bond or the security, the Planning Board shall take into consideration the character and nature of the overburden, the future suitable use of the land involved, and the cost of grading and reclamation required. All proceeds of forfeited bonds or other security must be expended by the Planning Board for the reclamation of the area for which the bond was posted and any remainder returned to the operator.

xvii. Blasting

All blasting shall be conducted in accordance with MDEP regulation, Article 8-A Performance Standards for Quarries most current version, regardless size of the

mineral extraction operation or quarry. The applicant must ensure that the blasting is conducted in accordance with 25 M.R.S. § 318.

aa)
The owner or operator shall use sufficient stemming, matting or natural protective cover to prevent flyrock from leaving property owned or under control of the owner or operator or from entering protected natural resources or natural buffer strips. Crushed rock or other suitable material must be used for stemming when available; native gravel, drill cuttings or other material may be used for stemming only if no other suitable material is available.

bb)
The maximum allowable airblast at any inhabited building not owned or controlled by the developer may not exceed 129 decibels peak when measured by an instrument having a flat response (+ or – 3 decibels) over the range of 5 to 200 hertz.

cc)
The maximum allowable airblast at an uninhabited building not owned or controlled by the developer may not exceed 140 decibels peak when measured by an instrument having a flat response (+ or – 3 decibels) over the range of 5 to 200 hertz.

dd)
Monitoring of airblast levels is required in all cases for which a preblast survey is required by Section 6(E)(36)(c)(xvii)(ff). The Planning Board may waive the monitoring requirement if the owner or operator secures the permission of affected property owners to increase allowable airblast levels on their property and the Planning Board determines that no protected natural resource will be adversely affected by the increased airblast levels.

ee)
If a blast is to be initiated by detonating cord, the detonating cord must be covered by crushed rock or other suitable cover to reduce noise and concussion effects.

ff)
A preblast survey is required for all production blasting and must extend a minimum radius of 1/2 mile from the blast site. The preblast survey must document any preexisting damage to structures and buildings and any other physical features within the survey radius that could reasonably be affected by blasting. Assessment of features such as pipes, cables, transmission lines and wells and other water supply systems must be limited to surface conditions and other readily available data, such as well yield and water quality. The preblast survey must be conducted prior to the initiation of blasting at the operation. The owner or operator shall retain a copy of all

preblast surveys for at least one year from the date of the last blast on the development site.

gg)

The owner or operator is not required to conduct a preblast survey if the Planning Board determines that no protected resource within the limits of the otherwise required survey is likely to be affected by blasting and production blasting will not occur within two thousand (2,000) feet of any building not owned or under the control of the developer.

hh)

the owner or operator is not required to conduct a preblast survey on properties for which the owner or operator documents the rejection of an offer by registered letter, return receipt requested, to conduct a preblast survey. Any person owning a building within a preblast survey radius may voluntarily waive the right to a survey.

ii)

The owner or operator is not required to conduct a preblast survey if the owner or operator agrees to design all blasts so that the weight of explosives per 8 millisecond or greater delay does not exceed that determined by the equation W=(D/Ds)2, where W is the maximum allowable weight of explosives per delay of 8 milliseconds or greater, D is the shortest distance between any area to be blasted and any inhabitable structure not owned or controlled by the developer and Ds equals 70 ft./(lb.) 1/2.

jj)

Blasting must occur during daylight hours and no earlier than 8:00 AM or later than 6:00 PM. No blasting is allowed on Saturdays, Sundays and State observed holidays. Detonation of misfires may occur outside of these times but must be reported to the Planning Board within five (5) business days of the misfire detonation. Blasting may not occur more frequently than 4 times per day. Underground production blasting may be exempted from these requirements provided that a waiver is granted by the Planning Board.

kk)

Sound from blasting may not exceed the following limits at any protected location:

Number of Blasts per Day	Sound Level Limit
1	129 decibels
2	126 decibels
3	124 decibels
4	123 decibels

ll)

The maximum peak particle velocity at inhabitable structures not owned or controlled by the developer may not exceed the levels established in Table 6-1 in Section 6(E)(36)(c)(xvii)(ff) and the graph published by the United

States Department of the Interior in "Bureau of Mines Report of Investigations 8507," Appendix B, Figure B-1. The Planning Board may grant a variance to allow ground vibration levels greater than 2 inches per second on undeveloped property not owned or controlled by the applicant if the Planning Board determines that no protected natural resource, unusual natural area or historic site will be adversely affected by the increased ground vibration levels. If inhabitable structures are constructed on the property after approval of the development and prior to completion of blasting, the developer immediately must notify the Planning Board and modify blasting procedures to remain in compliance with the standards of this subsection.

mm)

Based upon an approved engineering study, the Planning Board may grant a variance to allow higher vibration levels for certain buildings and infrastructures. In reviewing a variance application, the Planning Board shall take into account that the standards in this paragraph and Section 6(E)(36)(c)(xvii)(ll) are designed to protect conventional low-rise structures such as churches, homes and schools. In cases of practical difficulty, the Planning Board may grant a variance from Section 6(E)(36)(c)(xvii)(ll) if it can be demonstrated that no adverse impacts on existing infrastructures or protected natural resources, unusual natural areas or historic sites will result.

nn)

Table 6-1 of this paragraph or the graph published by the United States Department of the Interior in "Bureau of Mines Report of Investigations 8507," Appendix B, Figure B1 must be used to evaluate ground vibration effects for those blasts for which a preblast survey is required.

1))

Either Table 6-1 of this paragraph or the graph published by the United States Department of the Interior in "Bureau of Mines Report of Investigations 8507," Appendix B, Figure B-1 may be used to evaluate ground vibration effects when blasting is to be monitored by seismic instrumentation.

2))
Blasting measured in accordance with Table 6-1 of this paragraph must be conducted so that the peak particle velocity of any one of the three (3) mutually perpendicular components of motion does not exceed the ground vibration limits at the distances specified in Table 6-1 of this paragraph.
3))
Seismic instruments that monitor blasting in accordance with Table 6-1 of this paragraph must have the instrument's transducer firmly coupled to the ground.
4))
An owner or operator using Table 6-1 of this paragraph must use the scaled-distance equation, W=(D/Ds)2, to determine the allowable charge weight of explosives to be detonated in any 8 millisecond or greater delay period without seismic monitoring, where W is equal to the maximum weight of explosives, in pounds, and D and Ds are defined as in Table 6-1 of this paragraph. The Planning Board may authorize use of a modified scaled-distance factor for production blasting if the owner or operator can demonstrate to a 95% confidence level, based upon records of seismographic monitoring at the specific site of the mining activity covered by the permit, that use of the modified scaled-distance factor will not cause the ground vibration to exceed the maximum allowable peak particle velocities of Table 6-1 of this paragraph.
5))
Blasting monitored in accordance with the graph published by the United States Department of the Interior in "Bureau of Mines Report of Investigations 8507," Appendix B, Figure B-1 must be conducted so that the continuously variable particle velocity criteria are not exceeded. The owner or operator may apply for a variance of the ground vibration monitoring requirement prior to conducting blasting at the development site if the owner or operator agrees to design all blasts so that the weight of explosives per 8 millisecond or greater delay does not exceed that determined by the equation W=(D/Ds)2, where W is the maximum allowable weight of explosives per delay of 8 milliseconds or greater, D is the shortest distance between any area to be blasted and any inhabitable structure not owned or controlled by the developer and Ds equals 70 ft./lb.1/2. As a condition of the variance, the Planning Board may require submission of records certified as accurate by the blaster and may require the owner or operator to document compliance with the conditions of this paragraph.

The following is Table 6-1.

Distance versus Peak Particle Velocity Method		
Distance (D) from the blast area (feet)	**Maximum allowable peak partical velocity (Vmax) for ground vibration (in./sec.)**	**Scaled-distance factor (Ds) to be applied without seismic monitoring**
0 to 300	1.25	50
301 to 5,000	1.00	55
Greater than 5,000	0.75	65

Table 6-1 Distance vs Peak Particle Velocity Method

oo)

A record of each blast, including seismographic data, must be kept for at least one year from the date of the last blast, must be available for inspection at the development or at the offices of the owner or operator if the development has been closed, completed or abandoned before the one-year limit has passed and must contain at a minimum the following data:

1))
Name of blasting company or blasting contractor;
2))
Location, date and time of blast;
3))
Name, signature and social security number of blaster;
4))
Type of material blasted;
5))
Number and spacing of holes and depth of burden or stemming;
6))
Diameter and depth of holes; vii) Type of explosives used;
7))
Total amount of explosives used;
8))
Maximum amount of explosives used per delay period of 8 milliseconds or greater;
9))
Maximum number of holes per delay period of 8 milliseconds or greater;
10))
Method of firing and type of circuit;
11))
Direction and distance in feet to the nearest dwelling, public building, school, church or commercial or institutional building neither owned nor controlled by the developer;
12))
Weather conditions, including factors such as wind direction and cloud cover;
13))
Height or length of stemming;
14))
Amount of mats or other protection used;
15))
Type of detonators used and delay periods used;
16))
The exact location of each seismograph and the distance of each seismograph from the blast;
17))
Seismographic readings;
18))
Name and signature of the person operating each seismograph; and
19))
Names of the person and the firm

pp)
All field seismographs must record the full analog wave form of each of the three (3) mutually perpendicular components of motion in terms of particle velocity. All seismographs must be capable of sensor check and must be calibrated according to the manufacturer's recommendations.

qq)
If any blasting activity exceeds the standards in this subsection, the Planning Board must be notified within 48 hours of the blast event. Notification must include the name of the blasting operator, the location, date and time of the blasting event and a description of the specific occurrence that is in noncompliance with this subsection. Use of explosives at the quarry may be suspended by the Planning Board until the cause of the noncompliance is identified and appropriate steps are implemented to reduce, prevent or eliminate reoccurrence.

rr)
Prior to blasting, the owner or operator shall develop and implement a plan that provides an opportunity for prior notification of a planned blast for all persons located within one thousand (1,000) feet of the blast site. Notification may be by telephone, in writing, by public notice in a newspaper of general circulation in the area affected or by other means identified in the plan. The plan must be in writing and available for inspection by the Planning Board.

xviii. Lighting

Lighting must be shielded from adjacent highways and residential areas.

37. MEDICAL MARIJUANA

In addition to all other submission requirements and performance standards, Medical Marijuana Home Occupation and Medical Marijuana Production Facilities must provide:

a)
Certification, by a mechanical engineer or other qualified professional, registered in the State of Maine, of the adequacy of the ventilation system to prevent odors from being detected beyond the boundaries of the property or submission of an Odor Control Plan, satisfactory to the Planning Board that specifies the engineering and administrative controls the facility will use to prevent odors from being detected offsite. For an existing licensed operation, submission of a revised Odor Control Plan or verification that the Odor Control Plan which was submitted for the new operations, remains in place and is functioning effectively.

b)
Documentation of the registered caregiver(s) valid Maine State-issued medical marijuana primary caregiver registry identification card(s).

c)
Accurate vicinity map drawn to scale showing the location of any existing private or public school, child-care provider, playground and/or church within five hundred (500) feet of the proposed location.

d)
Location within the facility where a copy of the medical marijuana production facility's Operations Manual and Security Plan is stored.

e)
Any medical marijuana home occupation or medical marijuana production facility in lawful existence on the effective date of this article may remain in operation in its present location without applying for or obtaining site plan review approval hereunder provided the applicant submits to the Planning Board a certification, satisfactory to the Planning Board, by a mechanical engineer or other qualified professional registered in the State of Maine of the adequacy of the ventilation system to prevent odors from being detected beyond the boundaries of the property or an Odor Control Plan, satisfactory to the Planning Board that specifies the engineering and administrative controls the facility will use to prevent odors from being detected offsite. Said certification or Odor Control Plan shall be submitted no later than ninety (90) days following the effective date of this article. In the event a certification or Odor Control Plan satisfactory to the Planning Board is not submitted within ninety (90) days following the effective date of this article, the medical marijuana home occupation or medical marijuana production facility shall not be authorized to operate without obtaining full Site Plan Review approval from the Planning Board pursuant to SECTION 6 of the Mount Vernon Land Use Ordinance**:**.

38. LARGE AND MEDIUM SCALE SOLAR ENERGY SYSTEMS (SES)

In addition to all other submission requirements and performance standards, large and medium scale SES must meet the following requirements and performance standards:

a) Lots
SES shall not exceed twenty percent (20%) coverage of a lot area. Lot coverage shall be calculated based on the total SES airspace projected over the ground. All SES should be designed and located to ensure solar and physical access without reliance on and/or interference to/from adjacent properties.

b) Legal Responsibilities
The Applicant must provide proof that it has authorization to construct, use and maintain the property and any access drive for the life of the project and including the decommissioning of the project. The roles and responsibilities of the system owner, operator, landowner, and any other party involved in the project must be clear and meet the satisfaction of the Planning Board that the public interest is protected. The owner or operator of a Ground Mounted Solar Energy System shall build and maintain it in compliance with all relevant Federal, State and Local Laws, Regulations, and Ordinances.

c) Deed Registration

Any Large or Medium Scaled SES system shall be incorporated into the description of the real property in the lot/property deed and registered with the Kennebec County Registry of Deeds as a condition of Planning Board approval.

d) Setback

Structures within a SES shall be setback a minimum of two hundred (200) feet from all lot lines. Any solar photovoltaic cells or arrays shall be subject to a maximum height of ten (10) feet above the ground surface. Associated SES structures shall be subject to the maximum height regulations specified for principal and accessory buildings within the applicable zoning district.

e) Prohibited Locations

Components of a ground mounted SES shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.

f) Utility Notification

No grid-intertied photovoltaic system shall be installed until evidence has been given to the Planning Board that the applicant has an agreement with the utility to accept the power. Off-grid systems are exempt from this requirement.

g) Fence

Ground Mounted Solar Energy Systems shall be protected by a perimeter fence. Such fences shall allow for small wildlife passage and movement.

h) Signage

A sign shall be required to identify the owner/operator and provide a 24-hour emergency contact phone number. Solar energy systems shall not be used for displaying any advertising. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the any fence surrounding the SES informing individuals of potential voltage hazards.

i) Screening

Lots on which Ground Mounted Solar Energy Systems are located shall utilize buffers/ screening from roads and residences by plantings, berms, and natural topographical features. Ground mounted SES shall be screened from view to the greatest extent practical of any adjacent property in the Rural District as well as any public way. Screening required by this paragraph must be:

i.

At a height, density, and depth sufficient to accomplish complete screening from ordinary view;

ii.

Well-constructed and properly maintained at a minimum height of ten (10) feet;

iii.
Placed outside of the right-of way;

iv.
Acceptable to the municipal officers or county commissioners.

The screen shall consist of a solid fence which provides a visual screen. In lieu of a fence, a vegetative screen that meets requirements of this paragraph and all other provisions of this Ordinance, if the Planning Board determines that the vegetative screen is sufficient.

j) Glare
All SES shall comply with Section 6(E) of this Ordinance relating to lighting and reflective properties and shall be situated to eliminate concentrated glare onto nearby structures or roadways.

Specifically, no SES shall be designed to produce glare beyond its lot lines onto neighboring properties, or onto any town way so as to impair the vision of the driver of any vehicle upon that town way or create a nuisance disturbance for neighboring property owners. Direct or indirect illumination emanating on one lot shall not exceed 0.1 foot candles at the property line. All such arrangements shall also comply with applicable federal and State regulations.

k) Noise
In addition to all other requirements of this Ordinance regarding noise, no noise generated by the SES or Solar Related Equipment shall be 10 decibels (dB) greater than the preconstruction / existing background level, nor generate a Pure Tone. The background noise limit will be based on background noise during the quietest period of the night, typically 3:00 am.

l) Lighting
Lighting shall be limited to that required for safety and operational purposes and shall be shielded from interference with abutting properties. Lighting of the SES shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution and shall otherwise comply with the provisions of Section 6(E)(21) and 6(E)(22) of this Ordinance. Other than required lighting, lighting shall not be used / visible between 9pm and 7am.

m) Impervious Assessment
The surface area of the arrays of a ground mounted SES, regardless of the mounted angle of any solar panels, may or may not be considered impervious contingent upon conformity with the stormwater management plan.

n) Utility Connections
Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

o) Emergency Services

SES owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request, the owner or operator shall coordinate with local emergency services in developing an emergency response plan. A "3200 Series KNOX-BOX", or agreed equivalent, shall be provided and installed by the operator to be used to allow emergency service personnel continuous access. All means of shutting down the solar energy system shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

p) Maintenance Conditions

The SES owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, vegetative screening, fences, landscaping and plantings, and integrity of security measures. The SES must be properly maintained and be kept free from all hazards, including, but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety, or general welfare. Site access shall be maintained to a level acceptable to the fire chief for emergency response. The owner or operator shall be responsible for the cost of maintaining the SES and any access road(s), including regular plowing of snow to maintain road access.

q) Satisfaction with All Aspects of Capacity and Plans Submitted

The Planning Board must find that the Applicant has the capacity to finance, safely operate and decommission the SES.

r) Removal

When any portion of a ground mounted SES is removed, any earth disturbance must be graded and re-seeded, unless authorized for another developed use.

s)

The SES should be sited so that no more than 34% of the project is located on land containing soils defined by the USDA Natural resources Conservation Services as "Prime Agricultural Land" or "Farmland of Statewide Importance," as determined by a field-based survey conducted by a licensed soil scientist. The owner or operator may seek a waiver of the 34% limitation upon a showing that land is not suitable for farming due to levels of PFAS or other contaminants that exceed federal, state, or local limits. No topsoil or prime agricultural soil shall be removed from the site for installation of the system. Efforts will be made to minimize the impact on existing agricultural uses by developing dual-use solar projects where possible.

t) Alternative Assessment

As determined by the Planning Board, if a proposed ground-mounted SES does not meet the standards in this Ordinance, or goals and objectives as established in the Town's Comprehensive Plan, then other potential suitable alternative area(s), on the lot(s) included in the application, where a SES can meet the Town's standards, goals, and objectives needs to be evaluated by the applicant. Alternative lot areas should be evaluated against those same Ordinance standards, and Town goals and objectives.

u) Preservation of Town's Character

All reasonable efforts, as determined by the Planning Board, shall be made to ensure any SES is consistent with the character of the community via visual consistency with local neighborhood area, maintenance of scenic views, maintenance of open space land and farms, and the Town Comprehensive Plan, and associated Town planning documents.

v) Security

All ground mounted SES shall be completely enclosed by fencing that consists of a minimum ten (10) foot-high fence with a locking gate. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence surrounding the SES informing individuals of potential voltage hazards.

w)

Access drives shall be maintained to allow for maintenance and emergency management vehicles. As a minimum, drives must meet the Town's Back Lot driveway standards in Section 9(D) of this Ordinance.

39. ROOF MOUNTED SOLAR ENERGY SYSTEMS

a)

The owner shall provide evidence certified by an appropriately licensed professional that the roof is capable of supporting the collateral load of the SES.

b)

SES mounted on roofs of any building shall be subject to the maximum height regulations specified for principal and accessory buildings within the applicable zoning district.

c) Glare

All SES will be designed to minimize adverse impact from glare on neighboring properties. Specifically, no SES shall be designed to produce glare beyond its lot lines onto neighboring properties, or onto any town way so as to impair the vision of the driver of any vehicle upon that town way or create a nuisance disturbance for neighboring property owners. Direct or indirect illumination emanating on one lot shall not exceed 0.1 foot candles at the property line. All such arrangements shall also comply with applicable federal and State regulations.

d)

For firefighter access, a minimum three (3) foot buffer zone is required from the ridge and one (1) edge of the roof or parapet.

e) Preservation of Town's Character

All reasonable efforts, as determined by the Planning Board, shall be made to ensure any SES is consistent with the character of the community via consistency with local neighborhood area, maintenance of scenic views, maintenance of open space land and farms, and the Town Comprehensive Plan, and associated Town planning documents.

40. SES DECOMMISSIONING AND REMOVAL OF SOLAR ENERGY SYSTEM

a)

Any Ground Mounted Solar Energy System that has reached the end of its useful life, ceases to generate power or has been abandoned shall be removed pursuant to a plan approved by the Planning Board during the application process. The landowner, or SES owner or operator shall physically remove the installation no more than one hundred eight (180) days after the date of discontinued operations. The owner or operator shall notify the Code Enforcement Officer by certified mail, return receipt requested, of the proposed date of the discontinued operations and plans for removal.

b)

Decommissioning shall consist of:

i.

Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site;

ii.

Disposal of all solid and hazardous waste in accordance with Local, State and Federal waste disposal regulations; and

iii.

Stabilize or revegetation of the site as necessary to minimize erosion. The Code Enforcement Officer may allow the owner or operator to leave landscaping or designated below-grade foundations to minimize erosion and disruptions to vegetation.

c)

Absent a notice of a proposed date of decommissioning or written notice of extenuating circumstances, a Ground Mounted Solar Energy System shall be considered abandoned when it fails to generate 10% or less permitted capacity of electricity for a continuous period of twelve (12) months without having first obtained the written consent of the Code Enforcement Officer. Determination of abandonment shall be made by the Code Enforcement Officer.

d)

If the owner or operator of a Ground Mounted Solar Energy System fails to remove the installation in accordance with the requirements of this section within one hundred eighty (180) days of abandonment or the proposed date of decommissioning, the Town of Mount Vernon retains the right to use the performance guarantee and any and all legal or available means necessary to cause an abandoned, hazardous or decommissioned solar energy system to be removed.

41. ADDITIONAL PERFORMANCE STANDARDS FOR AFFORDABLE HOUSING DEVELOPMENT

In addition to all other applicable requirements, the developer must establish:

a)
That a majority of the total units on the lot meet the definition of affordable.

b)
The development is located within the Limited Commercial Zone, as established in this Ordinance, which constitutes Mount Vernon's designated growth area pursuant to 30-A M.R.S. § 4349-A(1)(A) or (B) or served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system;

c)
Is located in an area in which multi-family dwellings are allowed as of July 1, 2024;

d)
Complies with minimum lot size requirements in accordance with Title 12, chapter 423-A and the minimum lot size, road frontage, and setback requirements of this Ordinance.

e)
The owner or applicant agrees, as a condition of final approval, to execute and record in the Kennebec County Registry of Deeds a restrictive covenant, in the form of a deed or other recordable instrument, that:

i.
Is enforceable by the Town or a party acceptable to the Town;

ii.
Remains in full force and effect for a period of at least 30 years; and

iii. .
Provides that affordable dwelling units offered for rent shall be occupied by families whose aggregate income is equal to or less than 80% of the local area median income at the time of initial occupancy; and that affordable dwelling units offered for sale shall be occupied by families whose aggregate income is equal to or less than 120% of the local area median income at the time of initial occupancy.

SECTION 7 SUBDIVISION REVIEW

A. PURPOSE

The purposes of this section are to assure the safety, health and welfare of the people of the Town of Mt. Vernon, Maine, and to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Mt. Vernon, the Planning Board shall consider the following criteria and, before granting approval, shall make findings of fact that the provisions of this section have been met and that the proposed subdivision will meet the guidelines of 30-A M.R.S. §§ 4401-4408.

The subdivision:

1) Will not result in undue water or air pollution. In making this determination, the Board shall at least consider the elevation of the land and its relation to flood hazard areas; the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the applicability of federal, state and local health and land use regulations;
2) Has sufficient water available for the reasonably foreseeable needs of the subdivision;
3) Will not cause an unreasonable burden on any existing water supply which is to be utilized;
4) Will not cause an unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
5) Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of highways or public roads existing or proposed;
6) Will provide for adequate solid and sewage waste disposal;
7) Will not cause an unreasonable burden on the ability of the municipality to dispose of solid waste and sewage;
8) Will not cause undue adverse impacts on other municipal services and infrastructure;
9) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetic, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
10) Will be in conformance with the Comprehensive Plan of the Town of Mt. Vernon. In making this determination, the Planning Board is authorized to interpret the Comprehensive Plan.
11) Whenever situated in whole or in part within two hundred fifty (250) feet of any pond, lake or river, will not adversely affect the quality of the body of water or unreasonably affect the shoreline of that body of water;
12) Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
13) Shall be constructed in conformance with the Town of Mount Vernon Floodplain Management Ordinance; specifically, for all principal structures within the subdivision the lowest floor, including the basement, shall be at least one foot above the 100-year flood elevation;

14) Will not unreasonably interfere with access to direct sunlight for solar energy systems; and Applicant has adequate financial and technical capacity to meet the above stated standards.

B. SUBDIVISION REVIEW

1. PURPOSE

The purpose of this section is to establish an orderly, equitable and expeditious procedure for reviewing subdivisions.

2. AGENDA

In order to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Planning Board's agenda at least one week in advance of a regularly scheduled meeting by contacting the Planning Board Chair. Persons who attend a meeting but who are not on the Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board so votes.

3. FEE FOR CONSULTING SERVICE

Whenever the Planning Board finds it necessary to hire professional consulting services to assist in its review of an application for a Minor Subdivision Final Plan or a Major Subdivision Preliminary Plan, the Applicant shall pay a reasonable fee necessary for such services. The Planning Board shall provide the Applicant with notice of its intent to require such a fee, the purpose of the fee and its approximate amount. The Applicant will be given an opportunity to be heard on the purpose and amount of the fee before the Planning Board. After either being heard or waiving the right, the Applicant shall pay the fee or appeal payment of the fee to the Board of Appeals. Irrespective of any other provision of this section, the Planning Board shall not accept the application as complete if the Applicant fails to pay the fee or appeal the fee determination. If the Applicant appeals payment of the fee to the Board of Appeals, that Board shall decide whether the fee is reasonable for the purpose found necessary by the Planning Board. The fee shall be placed in an interest - bearing account in the Town's name. The money, including accrued interest, remaining in the account and which has not been spent or appropriated shall be returned to the Applicant within thirty (3) days after the Planning Board issues its final decision.

4. FINAL APPROVAL AND FILING

a)

Upon findings of fact and determination that all standards of 30-A M.R.S. §§ 4401-4408 and this section have been met, and upon voting to approve the subdivision, the Planning Board shall sign the Final Plan. The Planning Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Planning Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Board of Assessors. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded by the Applicant in the

Registry of Deeds within ninety (90) days of the date upon which the plan is approved and signed by the Planning Board shall become null and void.

b)
At the time the Planning Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Planning Board deems necessary in order to insure the orderly development of the Plan.

c)
No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Planning Board approves any modifications, except in accordance with Section 7(G)(12)(c). The Board shall make findings that the revised plan meets the standards of 30-A M.R.S. §§ 4401-4408, and this Ordinance. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Planning Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds. Revisions of subdivision plans which do not constitute re-subdivisions shall be received for information purposes and shall not initiate the reopening of the subdivision review process.

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

e)
Upon determining that a subdivision's approval has expired under this section the Planning Board shall have a notice placed in the Registry of Deeds to that effect.

f)
Final approval shall be subject to standard conditions of approval as adopted by the Planning Board.

5. REVISIONS TO THE APPROVED PLANS

Revisions or amendments to subdivision plans that have been previously approved by the Planning Board shall comply with the requirements of 30-A M.R.S. § 4407.

6. GENERAL STANDARDS

The standards in Section 7(E) shall apply to all subdivisions whether minor, or major or high impact, except as otherwise provided in these regulations.

C. PREAPPLICATION

1. PREAPPLICATION PRESENTATION AND SUBMISSION OF SKETCH PLANS

The Applicant shall meet with the Planning Board prior to formal submission of a subdivision plan to generally discuss the proposal, review a preapplication sketch plan, and to obtain guidance in development of the plan.

The Preapplication Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, and other features in relation to existing conditions. The Sketch Plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located. The Sketch Plan shall be accompanied by a copy of a portion of the most recent U.S.G.S. topographic map of the area showing the outline of the proposed subdivision.

The Planning Board may make specific recommendations to be incorporated by the Applicant into subsequent submissions.

2. NOTIFICATION OF ABUTTERS

The Planning Board shall consider the submission of a preapplication sketch plan sufficient to warrant notification of abutters. Accordingly, upon receiving such an application, the Planning Board shall notify by mail all abutting property owners, and owners of property within three hundred (300) feet of any portion of the proposed subdivision, specifying the location of the proposed subdivision and a general description of the project.

3. LEVEL OF REVIEW, CONTOUR INTERVAL AND ON-SITE INSPECTION

Within thirty (30) days of the preapplication meeting, the Planning Board shall:

a)
Determine and inform the Applicant in writing whether the proposed subdivision is classified as minor, major or high impact. (See definitions of Subdivision and Multi-Family Development.)

b)
Determine and inform the Applicant in writing of the required contour interval on the Preliminary Plan, or Final Plan in the case of a Minor Subdivision.

c)
Schedule an on-site inspection of the property, which shall be jointly attended by the Applicant or his/her duly authorized representative and by at least two members of the Planning Board.

4. RIGHTS NOT VESTED

The submittal or review of the Preapplication Sketch Plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of 1 M.R.S. § 302.

D. MINOR SUBDIVISIONS

1. GENERAL

When any or all of a proposed subdivision, regardless of size, falls in a shoreland zone, the Planning Board may require that the Minor Subdivision comply with all or any of the submission requirements for a Major Subdivision.

2. PROCEDURE

a)

Within six (6) months after the preapplication meeting, the Applicant shall submit an application for approval of a Final Plan at least seven (7) days prior to a scheduled meeting of the Planning Board. Failure to do so shall require resubmission of the Sketch Plan to the Planning Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus incorporate any recommendations made by the Planning Board or be accompanied by an explanation of why the recommendations have not been incorporated.

b)

All applications for Final Plan approval for a Minor Subdivision shall be accompanied by an application fee as defined in Table 11-1 payable by check to the municipality. In addition, the Planning Board may require an additional fee for consulting services in accordance with Section 7(B)(3).

c)

Within thirty (30) days from receipt of an application the Planning Board shall notify the Applicant in writing either that the application is complete in accordance with the submission requirements of Section 7(D)(3) or, if the application is incomplete, the specific additional material needed to make a complete application.

d)

Upon determination that a complete application has been submitted for review, the Planning Board shall:

i.

Issue a dated receipt to the Applicant, and

ii.

Determine whether a performance guarantee is required as specified in Section 7(G)

iii.

Full evaluation of the Final Plan shall begin after the Planning Board has determined that a complete application has been filed.

e)
The Planning Board shall hold a public hearing on the Final Plan within thirty (30) days of receipt of a complete application, and shall provide notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing. In addition, notice shall be posted on the Town bulletin boards used to post notice of Town meeting at least seven (7) days prior to the public hearing, and timely notice shall be provided through any town publications, whenever possible.

The Planning Board shall also notify in writing all owners of abutting property, and owners of property within three hundred (300) feet of any portion of the Final Plan, of the hearing.

f)
The Applicant shall attend the meeting of the Planning Board and the public hearing to discuss the Final Plan.

g)
Within thirty (30) days of a public hearing, or within another time limit as may be otherwise mutually agreed to by the Planning Board and the Applicant, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the application and Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

3. SUBMISSIONS

The Final Subdivision Plan for a Minor Subdivision shall consist of two reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Office and three copies of one or more maps or drawings drawn to a scale of not more than one hundred (100) feet to the inch. Plans for subdivisions containing more than one hundred (100) acres may be drawn at a scale of not more than two hundred (200) feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than twenty-four (24) by thirty-six (36) inches in size and shall have a margin of two inches outside of the border lines on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Planning Board. Three copies of all information accompanying the plan shall be submitted to the Board.

The application for approval of a Minor Subdivision shall include the following information:

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

b)
A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a Registered Land Surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument proposed to be set or found at each lot corner.

c)
A copy of the deed on which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.

d)
A copy of any covenants or deed restrictions or other encumbrances intended to cover all or part of the lots in the subdivision.

e)
The number of acres within the proposed subdivision, location of existing property lines, buildings, streams, vegetative cover type, and other essential existing physical features.

f)
For subsurface waste water disposal systems, test pit analyses prepared by a licensed Site Evaluator and a map showing the location of all test pits dug on the site.

g)
Indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by a private water association, a written statement from the association shall be submitted indicating there is adequate supply and pressure for the subdivision and approving the plans for extensions when necessary. Where the association's supply line is to be extended, a written statement from the Fire Chief stating approval of the location of fire hydrants, if any, shall be submitted. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted in the form of a written statement from a hydrogeologist or well driller familiar with the area.

h)
The date the Plan was prepared, magnetic north point, graphic map scale, names and addresses of the record owner(s), Applicant(s), and individual(s) or company which prepared the plan.

i)
A copy of that portion of the Kennebec County Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Planning Board may require the submittal of a report by a Registered Soil Scientist indicating the suitability of soil conditions for those uses.

j)
Contour lines at intervals of ten (10) feet or at such intervals as the Planning Board may require, based on United States Geological Survey data and referred to mean sea level.

k)
If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas in the one hundred (100) year flood elevation shall be delineated on the plan.

l)
The names and addresses of owners of record of adjacent property, including any property across an existing public or private road from the subdivision.

m)
The location of any zoning boundaries affecting the subdivision.

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

o)
The location of existing and proposed streets, highways, easements, lot lines, parks and other open spaces on or adjacent to the subdivision.

p)
All proposed lot lines with dimensions and lot areas.

q)
All parcels of land proposed to be dedicated to public use and the conditions of such dedication.

r)
The location of any open space to be preserved and an explanation of its proposed management.

s)
A hydrogeologic assessment prepared by a Certified Geologist experienced in hydrogeology when any part of the subdivision is located over a sand and gravel aquifer as mapped by that Maine Geology Survey.

E. PRELIMINARY PLAN FOR MAJOR/HIGH IMPACT SUBDIVISIONS

1. PROCEDURE

a)
Within six (6) months after the preapplication meeting, the Applicant shall submit an application for approval of a Preliminary Plan at least seven (7) days prior to a scheduled meeting of the Planning Board. Failure to do so shall require resubmission of the Sketch Plan to the Planning Board. The Preliminary Plan shall approximate the layout on the Sketch Plan, plus any recommendations made by the Board.

b)
All applications for Preliminary Plan approval for a Major Subdivision shall be accompanied by a base fee as defined in Table 11-1plus an amount defined in Table 11-1 per lot, dwelling unit, or principal nonresidential building shown thereon, payable by check to the municipality, stating the specific purpose of the fee. The Planning Board may require an additional fee for consulting services in accordance with Section 7(B)(3).

c)
The Applicant shall attend the meeting of the Planning Board to discuss the Preliminary Plan.

d)
Within thirty (30) days of receipt of a Preliminary Plan application and fee, the Planning Board shall notify the Applicant in writing whether or not the application is complete in accordance with the submission requirements of Section 7(E)(2), and what, if any, additional submissions are required for a complete application.

e)
The Planning Board shall hold a public hearing on the Preliminary Plan application within thirty (30) days of receipt of a complete application, and shall provide notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing. In addition, notice shall be posted on the Town bulletin boards used to post notice of Town meeting at least seven (7) days prior to the public hearing and timely notice shall be provided through any town publications, whenever possible. The Board shall also notify in writing all owners of abutting property, and owners of property within three hundred (300) feet of any portion of the Preliminary Plan, of the hearing.

f)
The Planning Board shall within thirty (30) days of a public hearing, or within another time limit as may be otherwise mutually agreed to by the Board and the Applicant, make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan. The Planning Board shall specify in writing its findings of facts and reasons for any conditions or denial.

g)
When granting approval to a Preliminary Plan, the Planning Board shall state the conditions of such approval, if any, with respect to:

i.
The specific changes which it will require in the Final Plan;

ii.
The character and extent of the required improvements (see Section 7(G)(6)) for which waivers may have been requested and which in the Planning Board's opinion may be waived without jeopardy to the public health, safety, and general welfare; and

iii.
The amount of all performance guarantees which it will require as prerequisite to the approval of the Final Plan.

h)
The decision of the Planning Board plus any conditions imposed shall be noted on three copies of the Preliminary Plan. One copy shall be returned to the Applicant, one retained by Planning Board, and one forwarded to the Select Board.

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

2. SUBMISSIONS

a) Location Map

The Preliminary Plan shall be accompanied by a Location Map adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Planning Board to locate the subdivision within the municipality. The Location Map shall show:

i.
Location and names of existing and proposed streets.

ii.
Boundaries and designations of any zoning districts.

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

b) Preliminary Plan

The Preliminary Plan shall be submitted in three copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scale of not more than one hundred (100) feet to the inch. The Planning Board may allow plans for subdivisions containing more than one hundred (100) acres to be drawn at a scale of not more than two hundred (200) feet to the inch provided all necessary detail can easily be read. The following information shall either be shown on the Preliminary Plan or accompany the application for preliminary approval:

i.
All of the submission requirements set forth in Section 7(D)(3).

ii.
A soil erosion and sedimentation control plan, and a storm water management plan, showing ditching, culverts, storm drains, easements, and other proposed improvements, endorsed by the Kennebec County Soil and Water Conservation District or the Cobbossee Watershed District.

F. FINAL PLAN FOR MAJOR/HIGH IMPACT SUBDIVISION

1. PROCEDURE

a)
The Applicant shall, within twelve (12) months after the approval of the Preliminary Plan, file with the Planning Board an application for approval of the Final Plan. If the application for the Final Plan is not submitted within twelve (12) months after Preliminary Plan approval, the Planning Board may refuse without prejudice to act on the Final Plan and require resubmission of the Preliminary Plan. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus incorporate any recommendations made by the Planning Board or be accompanied by an explanation of why the recommendations have not been incorporated.

b)
Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where appropriate:

i.
Maine Department of Environmental Protection, under the Site Location of Development Act, the Natural Resource Protection Act, or Wastewater Discharge License.

ii.
The servicing water utility, if an existing public or private common water service is to be used.

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

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

v.
The Maine Department of Transportation, if an Entrance Permit is required.

c)
Within thirty (30) days from receipt of an application, the Planning Board shall notify the applicant in writing either that the application is complete in accordance with the

submission requirements of Section 7(E)(2), or, if the application is incomplete, the specific additional material needed to make a complete application.

d)
Upon determination that a complete application has been submitted for review, the Board shall:

i.
Issue a dated receipt to the Applicant;

ii.
Determine whether a performance guarantee is required as specified in Section 7(G)(11).

e)
The applicant shall attend the meeting of the Board to discuss the Final Plan and the public hearing on the Final Plan.

f)
The Planning Board shall notify the following of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family development:

- Select Board
- Road Commissioner
- School Superintendent
- Fire Chief
- Code Enforcement Officer
- Local Plumbing Inspector
- Cobbossee Watershed District

The Planning Board shall request that these officials/agencies comment upon any anticipated impacts on town facilities or resources likely to result from the proposed subdivision.

g)
If the subdivision is located in more than one municipality, the Board shall have a joint meeting with the Planning Board of the adjacent municipality to discuss the Plan.

h)
A public hearing shall be held by the Planning Board within thirty (30) days after the issuance of a receipt for the submittal of a complete application. The Planning Board shall provide notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing. In addition, notice shall be posted on the Town bulletin boards used to post notice of town meetings at least seven (7) days prior to the public hearing.

When a subdivision is located within five hundred (500) feet of a municipal boundary, the Planning Board shall notify the Planning Board Chair of the adjacent municipality involved, at least seven (7) days prior to the hearing.

i)
Before the Planning Board grants approval of the Final Plan, the Applicant shall meet the performance guarantee requirements contained in Section 7(G).

j)
The Planning Board, within thirty (30) days after the public hearing, shall make findings of fact, and conclusions relative to the standards contained in 30-A M.R.S. §§ 4401-4408, and of this Ordinance. If the Planning Board finds that all standards of the statute and this Ordinance have been met, it shall approve the Final Plan. If the Planning Board finds that any of the standards of the Statute and this Ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Planning Board and in writing to applicant.

2. SUBMISSIONS

The Final Plan shall consist of one or more maps or drawings drawn to scale of not more than one hundred (100) feet to the inch. Plans for the subdivisions containing more than seventy-five (75) acres may be drawn at a scale of not more than two hundred (200) feet to the inch. Plans shall be no larger than twenty-four (24) by thirty-six (36) inches in size, and shall have a margin of two inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by the Planning Board. Two reproducible, stable base transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Office, and three copies of the plan shall be submitted. The application for approval of the Final Plan shall include the following information:

a)
All the submission requirements set forth in Section 7(D)(3).

b)
The location of existing and proposed streets, highways, easements, lot lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The length of all straight lines, the deflection angles radii, length of curves and central angles of curves, tangent distances and tangent bearings for each street shall be included.

c)
All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the municipality of all public open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which

open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Select Board are satisfied with the legal sufficiency of the written offer of cession shall be included.

d)
A list of capital construction items with cost estimates that will be completed by the developer prior to the sale of lots. Also, a separate list of off-site construction items, with capital cost estimates, that must be financed by the municipality, or quasi-municipal districts. These lists shall include but not be limited to:

- Schools, including busing
- Street maintenance and snow removal
- Police and fire protection
- Solid waste disposal
- Storm water drainage

The Applicant shall provide an estimate of the net increase in taxable assessed valuation, assuming completion of the subdivision.

G. PERFORMANCE STANDARDS

In reviewing all subdivision applications, the Planning Board shall consider the following standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of proof shall be upon the Applicant.

1. CONFORMANCE WITH APPLICABLE PLANS AND SECTIONS

All proposed subdivisions shall be in conformance with the Mt. Vernon Comprehensive Plan and the provisions of all other pertinent federal, state and local rules or ordinances, other sections of this Ordinance and regulations.

2. LAND NOT SUITABLE FOR DEVELOPMENT

The Planning Board shall not approve for development, as defined, such portions of any proposed subdivisions involving:

a)
Land which is situated below the normal high-water mark of any water body.

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

c)
Land which is part of a right-of-way or easement, including utility easements.

d)
Land which has a water table within ten inches of the surface of the ground for at least three (3) months of the year as identified by the Kennnebec County Soil Survey. Land which is located on the following soils:

- Biddeford Mucky Peat
- Brayton (Ridgebury) Fine Sandy Loam
- Rifle Mucky Peat
- Scantic Silt Loam
- Searsport (Scarboro) Mucky Peat
- Togus Fibrous Peat

e)
Land which has been created by filling or draining a pond or wetland.

f)
Land which is located within a Resource Protection District.

g)
Land which is located on slopes greater than twenty-five (25) percent, or greater than twenty (20) percent in the Shoreland Residential Recreational District.

3. LOTS

a)
Notwithstanding the provisions of Section 7(G)(3)(b), regarding the minimum lot size in mobile home parks, all lots shall meet at a minimum, the requirements of SECTION 5 & SECTION 6 of this Ordinance.

b)
The lot sizes required in mobile home parks shall be in conformance with the Mobile Home Park Lot Size Requirements of 30-A M.R.S. § 4358(3).

c)
Lot configuration and area shall be designed to provide for adequate off-street parking.

d)
Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extensions of utilities.

e)
If a lot on one side of a stream greater than fifteen (15) feet in width, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream or road to meet the minimum lot size.

f)
Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. Any irregularly shaped, nonrectangular lot shall be designed to contain within it, at a minimum, a rectangular two (2) acre lot where the ratio of lot length to width shall not be more than three to one.

g)
Any proposed subdivision shall be so designated that every lot has frontage upon a way granting legal access, and so that no part of the tract is land-locked.

4. RETENTION OF OPEN SPACES AND NATURAL FEATURES

a)
Topsoil removal on any lot shall be accomplished in compliance with DEP regulation and SECTION 5 & SECTION 6 of this Ordinance where applicable.

b)
The Applicant shall be responsible for taking measures to correct and prevent soil erosion in the proposed subdivision.

c)
To prevent soil erosion of shoreline areas, tree cutting in a strip paralleling the shoreline of a water body, as defined, and extending one hundred (100) feet inland from all points along the normal high-water shall be limited in accordance with the following:

i.
A buffer strip of vegetation shall be preserved such that there are no cleared openings to the water, and a well-distributed stand of trees with a reasonably complete crown canopy is maintained.

ii.
No cleared openings shall be created, except to locate uses permitted within the buffer strip including without limitation water dependent facilities, water crossings and public recreation areas.

iii.
In order to protect water quality and wildlife habitat, existing vegetation under four (4) feet in height and ground cover shall not be pruned or removed, except as allowed under Section 7(G)(4)(c)(ii).

iv.
Pruning of live tree branches not to exceed twelve (12) feet in height above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.

v.
Where the removal of storm-damaged, diseased, unsafe or dead trees results in cleared openings being created, those openings shall be replanted with native trees at least three (3) feet in height unless existing new tree growth is present.

d)
The street and lot layout shall be adapted to the topography to the maximum extent practicable.

e)
Extensive grading and filling shall be avoided as much as possible.

f)
For all High-Impact Subdivisions, as defined, which are designed at a density at or greater than 0.4 dwelling units per acre, the Planning Board shall require that the Applicant reserve an area of land as open space for use by property owners in the subdivision up to 10% of the total subdivided acreage.

i.
Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended. Sites selected primarily for open space purposes shall have such access as the Planning Board may deem suitable, no less than twenty-five (25) feet of road frontage, and have no major dimensions of less than two hundred (200) feet. The configuration of such sites shall be subject to determination of adequacy by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.

ii.
The Final Plan shall provide how title to the reserved open space areas shall be held and how costs of improvements, maintenance and taxes shall be met.

iii.
Included in the instrument of conveyance to each property owner of the subdivision shall be a statement of the manner of providing for the cost of development and maintenance and for property taxes of the reserved land.

iv.
The recorded subdivision shall indicate that the common open spaces shall not be used for future building lots except for structures and buildings accessory to new recreational or conservation uses; how title shall be held; and who shall be responsible for cost of development and maintenance.

v.
In the event that the common open spaces are not to be owned by the Applicant (or the municipality), an association of property owners, to own, develop and maintain the common open spaces, shall be incorporated and set up. The articles of incorporation and by-laws shall be submitted to the Planning Board for its approval with the Final Plan.

vi.

The applicant shall maintain control of all common areas, and be responsible for their maintenance, until sufficient development to support the association, as determined by the Planning Board, shall have taken place.

vii.

Reserved land acceptable to the Planning Board and Applicant may be dedicated to the municipality if approved by the voters of the town.

viii.

Further subdivision of the common land or its use for other than non-commercial recreation or conservation purposes shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land with Planning Board approval.

5. UTILITIES

a)

Underground utilities, if employed, shall be installed prior to the installation of the final gravel base of the road.

b)

The size, type and location of streetlights, electric lines, telephone, and other utilities shall be shown on the Final Plan.

6. REQUIRED IMPROVEMENTS

The following improvements are required for all subdivision unless waived by the Planning Board in accordance with the provisions of this section.

a) Monuments

i.

Permanent monuments shall be set at all street intersections and points of curvature, but no further than seven hundred fifty (750) feet apart along street lines without curves or intersections.

ii.

Permanent monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is one hundred thirty-five (135) degrees or less.

b) Water Supply

i.

If a central water supply system is provided by the Applicant, the location and protection of the source, and the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144-A C.M.R. 231).

ii.

For all High Impact Subdivisions, the Applicant shall construct pond(s) with dry hydrant(s) to provide for adequate water storage for fire-fighting purposes. An easement shall be granted to the municipality granting access to the dry hydrants where necessary. The Planning Board may waive the requirement for fire ponds only upon submittal of evidence that the soil types in the subdivision will not permit their construction, or another adequate water source is accessible on a year-round basis to firefighting equipment and personnel is located within one thousand (1,000) feet of the subdivision.

c) Wastewater Disposal

i.

The Applicant shall submit evidence of soil suitability for subsurface wastewater disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Waste water Disposal Rules. In addition, when the limiting factor has been identified as being at or within fifteen (15) inches of surface in the area of the designated subsurface wastewater system, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.

ii.

In no instance shall a disposal area be permitted on soils or on a lot which requires a holding tank or a New System Variance from the Subsurface Waste water Disposal Rules.

d) Surface Drainage, Storm Water Run-Off and Erosion Control

i.

For all Major and High Impact Subdivisions, a storm water management plan, showing ditching, culverts, storm drains, easements, and other proposed improvements shall be submitted to the Planning Board. The plan must be reviewed and approved by the Cobbossee Watershed District or the Kennebec County Soil and Water Conservation District.

ii. Storm Water Run-Off

Surface water run-off shall be minimized and detained on site if possible. If it is not possible to detain water on site, downstream improvements to the channel may be required of the developer to prevent flooding caused by his or her subdivision. The natural state of streams, swales, floodways, or rights-of-way shall be maintained in a functional manner, and increases in peak flow caused by the proposed subdivision will not be allowed to overburden natural or existing drainage ways so as to cause erosion, vegetative loss, or other forms of drainage path degradation. Design period is 100-year storm. All required storm water run-off control mechanisms will be constructed in accordance with the guidelines of the "Maine Erosion and Sediment

Control Handbook for Construction-Best Management Practices"-(Cumberland County SWCD,MDEP-March 1991)

iii. Erosion Control

Erosion of soil and sedimentation of streams and water bodies shall be minimized by employing the following "best management" practices:

aa)

The least possible amount of disturbance will occur during construction in regard to tree removal, de-vegetation, and soil disturbance. In particular, strips of naturally vegetated areas existing on the down slope side of the construction site shall be maintained as undisturbed buffer areas.

bb)

During construction, exposed soils on slopes 10% or greater will be initially stabilized (i.e., mulched, covered, or reseeded) within two (2) working days of disturbance. All exposed soils on slopes less than 10% shall be stabilized within fifteen (15) days of disturbance. The mulching rate to be adhered to is as follows:

Method of Stabilization	Rate of Application
Hay Mulch	2 ton/acre
Wood chips/bark	4" thick
Reseeding (only between April 30 and September 30)	As designated in the "Maine Erosion and Sediment Control Handbook for Construction – Best Management Practices" – (Cumberland County SWCD, MDEP – March 1991)

cc)

All streams, water bodies and wetlands will be protected from sedimentation during construction by the installation of silt-fence barriers and/or hay bale barriers. Such barriers shall be installed whenever, and before, digging, soil removal, the stripping of vegetation, scarification, or soil disturbance of any kind occurs within five hundred (500) feet of a stream, water body or wetland or on slopes greater than 10%. The barriers shall be installed at all points immediately down slope of all soil exposing activities.

dd)

Permanent (final) vegetation and mechanical erosion control measures shall be installed by the time construction is completed.

ee)

Whenever the erosion and sedimentation control plan or storm water management plan, as required by Section 7(E)(2)(b) and Section 7(G)(1), indicates that because of slope, potential soil erosion, designed impervious area, and/or site location there is a demonstrated need for control measures, mechanisms shall be utilized by which sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods as determined by the Planning Board, and in accordance

with the guidelines established in the "Maine Erosion & Sediment Control Handbook for Construction-Best Management Practices"-Cumberland County SWCD,MDEP-March 1991.

ff)

The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified by the Planning Board.

e) Streets

i.

Notwithstanding the provisions of Section 7(G)(6)(e)(ii), below, proposed streets shall conform to the standards put forward in the SECTION 9 Roads.

ii.

Streets proposed in mobile home parks shall conform to the provisions of Section 7(G)(6)(e)(i), above, except where preempted by the provisions of 30-A M.R.S. § 4358(3).

iii.

To accommodate heavy firefighting equipment, cul-de-sac roads shall be limited to eight hundred (800) feet in length and shall be terminated by a turn-around-right-of-way no less than one hundred (100) feet in diameter. In developments where it is not possible to construct a one hundred (100) foot turn-around, the use of a "Y" or "T" or other turning space may be permitted provided the street length does not exceed three hundred (300) feet. Such a turning space shall allow a vehicle with a wheel base of twenty (20) feet to complete a turning movement with a maximum of one backing movement. Cul-de-sac roads may be longer than eight hundred (800) feet when the plans for such roads have been approved by the Mt. Vernon Fire Chief.

iv.

Road or street grades shall not exceed twelve (12) percent.

v.

No street or road shall have a center line radius of curvature of less than fifty (50) feet to be connected with curves of no greater than seven (7) degrees on all streets and roads.

vi.

All streets shall intersect as nearly as possible at right angles, and no street shall intersect at less than one hundred (100) degrees, with no less than one hundred (100) foot radius approach.

vii.

Proper sight lines shall be maintained at all intersections. For all intersections onto streets with posted speed limits of thirty-five (35) mph or less, there shall be a minimum clear sight distance of at least two hundred fifty (250) feet from the point

of intersection as measured along the centerline. With regard to intersections onto streets with higher posted speed limits, or onto State or State Aid roads, the required clear sight distance shall conform to the sight distance standards recommended by the Maine Department of Transportation.

viii.

To accommodate heavy firefighting equipment, bridges and culverts shall be constructed to support a gross vehicle weight of at least forty thousand (40,000) pounds.

f) Parking

For each dwelling unit there shall be off-street parking for at least two vehicles.

g) Building Height

No multi-family dwelling structure shall be higher than thirty-five (35) feet above the highest grade at the site of the structure.

h) Required Improvements

All required improvements such as streets, storm water drainage systems, and where appropriate, centralized water supply and sanitary sewage systems, shall be installed at the expense of the Applicant.

7. COMMON SHORELAND ACCESS

a)

The use of any property, including easements of any kind, providing common shoreland access shall require a minimum shoreline frontage of two hundred (200) contiguous feet and an additional twenty-five (25) feet for each dwelling unit beyond the third unit using the common shoreland access. Such a common lot shall have a minimum area of eighty thousand (80,000) square feet. Any recreational facilities associated with common shoreland access, such as beaches, docks, boat ramps, or picnic areas, shall be a minimum of seventy-five (75) feet from side lot lines. Shoreline construction shall conform to all applicable State laws administered by the Department of Environmental Protection.

b)

The common shoreland lot shall be subject to the following provisions:

i.

Common open space shall be dedicated upon approval of the project. There shall be no further subdivision of this land, which shall be used only for non-commercial recreation, agriculture or conservation. However, easements for public utilities, or structures accessory to non-commercial recreation, agriculture or conservation, may be permitted.

ii.

The common open space(s) shall be shown on the development plan and with appropriate notation.

iii.

If any or all of the common space is to be reserved for use by the residents of the subdivision, a homeowners' association shall be created and the by-laws of the proposed homeowner's association shall specify maintenance responsibilities and shall be submitted to the Planning Board for its review prior to approval.

iv.

Covenants for mandatory membership in the association, setting forth the owner's rights and interest and privileges in the association and the common land, shall be reviewed by the Planning Board and included in the deed for each lot at least by reference.

v.

The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, other common and recreational facilities and town assessments.

8. PHASING OF DEVELOPMENT

Any High Impact Subdivision may be required by the Planning Board to be developed in separate and distinct phases subject to any conditions the Board determines necessary to insure the orderly development of the Final Plan. The boundary lines of each phase shall be clearly shown on the Final Plan. When development is phased, road construction shall commence from the public way.

9. FINANCIAL AND TECHNICAL CAPACITY

The applicant shall have adequate financial and technical capacity to meet the standards of this section. Evidence supporting financial capacity shall include, but not be limited to, a letter from the Town Tax Collector indicating that no unpaid property taxes are recorded for the property to be subdivided.

10. CLUSTER DEVELOPMENT

a) Purpose

The purposes of these provisions are:

- To provide for efficient use of land and the preservation of open space;
- To provide for protection of environmentally sensitive resources;
- To provide for orderly development in the rural areas of the community;
- To allow for new concepts of housing development; and
- To encourage the construction of affordable housing.

Notwithstanding provisions of this and other Sections of this Ordinance relating to dimensional requirements, the Planning Board, in reviewing and approving proposed residential developments, may modify said provisions related to dimensional requirements to permit innovative approaches to housing and environmental design in accordance with the following standards.

b) Application Procedure

A written application for Cluster Development shall be submitted to the Planning Board. The number of lots in the cluster development may exceed the number of lots in the standard subdivision, using the density bonus allowed in all districts.

c) Basic Requirements for Cluster Developments

i.

Cluster developments shall comply with the performance standards of this Ordinance and any other applicable Town Ordinance except as otherwise noted below.

ii.

Cluster developments shall be a minimum of three (3) lots and shall meet all other requirements of this Section for Subdivision Review.

iii.

The developer shall illustrate the placement of buildings and the treatment of spaces, paths, roads, services and parking taking into consideration all requirements of this and of other relevant sections of this Ordinance.

iv.

In all districts, there shall be a density bonus of 20% for cluster developments.

v.

No lot shall be smaller in area than twenty thousand (20,000) square feet unless a public sewer or community sewage collection and treatment system is provided. Lots may be smaller than twenty thousand (20,000) square feet if a community subsurface sewage disposal system is to be used.

vi.

The total area of open space within the development shall be a minimum of 25% of the total development and shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required in the District, excluding density bonus lots.

vii.

Every building lot that is reduced in area below the amount normally required should abut the open space for a distance of fifty (50) feet or be within one thousand (1,000) feet walking distance of such land along a path of public access or private access reserved for lot owners.

viii.

Distance between buildings shall not be less than twenty (20) feet.

ix.

In rural districts, no more than two contiguous individual lots within the development shall have frontage on a road which existed prior to the time of development. Contiguous lots with common access on an existing road shall be

separated from other groups of contiguous lots with road frontage by open space of at least two (2) acres and two hundred (200) feet of frontage on the existing road(s). Two contiguous lots with allowed road frontage on an existing road shall have a common access. The common access may also serve as access to back lots. Allowable lots with road frontage shall not exceed 50% of the existing road frontage. The principle structure shall be setback a minimum of seventy-five (75) feet from the center line of the main public access road and fifty (50) feet from center line of interior roads that are constructed as part of cluster development.

x.

In no case shall shore frontage and shoreline setback be reduced below the minimums normally required in the Limited Residential, Village, and Stream Protection Districts.

xi.

Where a cluster development abuts a great pond, a usable portion of the land along the water, as well as reasonable access to it, shall be a part of the open space land. This open space land shall have a minimum depth of one hundred (100) feet.

xii.

The location of wells and subsurface sewage disposal systems shall be shown on the plan. The report of a Licensed Site Evaluator shall accompany the plan.

d) Siting Standards

i.

The overall plan for site development and landscaping shall take into consideration natural landscape features, topography, and natural drainage areas. A site inspection shall be conducted by the Planning Board prior to approval. Once approved, the plan shall not be altered without prior approval of the Planning Board, except as provided under Section 7(G)(12)(c).

ii.

For development abutting existing residential properties a vegetative buffer strip not less than twenty-five (25) feet wide shall be maintained along all lot lines of abutting properties (except for entrance and exit driveways). Such vegetative buffer shall not be built on or paved or used for parking or storage. There shall be no removal of trees over 4 inches in diameter within this buffer. In the Resource Protection District, vegetation shall be retained in its natural state, although tree planting shall be permitted as a matter of right.

e) Preservation and Maintenance of Open Space and Facilities

i.

There shall be no further subdivision of open space. Open space shall be used only for agriculture, non-commercial recreation, forestry or conservation. However, easements for public utilities, structures accessory to agriculture, non-commercial

recreation, forestry or conservation, but no residential structures, may be permitted in the open space area.

ii.

The open space(s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that the open space shall not be used for future building lots; and if a part or all of the open space is to be dedicated for acceptance by the municipality or another suitable third party, such as a land trust, by either fee ownership and/or conservation easement, it shall also be shown on the plan and shall be so noted.

iii.

Open space land may be sold or leased to a third party for agriculture, non-commercial recreation, conservation, or forestry purposes provided that development rights are held by the municipality, a conservation organization, or other public or semi-public entity. The legal instruments for conveying such land and retaining development rights shall first be submitted to and approved by the Planning Board.

11. PERFORMANCE GUARANTEES

a) Types of Guarantees

With submittal of the application for Final Plan approval, the Planning Board shall require that the Applicant provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the timespan of the construction schedule and the inflation rate for construction costs:

i.

Either a certified check payable to the municipality or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account;

ii.

A performance bond payable to the municipality issued by a surety company, approved by the Municipal Officers;

iii.

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

iv.

A proposal for conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of the Road Commissioner, Select Board, and/or Town Attorney.

b) Contents of Guarantee

The performance guarantee shall contain:

i.

A construction schedule;

ii.

Cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the Applicant;

iii.

A date after which the Applicant 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 payable to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the Applicant, the municipality shall be named as 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 Applicant within thirty (30) days after the Planning Board issues its final decision unless the municipality has found it necessary to draw on the account. In that case the interest earned shall be proportionately divided between the amount returned to the Applicant and the amount withdrawn to complete the required improvements.

d) Performance Bond

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

e) Letter of Credit

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

f) Conditional Agreement

The Planning Board, at its discretion may provide for the Applicant to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the Final Plan on the condition that up to four lots may be sold or built upon until either:

i.

It is certified by the Planning Board, or its agent, that all of the required improvements have been installed in accordance with this section and the regulations of the appropriate utilities; or

ii.

A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed. Notice of the agreement and any conditions shall be on the Final Plan which is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 7(G)(11)(h).

g) Phasing Development

The Planning Board may approve plans to develop a major subdivision in separate distinct phases (See Section 7(G)(8). 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 guaranteed. 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.

h) 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 whatever agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for those portions of the improvements for which the release is requested.

i) Default

If, upon inspection, the Town finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, the Select Board may take any steps necessary to preserve the Town's rights.

j) Improvements Guaranteed

Performance guarantees shall be tendered for all improvements required by Section 7(G)(6) of this section, as well as any other improvements required by the Planning Board.

12. INSPECTION OF REQUIRED IMPROVEMENTS

a)

At least five (5) days prior to commencing construction of required improvements (Section 7(G)(6), the Applicant shall notify the Code Enforcement Officer and the Road Commissioner, where applicable, in writing. All municipal specifications and requirements shall be met during the construction of required improvements.

b)
If an inspecting official finds that any of the required improvements have not been constructed in accordance with the approved final plan, the official shall, within twenty-four (24) hours, report in writing to the Select Board, Planning Board, and the Applicant. The Select Board may take any steps necessary to preserve the municipality's rights.

c)
If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Planning Board. Revised plans shall be filed with the Board within seven (7) days. For major modifications, such as relocation of rights-of-way property boundaries, changes of grade by more than 1% etc., the Applicant shall obtain permission to modify the plans from the Planning Board.

d)
Prior to sale of any lot, the Applicant shall provide the Planning Board with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.

e)
The Applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality or by the landowners' association.

13. WAIVERS

a) Waivers of Submission Requirements of Performance Standards

Where the Planning Board makes written findings of fact that there are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirements or the Performance Standards, unless otherwise indicated in this section to permit a more practical and economical development, provided the public health, safety and welfare are protected and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, this section, or other sections of this Ordinance.

b) Waiver of Improvements

Where the Planning Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or is inappropriate because of inadequate or lacking connecting facilities in proximity to the proposed subdivision, it may waive the requirement for such improvements.

c) Conditions

In granting waivers to any of the provisions of this section in accordance with Section 7(G)(13)(a) &(b), the Planning Board shall require such conditions as will assure that the objectives of this section are met.

SECTION 8 REPEALED

Section 8 repealed and replaced by Town of Mount Vernon Floodplain Management Ordinance. (APPENDIX VI)

SECTION 9 ROADS

A. PURPOSE

This section shall establish Planning Board review requirements and the road design requirements for:

- Any new public road constructed in the Town of Mt. Vernon after 3/9/91;
- Any road to be accepted by the town meeting as a town road after 3/9/91; and
- Any subdivision road, as defined herein.

This section shall also establish the road design requirements for any driveway to a back lot constructed after the 3/9/91 pursuant to Section 5(B)(7).

B. APPLICATION FOR A ROAD CONSTRUCTION PERMIT

1.

Before initiating the substantial construction of any new public road or private road which is to be placed before the town meeting for acceptance, the owner or developer of the roadway shall obtain a Road Construction Permit from the Mt. Vernon Planning Board. For new public roads, the Road Commissioner shall apply to the Planning Board for the Road Construction Permit. The application form for such a permit shall be provided by the Planning Board and shall include an anticipated time table for the purpose of performing the inspections required by Section 9(E).

2.

Persons required by Section 5(B)(7) to construct driveways to back lots are not required by this Section to obtain a road construction permit from the Planning Board. Such driveways, however, must be constructed according to the pertinent provisions found in Section 9(C)&(D). Failure to construct such a driveway according to the applicable standards herein shall be a violation of this Ordinance.

3.

The applicant for the Road Construction Permit shall apply by returning to the Planning Board Chair a completed permit application form with the appropriate application fee according to SECTION 11 at least seven (7) days before the next regularly scheduled Planning Board meeting.

4.

The Planning Board shall first review all applications in order to determine if the application is complete. If the application is deemed to be incomplete, the Planning Board shall, within thirty (30) days, provide the applicant with a list of submissions necessary to complete the application.

5.

The Planning Board shall review all completed applications for compliance with the standards contained in this section. Within thirty (30) days of first reviewing a complete application, the Planning Board shall either return the applicant the permit as approved or transmit to the applicant written notice of denial. The notice of denial shall cite the specific areas where the applicant's proposal is not in compliance with state law or regulation or the standards of this section or other sections of this Ordinance. A party aggrieved by the denial of a permit may appeal that decision to the Mt. Vernon Board of Appeals within thirty (30) days in accordance with SECTION 11.

6.

The application process for a Road Construction Permit as established above shall be waived for any subdivision road, as defined. The Planning Board review of such roadways shall be conducted concurrently and as part of the overall subdivision review pursuant to SECTION 7 Subdivision Review. Planning Board approval of any subdivision containing a roadway shall constitute an approved Road Construction Permit.

C. GENERAL ROAD CONSTRUCTION STANDARDS

After 3/9/91 all public roads created and established by the town, all private roads which are to be placed before the town meeting for acceptance for maintenance, all subdivision roads, and all newly created driveways to back lots shall be constructed, at a minimum, according to the following general standards.

[NOTE: While there is no Planning Board review or Road Construction Permit required for driveways to back lots, the following construction standards nonetheless apply. Conformance with the applicable standards shall be necessary to obtain a Certificate of Compliance pursuant to Section 11(G)].

1.

The road or driveway design shall meet, at a minimum, the applicable specifications as detailed in Section 9(D) & Section 5(C)(10) and the appropriate typical cross section diagram.

2.

Prior to constructing the road or driveway, and within the entire road bed area, trees and bushes must be cut to ground level, and all stumps, roots, perishable material, protruding rocks and other obstructions must be removed.

3.

Adequate provision shall be made for disposal of all surface runoff water. Culverts under roadways shall be no less than twelve (12) inches in diameter. Ditches shall be constructed in accordance with the attached cross section diagram.

4.

The Applicant shall secure any easement determined necessary by the Planning Board for the purposes of effecting proper water drainage and slope. For public roads and roads to be accepted by the town for maintenance, such easements shall be provided to the Town of Mt. Vernon in such legal form as to be deemed satisfactory to the Select Board.

5. EROSION CONTROL STANDARDS

Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following standards and the applicable "best management" practices as detailed in the Maine Department of Transportation's Best Management Practices for Erosion and Sediment Control (February 2008).

a)

Outside of the roadbed area, the least possible amount of disturbance will occur during construction in regard to tree removal, de-vegetation, and soil disturbance. In particular, strips of naturally vegetated areas existing on the down slope side of the construction site shall be maintained as undisturbed buffer areas.

b)

Exposed soils on slopes 10% or greater will be initially stabilized (i.e., mulched, covered, or reseeded) within two (2) working days of disturbance. All exposed soils on slopes less than 10% shall be stabilized within fifteen (15) days of disturbance. The mulching rate shall be 2 tons of hay mulch to the exposed acre, or the equivalent in accordance with Section 6(E)(12).

c)

All watercourses, waterbodies and wetlands, as those terms are defined in SECTION 3 of this Ordinance, will be protected from sedimentation by the installation of silt-fence barriers and/or hay bale barriers. Such barriers shall be installed whenever and before digging, soil removal, the stripping of vegetation, scarification, or soil disturbance of any kind occurs within five hundred (500) feet of a watercourse, waterbody or wetland or on slopes greater than 10%. The barriers shall be installed at all points immediately down slope of all soil exposing activities.

d)

Permanent (final) vegetation and mechanical erosion control measures, as required by the Planning Board, shall be installed by the time construction is completed. The seed application rate for final vegetation shall be in accordance with Section 6(E)(12)(b).

D. ROAD DESIGN STANDARDS

All public roads created and established by the town, all private roads which are to be placed before the town meeting for acceptance to maintenance, all subdivision roads, and all driveways to back lots shall be constructed, at a minimum, according to the following design standards.

[NOTE: While there is no Planning Board Review or Road Construction Permit required for driveways to back lots, the following construction standards nonetheless apply. Conformance with the applicable standards shall be necessary to obtain a Certificate of Conformance pursuant to Section 11(G).]

	Design Category	Town/Subdivision/Private Road	Both	Back Lot Driveway
1	Minimum width (ROW)	66'		30'
2	Minimum width of traveled way	18'		12'
3	Minimum grade		0.50%	
4	Maximum grade	10%		15% **
5	Maximum grade at intersection		3% within 50 ft. of intersection	
6	Minimum angle of intersection		80 degrees **	
7	Width of shoulders (each side)	3'		2'
8	Minimum centerline radius on curves		200'	
9	Minimum tangent length between curves		100'	
10	Base gravel (4" minus)		16"	
11	Surface gravel (2" minus)	4"		N/A
12	Bituminous paving (optional)	2" base, 1" surface		
13	Road crown		0.25"/1"	
14	Sidewalk width (minimum, 5' where required)	8" base course (gravel) Surface (optional) 2" bituminous hot top		
15	Dead-End or cul-de-sac streets:			
	Width	66'		N/A
	Length not more than	800'		N/A
	Radius of turnaround at Enclosed End	65'		N/A
16	Property line radius at intersection (minimum)		10'	
17	Curb radius at intersections (Note Curb placement is optional)			
	90 degree intersections	25'		
	Less than 90 degrees intersections	30'		

** These standards may be increased/reduced with prior Planning Board approval without the need for a variance.

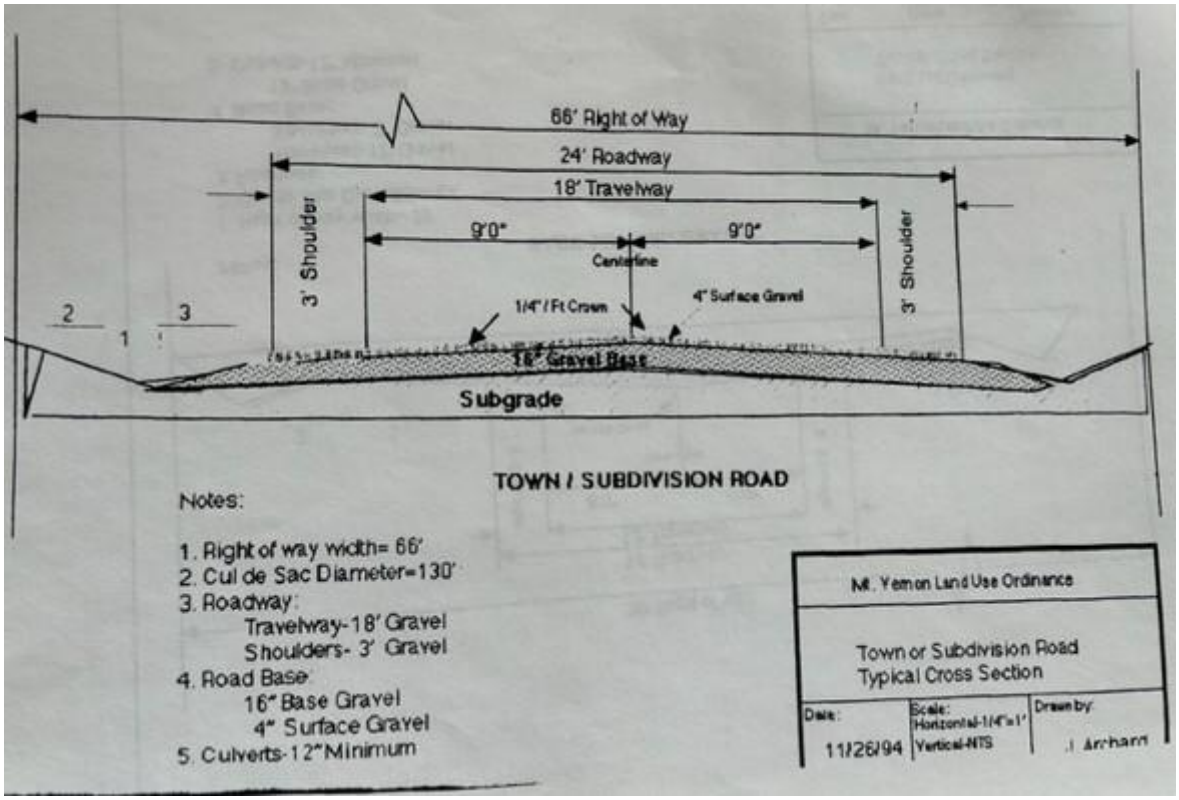

Figure 9-1 Town/Subdivision/Private Roads

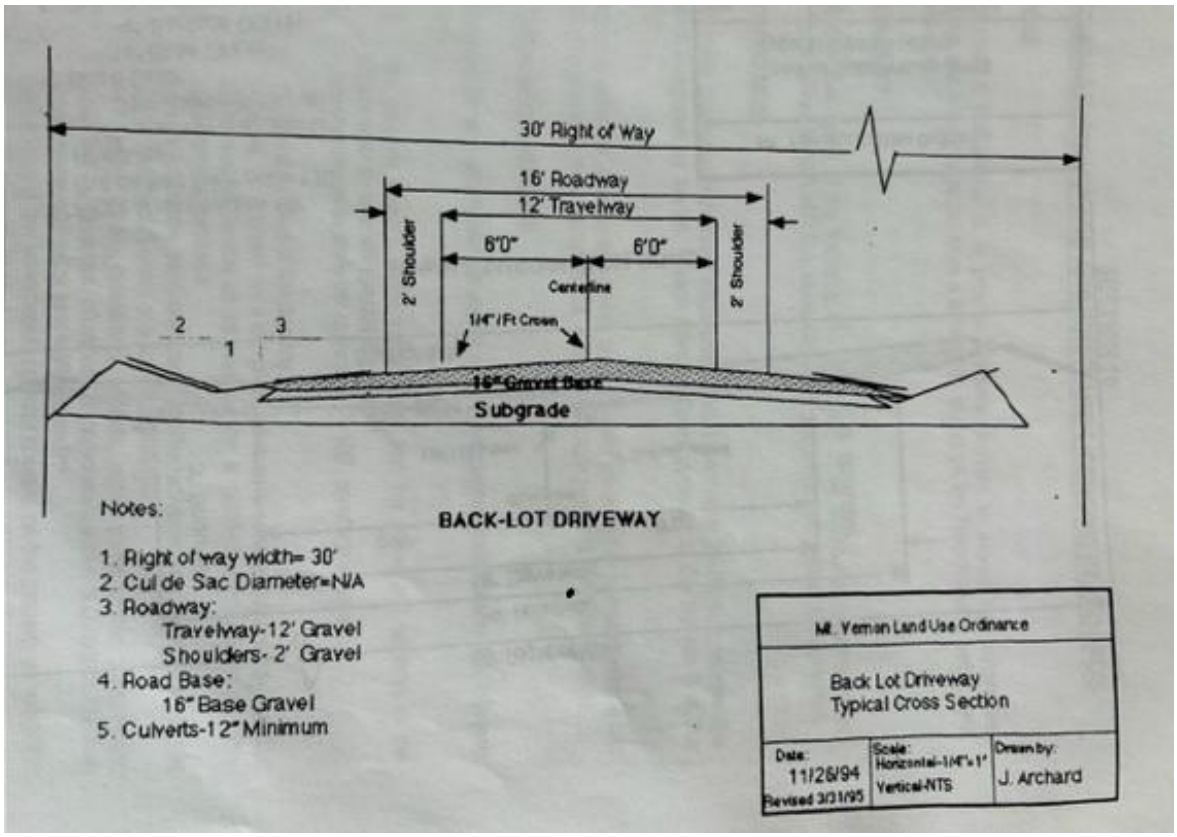

Figure 9-2 Back Lot Driveway

E. INSPECTIONS

1.

The applicant shall provide to the Planning Board, as part of the application for a Road Construction Permit, an anticipated inspection schedule. Whenever the Planning Board issues a Road Construction Permit, the actual inspections shall be conducted whenever mutually agreeable to the applicant and the municipal inspector.

2.

During the construction of any road for which a permit has been issued, there shall be five required inspections:

a)
After the road bed area has been cleared; i.e., after the trees have been cut, stumps and rocks have been removed, and the land cuts have been made, but before any gravel has been applied;

b)
A pit site inspection of the gravels to be used for the sub-base and base;

c)
After application of the aggregate sub-base;

d)
After application of the aggregate base; and

e)
After all ditches and slopes are completed and erosion measures are finally installed.

3.

After each inspection, the municipal inspector shall issue in writing to the applicant or his/her designee and to the Select Board a brief report summarizing the inspection findings and indicating whether construction to date is in compliance with this Ordinance. Whenever the municipal inspector finds that construction to date is not in conformance with this Ordinance, the applicant shall be informed of the additional construction necessary. It shall be a violation of this Ordinance to proceed with a subsequent phase of road construction without first receiving notice of compliance from the municipal inspector.

F. WAIVERS

1.

Any applicant seeking a waiver to the provision found in Section 5(B)(7) of this Ordinance requiring back lots to be served by a driveway designed at least to the standards of a driveway to a back lot pursuant to the Mt. Vernon Road Ordinance may apply for such a waiver, with seven (7) days prior notice, to the Mt. Vernon Planning Board at a regularly scheduled meeting.

No provision other than this requirement in Section 5(B)(7) of this Ordinance may be waived by action of the Planning Board except as elaborated in Section 9(F)(4) below.

2.

Within seven (7) days of the planning board meeting at which the waiver request is heard, the Planning Board shall issue such a waiver, in writing, to the applicant and Building Inspector, or Code Enforcement Officer whenever sufficient evidence or documentation has been presented by the applicant to satisfy the Planning Board that the back lot in question:

a)
will be used only as a seasonal, recreational parcel; and,

b)
has acknowledged in writing to hold the Town harmless due to the lack of access of emergency services.

3.

The Planning Board shall place as a condition on any waiver granted under this section a requirement that the applicant must, prior to converting the use of the building permitted under this waiver to a year-round dwelling, construct an access driveway designed at minimum to the standards for a driveway to a back lot found in this Section. A waiverholder's failure to so construct such a road under these circumstances shall be considered a violation of this Ordinance.

4.

Where the Planning Board makes written findings of fact that there are special circumstances regarding the land upon which a particular road is to be constructed, it may waive portions of the submission requirements or the standards herein, unless otherwise indicated in this section, to permit a more practical and economical development, provided the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, this section, or any other section of this Ordinance.

SECTION 10 AUTOMOBILE GRAVEYARD, JUNKYARD, AUTOMOBILE RECYCLING BUSINESS LICENSING, AND AUTOMOBILE HOBBYIST STANDARDS

A. PURPOSE

The purpose of this section is to provide adequate controls to ensure that automobile graveyards , junkyards and automobile recycling businesses do not have a deleterious impact on the Town's health, safety, and general welfare.

B. APPLICABILITY

This section shall apply to the licensing and relicensing of all automobile graveyards, junkyards and automobile recycling businesses as defined in 30-A M.R.S. § 3752 and as further defined in this section. This section also applies to automobile hobbyists.

C. PERMIT REQUIRED

Any automobile graveyard, junkyard or automobile recycling business established in Mt. Vernon after 3/9/91 must receive Site Plan Review approval by the Mt. Vernon Planning Board pursuant to the SECTION 6 of this Ordinance.

No person may establish, operate or maintain an automobile graveyard,junkyard or automobile recycling business without first obtaining, and renewing on an annual basis, a nontransferable permit from the Select Board.

C-1. REQUIREMENTS FOR AUTOMOBILE HOBBYIST

Pursuant to 30-A M.R.S. § 3752(1)(A)(2), the area used by an "automobile hobbyist" as defined in this Ordinance, to store, organize, restore or display vehicles is not an "automobile graveyard " and is not subject to the requirements for automobile graveyards, including, without limitation the requirement of an annual permit. All existing and new automobile hobbyist activities, however, must apply for and obtain a permit from the Code Enforcement Officer and demonstrate compliance with the following requirements:

1. SCREENING

An automobile hobbyist may not store, organize, restore or display vehicles within one thousand (1,000) feet of the right-of-way of any highway incorporated in both the Interstate System and Primary System or within six hundred (600) feet of the right-of-way of any road, except for:

a)
Those areas that are kept entirely screened from ordinary view from the highway or road at all times by natural objects, plantings or fences. Screening required by this paragraph must be:

i.
At a height, density and depth sufficient to accomplish complete screening from ordinary view;

ii.
Well constructed and properly maintained at a minimum height of 6 feet;

iii.
Placed outside of the road right-of-way; and

iv.
Acceptable to the municipal officers or county commissioners.

2. OPERATING STANDARDS

All automobile hobbyists must comply with the following standards:

a)
All fluids, including, but not limited to, engine lubricant, transmission fluid, brake fluid, power steering fluid, hydraulic fluid, engine coolant, gasoline, diesel fuel and oil, must be properly handled in such a manner that they do not leak, flow or discharge into or onto the ground or into a body of water;

b)
A vehicle containing fluids may not be stored or dismantled within one hundred (100) feet of any body of water or freshwater wetland, as defined by 38 M.R.S. § 436-A(5).

c)
Junk, scrap metal, vehicles or other solid wastes may not be placed or deposited, directly or indirectly, into the inland waters of the State or on the ice of inland waters on the banks of inland waters or in such a manner that they may fall or be washed into these waters.

3. PERMIT

In making application for an automobile hobbyist permit, the owner or operator must provide notice to the Town of all vehicles or parts of vehicles claimed to fall under the hobbyist exception, including the make, model, year and make of all vehicles or vehicle parts.

D. SUBMISSION REQUIREMENTS

Any application for any automobile graveyard,junkyard or automobile recycling business permit shall contain the following information:

1.

The property owner's name and address and the name and address of the person or entity who will operate the site.

2.

A site plan drawn to scale not to exceed 1"=100', on which is shown:

a)
The boundary lines of the property;

b)
The soils, as mapped on a comprehensive soils survey prepared by the Soil Conservation Service or as mapped by a certified soil scientist or other competent professional;

c)
The location of any sand and gravel aquifer recharge area, as mapped by the Maine Geological Survey or a licensed geologist;

d)
The location of any well that serves as a private or public water supply that is located within three hundred (300) feet of the proposed licensed site;

e)
The location of any residences, schools, public parks, public playgrounds, public bathing beaches, churches, or cemeteries within five hundred (500) feet of the area where motor vehicles or junk will be stored;

f)
The location of any waterbodies or water courses on the property or within one hundred (100) feet of the property lines;

g)
The boundaries of the 100-year floodplain; and

h)
The location of all roads within one thousand (1,000) feet of the site.

E. PERFORMANCE STANDARDS

The following performance standards are required of all automobile graveyards, junkyards, and automobile recycling businesses, whether new or existing. The Select Board shall not issue a license to operate an automobile graveyard,junkyard, or recycling business unless the applicant can positively demonstrate that each and every of the following performance standards have been and will be met.

1. COORDINATION WITH SITE PLAN REVIEW

Where applicable, the facility has received Site Plan approval by the Mt. Vernon Planning Board, and the operation of the automobile graveyard or junkyard is in complete compliance with any Site Plan Review approved by the Mt. Vernon Planning Board for the facility.

2. AQUIFER LOCATION PROHIBITED

No vehicle or junk shall be located over a sand and gravel aquifer or aquifer recharge areas as mapped by the Maine Geological Survey or by a licensed geologist.

3. FLOOD PLAIN LOCATION PROHIBITED

No vehicle or junk shall be located within a 100-year flood plain.

4. STORAGE/HANDLING OF ENGINE FLUIDS

Upon receiving a motor vehicle, the battery shall be removed and located in such a way as to ensure the battery's contents will not spill onto the ground.

All fluids, including, but not limited to, engine lubricant, transmission fluid, brake fluid, power steering fluid, hydraulic fluid, engine coolant, gasoline, diesel fuel and oil, must be properly handled in such a manner that they do not leak, flow or discharge into or onto the ground or into a body of water.

Automobile recycling businesses must remove batteries and must drain all fluids into watertight, covered containers. All fluids shall be recycled or disposed of in accordance with applicable federal and state laws, rules and regulations.

All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles that lack engines or other parts that render the vehicles incapable of being driven under their own motor power or that are otherwise incapable of being driven under their own motor power, appliances and other items within one hundred and eighty (180) days of acquisition. Motor vehicles, appliances and other items acquired by and on the premises of a junkyard or automobile graveyard prior to October 1, 2005 must have all fluids, refrigerant, batteries and mercury switches removed by January 1, 2007. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable.

Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable federal and state laws, rules and regulations.

All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles, appliances and other items before crushing or shredding. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable

5. NOISE IMPACT

To reduce the impact of noise, all mechanized sorting or baling of materials or dismantling or crushing of motor vehicles shall be done after 7 a.m. and before 6 p.m. Mondays through Saturdays. All mechanized dismantling of vehicles shall take place in a building.

6. SETBACK FROM PUBLIC AREAS

No vehicle or junk shall be located within three hundred (300) feet of any public park, public playground, public bathing beach, school, church or cemetery.

No automobile recycling business may dismantle or store a vehicle within 500 feet of a school, church, cemetery, public playground or park that existed on the date the permit was issued.

A new permit may not be granted for an automobile graveyard or junkyard that is:

a) located within 300 feet of a public building, public park, public playground, public bathing beach, school, church or cemetery; and

b) within ordinary view from a facility under paragraph a).

7. SETBACK FROM WATERWAYS

A vehicle containing fluids may not be stored or dismantled within one hundred (100) feet of any body of water or freshwater wetland, as defined by Title 38, section 436 A, subsection 5;

Junk, scrap metal, vehicles or other solid wastes may not be placed or deposited, directly or indirectly, into the inland waters or tidal waters of the State or on the ice of inland waters or tidal waters or on the banks of inland waters or tidal waters in such a manner that they may fall or be washed into these waters.

8. ROAD/PROPERTY LINE SETBACKS

No automobile graveyard or junkyard established after October 3, 1973 can be located within one hundred (100) feet of any highway. No vehicle or junk shall be located within one thousand (1,000) feet of a public road or abutting property line except for an automobile graveyard or junkyard entirely screened from ordinary view from that public road or abutting property line at all times in accordance with the screening standards in Section 10(E)(11). In no event shall the automobile graveyard or junkyard be located closer than one hundred (100) feet from a public road. The Select Board may issue a permit for a junkyard or automobile graveyard which lies within the ordinary view of an abutting property line provided the applicant has submitted a written waiver from this protection signed by the abutting property owner within thirty (30) days of the date of application. These setback provisions shall apply to temporary or permanent storage areas for any vehicles or junk but shall not apply to the fences or screening which may be established to keep the facility screened from ordinary view, except such fences or screening must be outside the public road right-of-way. For the purposes

of this section, the term "from a public road" shall mean from the outside edge of the road right-of-way.

An automobile recycling business may not locate or dismantle a vehicle closer than twenty (20) feet from any lot line, unless the operator has notarized written permission from the abutting property owner.

9. SETBACK FROM WATER SUPPLIES

A permit may not be granted for an automobile graveyard, junkyard or automobile recycling business that handles junk, scrap metal, vehicles, or other solid waste within three hundred (300) feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the automobile graveyard, junkyard, automobile recycling business or the owner's or operator's abutting residence. This prohibition does not apply to wells installed after an automobile graveyard, junkyard or automobile recycling business has already received a permit from the municipal officers.

Automobile graveyards, junkyards and automobile recycling businesses operating under the terms of permits issued prior to 2005 and handling junk, scrap metal, vehicles or other solid waste within three hundred (300) feet of wells that serve as public or private water supplies may continue to operate in those locations under the terms of those permits. Municipal officers may renew a permit allowing the continued handling of junk, scrap metal, vehicles or other solid waste within three hundred (300) feet of a well serving as a public or private water supply as long as no further encroachment toward the well occurs. The municipal officers may not renew a permit if there is substantial, credible evidence that the permitted activities have caused contamination of the well.

10. VISUAL IMPACT

Vehicles or junk shall be located in such a way so as not to be in ordinary view from any public road or abutting property line. This standard can be met through storage setback or screening or a combination thereof.

11. SCREENING

Screening may be accomplished by natural or man-made objects, planting or properly constructed fences, or any combination thereof, any of which must completely screen the automobile graveyard or junkyard from ordinary view throughout the entire calendar year. Screening must be:

a)
At a height, density and depth sufficient to accomplish complete screening from ordinary view;

b)
Well constructed and properly maintained at a minimum height of 6 feet;

c)
Placed outside of the road right-of-way; and

d)
Acceptable to the municipal officers or county commissioners.

SECTION 11 ADMINISTRATION, ENFORCEMENT AND PENALTIES

A. ADMINISTRATIVE AUTHORITIES

This Ordinance shall be administered by the following Town Officials or Boards as indicated in the appropriate Sections of this Ordinance:

- Code Enforcement Officer
- The Mount Vernon Board of Appeals
- The Mount Vernon Planning Board
- The Licensed Plumbing Inspector ("LPI")
- The Municipal Officers
- The Building Inspector

The Code Enforcement Officer, LPI, and Building Inspector shall be appointed/reappointed or contracted, as allowed by law, annually by the Select Board.

B. PERMITS REQUIRED

No person shall engage in any activity, land use, or placement of a structure, addition or attachment requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure or attachment or renew a discontinued nonconforming use without first obtaining a permit. 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.

1.

A permit is not required for the replacement of a road culvert so long as;

a)
The replacement culvert is not more than 25% longer than the culvert being replaced.

b)
The replacement culvert is no longer than seventy-five (75) feet and

c)
Adequate erosion measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the water-course.

2.

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

3.

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

C. PERMIT APPLICATION

1.

Every applicant for a permit shall submit to the Administrative Authority, as indicated in the appropriate section of this Ordinance, a written application, including a scaled site plan, on a form provided by the municipality.

2.

All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor or 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.

All applications shall be dated, and the Code Enforcement Officer, Planning Board or Municipal Officers as appropriate, shall note upon each application the date and time of its receipt.

4.

A plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure would require the installation or replacement of a subsurface sewage disposal system.

5.

Photographic Record Required for Permits in the Shoreland and Limited Commercial Zones. An applicant for a permit for development within the shoreland zone and Limited Commercial Zone is required to provide the municipal permitting authority preconstruction photographs and, no later than twenty (20) days after completion of the development, postconstruction photographs of the shoreline vegetation and development site.

D. FEES

1.

All permits must be accompanied by a non-refundable permit fee to be calculated by the following fee schedule. The total fee for a given permit is based on the cumulative amount for overlapping uses.

Administrative and Variance Appeals	$125
Mobile Home Placement and Attached Structures	$0.2 per sq. ft. or $100 whichever is greater
Unattached or Attached Accessory Structures	$0.1 per sq. ft. or $100 whichever is greater
Agricultural Structure Exceeding 200 sq. ft.	$15.00
Commercial Buildings	$0.25 per sq. ft or $100 whichever is greater
Commercial Accessory Structures	$0.15 per sq. ft. or $100 whichever is greater
Residential Structures	0.2 per sq. ft. or $100 whichever is greater
Docks	$50.00
Temporary Structures Outside Shoreland Zone	No Fee
Work Started Without a Permit	Double Fee
Site Plan Review	$150.00
PLUS	
New Construction on impervious area	$0.03 per sq. ft.
Change of Use per sq. ft. of structure to be renovated	$0.01
Shoreland Zoning applications (excluding docks)	$50
Flood Plain	
Minor Improvement	$25.00
Substantial Improvement, New Construction or Non-Conforming Residential Floodproofing	$55.00
Subdivision Minor (less than 5 lots)	$200.00
Subdivision Major	$200 plus $75 per lot
Private Road	$60/1,000 linear feet or part thereof
Junkyards	$50.00
Permit Transfer	$20.00
Driveway	$30.00
Solar Energy System, Large-Scale	$2,500.00
Solar Energy System, Medium-Scale	$500.00
Solar Energy System, Small-Scale. The Application Fee is the building permit fee. Permit Fee is $1.00 per kW with a minimum fee of $25	

Table 11-1 Permit Fees

Note on Table 11-1: sq. ft. measurements are to include all floor areas except unfinished basements.

See Section 6(C)(3)(d) for additional fees associated with hearing costs.

See Sections 6(C)(2)(d), 6(E)(35)(d)(xxii), 7(B)(3), 7(D)(2)(b) and 7(E)(1)(b) for additional fees associated with professional services.

2.

Fees for plumbing inspection shall be as set forth in the State of Maine Subsurface Wastewater Disposal Rules, Chapter 241 (current version), except that a minimum fee of $20 shall apply to all permits. A $30 fee shall be charged for treatment tanks to be connected to other than Subsurface Wastewater Disposal Systems. When the Plumbing Inspector is required to make more than one inspection before a plumbing permit can be certified as inspected, the applicant shall be charged $20 per subsequent inspection.

3. AFTER-THE-FACT PERMITS

The Town of Mt. Vernon finds that the costs associated with enforcing after-the-fact compliance with provisions of this Ordinance warrant, at a minimum, a doubling of the permit application fee found Section 11(D)(1), 11(D)(2) and any amendments to the fee schedule adopted by the Select Board pursuant to Section 11(D)(5), for after-the-fact permits. An after-the-fact permit is any permit issued by the Administrative Authority in response to an application submitted after substantial construction or land use has occurred without the required permit. This section shall not be construed as in any way limiting Mt. Vernon from enforcing the provisions of this Ordinance by means of the procedures and remedies found in this Section.

4.

Permits are valid only to the person to which they are issued. A valid unexpired permit may be transferred to another person who, either by fee interest or lease, has obtained standing. A permit transfer shall be subject to a transfer fee as defined in Table 11-1.

5.

The Select Board shall have the authority to amend the Permit Fee Schedule as set forth in Table 11-1, after notice and public hearing. Nothing in this paragraph shall modify the authority of the Town to set or modify fees at town meeting.

E. PROCEDURE FOR ADMINISTERING PERMITS

1. LAND USE (IN SHORELAND AND LIMITED COMMERCIAL ZONE INCLUDING BUILDINGS)

Within thirty-five (35) days of the date of receiving a written application, the Administrative Authority, as indicated in the applicable Section of this Ordinance, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Administrative Authority, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within thirty-five (35) days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within thirty-five (35) days after the first available date on the Planning Board's agenda following receipt of the completed application, or within thirty-five (35) days of the

public hearing, if one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

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

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

a)
Will maintain safe and healthful conditions;

b)
Will not result in water pollution, erosion, or sedimentation to surface waters;

c)
Will adequately provide for the disposal of all waste water;

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

e)
Will conserve shore cover and visual, as well as actual, points of access to inland waters;

f)
Will protect archeological and historic resources as designated in the comprehensive plan;

g)
Will avoid problems associated with flood plain development and use; and

h)
Is in conformance with the provisions of SECTION 5, Land Use Standards.

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 any State law which the municipality is responsible for enforcing.

2. BUILDING PERMITS (RURAL ZONE)

a)
Before the construction of any building or accessory structure shall begin, the owner or authorized agent for the owner, shall submit to the Building Inspector or Code Enforcement Officer as indicated an application for a permit for such proposed work and the appropriate application fee in accordance with Table 11-1 of this Ordinance. The application form shall be supplied by the Building Inspector or Code Enforcement Officer.

b)

No application for a permit for any building for which a subsurface wastewater disposal system is required pursuant to 30-A M.R.S. § 4215 and the State of Maine Subsurface Wastewater Disposal Rules shall be considered complete until the application includes a Maine Department of Human Services Bureau of Health Engineering site evaluation form (HHE-200) which has been completed by a licensed site evaluator and which evidences adequate soil conditions for subsurface wastewater disposal and a permit has been issued by the LPI.

c)

The Building Inspector or Code Enforcement Officer shall review all completed applications for compliance with the standards contained in this Ordinance. Within fifteen (15) days of receipt of the completed application, the Building Inspector or Code Enforcement Officer, shall either return the approved permit to the applicant or transmit to the applicant written notice of denial. The notice of denial shall cite the specific areas where the applicant's proposal was not in compliance with state law or regulation or the standards of this Ordinance or other Mt. Vernon ordinances. The party aggrieved by the denial of a permit may appeal that decision to the Mt. Vernon Board of Appeals within thirty (30) days in accordance with Section 11(J) of this Ordinance.

d)

No driveway shall be constructed on a public town road in the town of Mount Vernon without a driveway permit issued by the Code Enforcement Officer. Driveways on public town road shall meet the basic safety standards set forth in Section 5(C)(31).

F. EXPIRATION OF PERMIT

Following the issuance of a permit, if no substantial start is made in construction or in the use of the property, within two (2) years in the Rural Zone or within one year in ALL OTHER ZONES of the date of the permit, the permit shall lapse and become void.

G. CERTIFICATE OF COMPLIANCE

1.

No person may occupy a residential or commercial building which has been, or should have been, constructed under a permit issued pursuant to this Ordinance without receiving a Certificate of Compliance issued by the Building Inspector or Code Enforcement officer.

2.

The Building Inspector or Code Enforcement officer shall inspect any building at the request of the individual holding the building permit or his or her agent, and within 24 hours of that inspection either issue the approved Certificate of Compliance or transmit to the applicant a written notice of denial. The notice of denial shall cite the specific manner in which the construction of the building fails to conform to the proposal on the building permit application, the standards of this Ordinance or the standards found at 25 M.R.S. § 2357. The party aggrieved

by the denial of a Certificate of Compliance may appeal that decision to the Mt. Vernon Board of Appeals within thirty (30) days in accordance with Section 11(J) of this Ordinance.

3.

The Building Inspector or Code Enforcement officer shall not issue a Certificate of Compliance until he, or she, has inspected the constructed building and determined that:

a)
to the extent the building has been constructed, the construction has been in accordance with the building permit application;

b)
the building has been constructed in accordance with the standards of this Ordinance;

c)
the waste disposal system, if required pursuant to 30-A M.R.S. § 4215 and the State of Maine Subsurface Wastewater Disposal Rules, has been properly installed and connected. A valid plumbing permit signed by the LPI shall constitute compliance with this standard; and

d)
the construction of the building otherwise complies with the Certificate of Compliance criteria relating to fire safety found at 25 M.R.S. § 2357.

4. FEES FOR CERTIFICATES OF COMPLIANCE

There shall be no fee for an initial inspection for a Certificate of Compliance. When the Building Inspector or Code Enforcement Officer is required to make more than one inspection before a Certificate of Compliance can be issued, the applicant shall be charged $20 per subsequent inspection.

5.

In addition to all other requirements, the Building Inspector or Code Enforcement officer shall not issue a Certificate of Compliance for an affordable housing development or accessory dwelling unit until the requirements of Section 5(B)(10) and Section 5(C)(35) of this Ordinance have been satisfied.

H. INSTALLATION OF PUBLIC UTILITY SERVICE

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

I. APPEALS

1. POWERS AND DUTIES OF THE BOARD OF APPEALS

The Board of Appeals shall have the following powers:

a) Administrative Appeals

To hear and decide appeals, where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration of this Ordinance.

Enforcement decisions made by the Code Enforcement Officer are not appealable to the Board of Appeals. An "enforcement decision" includes 'stop work orders, notices of violation, and other enforcement decisions concerning land use activities undertaken after a permit has been granted or denied.

b) Variance Appeals

Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

2. STANDARD OF REVIEW

a) DE NOVO

All appeals from a decision, determination, requirement, or failure to act of the Code Enforcement Officer, and decisions of the Planning Board, made without conducting a public hearing, shall be conducted "de novo" . The Board of Appeals, shall conduct a fact-finding hearing at which it may receive and consider evidence and testimony and oral or written argument in addition to the record of the action taken by the CEO. Based on all the evidence presented, the Board of Appeals shall decide whether the application conforms to the requirements of the Land Use Ordinance, or in the case of a failure to act, whether there has been a failure to act. When acting in a "de novo" capacity, the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of the evidence and the law, and reaching its own decision.

b) APPELLATE

Appeals from decision of the Planning Board, in those instances where the Planning Board has conducted a public hearing, shall be strictly "appellate" proceedings. Such review is limited to the record of the proceedings before the Planning Board, and the Board of Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider oral and written argument. If the Board of Appeals determines that the record of the Planning Board proceedings is not adequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding. The Board of Appeals shall not substitute its judgement for that of the Planning Board on questions of fact. The Board of Appeals may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Land Use Ordinance**:** or the factual findings of the Planning Board are not supported by substantial evidence in the record presented to the Planning Board.

3.

The Board of Appeals shall not grant a variance unless it finds that:

a)
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; and,

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

i.
That the land in question cannot yield a reasonable return unless a variance is granted;

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

iii.
That the granting of a variance will not alter the essential character of the locality; and

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

4.

In addition, the Board of Appeals may grant a variance to a setback or lot coverage standard in accordance with 30-A M.R.S. § 4353(4-A) 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 a dwelling. Board of Appeals 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 disability. The Board of Appeals may impose conditions on the variance including limiting the variance to the duration of the disability or to the time the person with the disability lives in the dwelling. The term "structure necessary for access to or egress from the dwelling" shall include railing, wall or roof system necessary for the safety of or effectiveness of the structure. Any permit issued pursuant to this subsection is subject to Sections 11(E), 11(J)(1)(d) and 11(J)(1)(e) of this Ordinance.

a)
A disability as defined in the Americans With Disabilities Act, the Maine Human Rights Act, or the Federal Fair Housing Act; and

b)
That the structural accommodation being requested is fundamentally necessary in order that the applicant may enjoy a reasonable use of his or her property.

5.

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

6.

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

7.

A copy of all variances granted in the Shoreland Zone by the Board of Appeals shall be submitted to the Department of Environmental Protection within seven (7) days of the decision.

J. APPEALS PROCEDURE

1. MAKING AN APPEAL

a)

An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer, the Planning Board, or other Administrative Authority except for enforcement related matters as described in this section, above. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board of Appeals, upon a showing of good cause, may waive the thirty (30) day requirement.

b)

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

i.

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

ii.

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

c)

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

d)
The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

e)
The Board of Appeals shall notify, by certified mail, the applicant, all parties to the proceeding below, and all abutters of the property involved, and owners of property within three hundred (300) feet of any portion of the property involved, at least ten (10) days in advance of the hearing, of the nature of the appeal and of the time and place of the public hearing. A copy of the variance request in the Shoreland Zone shall be forwarded to the Commissioner of the department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals as outlined in 11(I)(5) above. The owners of property shall be considered to be those against whom taxes are assessed. The Board of Appeals shall notify the Planning Board and the municipal officers of any hearing and shall cause said notice of hearing to be posted at such locations where the Town commonly posts public notice, at least fourteen (14) days prior to the hearing. Failure of any property owner to receive notice of public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.

2. PUBLIC NOTICE OF HEARING

In scheduling a public hearing, the Board of Appeals shall publish notice of the hearing at least ten (10) days in advance in a newspaper of general circulation in the area.

3. DECISION BY BOARD OF APPEALS

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

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

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

d)
The Board of Appeals shall decide all appeals within thirty-five (35) days after the close of the hearing and shall issue a written decision on all appeals. A copy of the decision shall be sent to the person filing the appeal, the Planning Board, municipal officers and any other

party to the appeal. For appeals relating to shoreland zones, a copy of the decision shall be mailed or hand delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board of Appeals decision.

e)

The Board of Appeals shall state the reason and basis for its decision, including a statement of the facts found and conclusions reached by the Board of Appeals. The Board of Appeals shall cause written notice of its decision.

4. APPEAL TO SUPERIOR COURT

An 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 thirty (30) days from the date of any decision of the Board of Appeals.

5. RECONSIDERATION

In accordance with 30-A M.R.S. § 2691(3)(F) the Board of Appeals may reconsider any decision forty-five (45) days of its prior decision. A request to the Board of Appeals to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within the 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 of the Board of Appeals members originally voting on the decision, and a 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 of Appeals may conduct additional hearings and receive additional evidence and testimony.

K. ENFORCEMENT

1. VIOLATIONS

a) Site Plan Review

i.

Failure to comply with any conditions of approval shall be construed to be a violation of this Ordinance. It shall also be a violation to initiate activity which falls under the review of this Ordinance according to SECTION 6 without first obtaining Site Plan approval by the Planning Board. It shall also be a violation of this Ordinance to make the changes which are described in Section 6(B)(4)(d) & (e) as requiring site review, without such review and approval. Violations shall be the grounds for revoking the approval; initiating legal proceedings to enjoin construction, development, or any specific activity violating the conditions of permit approval; or applying the legal penalties detailed below.

ii.

Violations shall be punishable by a fine of not less than fifty dollars, nor more than one hundred (100) dollars, for each day that the violation continues to exist after official written notification by the Planning Board.

iii.

Whenever sedimentation is caused by stripping vegetation, regarding, or other development, it shall be the responsibility of the owner to remove sediment from all adjoining surfaces, drainage systems and water courses, and to repair any drainage at his expense as quickly as possible. Failure to do so within two (2) weeks after official notification by the Planning Board shall be punishable by a fine of one hundred dollars ($100) for each day the offense continues after formal notification.

b) Subdivision Review

i.

No person may convey, offer or agree to convey any land, lot, parcel or dwelling unit in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.

ii.

No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with this Ordinance.

iii.

No person may convey, offer or agree to convey any land in an approved subdivision which is not shown on the Final Plan as a separate lot.

iv.

No utility, water district or association, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.

v.

Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a Final Plan approved as provided in this Ordinance and recorded in the Registry of Deeds.

vi.

No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with the approved final plan. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with this Ordinance.

vii.

Any person, including, but not limited to, owners, their heirs, successors or assigns, or their agents or contractors who violate a provision of this Ordinance shall be liable for penalties under 30-A M.R.S. § 4452, and such other penalties as authorized by State law.

viii.

No plan may be approved by the Planning Board as long as the Applicant(s) or any principals of any such Applicant(s) shall have failed to comply with conditions of approval or shall have failed to complete improvements on any previously approved plan in the town.

2. CODE ENFORCEMENT OFFICER

a)

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

b)

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

c)

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

d)

In addition to any other actions, the Code Enforcement Officer, upon determination that a Flood Management violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

i.

The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

ii.
A clear and unequivocal declaration that the property is in violation of a cited State or local law or ordinance;

iii.
Statement that the public body making the declaration has the authority to do so and a citation to that authority;

iv.
Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

v.
A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

Municipal Officers, the Select Board, or their designee may enforce any provision of this Ordinance when the Administrative Authority fails to take action or requests their involvement.

L. LEGAL ACTIONS

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer and/or Planning Board, 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. Violation of any condition, restriction or limitation inserted in a permit by the Administrative Authority is cause for revocation of that permit by the Administrative Authority. The revocation process shall be conducted in accordance with the notice and hearing provisions found in 30-A M.R.S. § 3758(3).

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 threat or hazard to public health and safety or will result in substantial environmental damage.

M. FINES

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with 30-A M.R.S. § 4452.

NOTE: Current penalties include fines of not less than $100 nor more than $2500 per violation for each day that the violation continues.

N. EXCAVATION CONTRACTOR

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

APPENDIX I ACTIVITIES NOT REQUIRING PERMITS

The following activities are a summary of land uses which do not require a permit from the Town of Mt. Vernon. Since most activities do require a permit or review it is best to assume that if a use is not on this list that it does require a permit.

This list is provided as a quick reference, actual requirements are to be found in the appropriate sections of this Ordinance which will govern the actual need for a permit. Other permits may be required from other authorities. A partial list of possible additional permits is found in APPENDIX II.

1) Routine maintenance of existing structures.
2) The placing of accessory structures which are less than one hundred (100) square feet in the rural district.
3) Most Agricultural uses outside the Shoreland Zone.
4) Timber Harvesting outside the Shoreland Zone when no steep slopes or proximity to streams or wetlands are encountered.
5) Home Occupations as defined outside of the limited residential district. In the case of most home occupations a determination by the Planning Board is recommended.
6) Filling and earth moving of < 10 cubic yards in the Shoreland Zone.

APPENDIX II OTHER PERMITTING AUTHORITIES

The following are Government Agencies which require permits which may or may not overlap uses covered by this Ordinance. This list is provided to make the applicant aware of these required permits. This list may not be comprehensive and the applicant is advised to investigate all permit requirements prior to engaging in any activities which may be regulated.

STATE OF MAINE

Department of Environmental Protection

The Maine DEP regulates numerous land uses some of which include activities on or over great ponds and other waterways, activities involving dams, air quality issues, site location (generally proposals to use in excess of twenty (20) acres, including subdivisions). Some of the applicable laws include:

- Mandatory Shoreland Zoning Act
- Natural Resources Protection Act
- Site Location of Development Act

Department of Human Resources-Division of Health Engineering

The DHE oversees the State of Maine Wastewater Disposal Rules. Most administration is done on the local level by the Local Plumbing Inspector. However certain variances as well as waivers of the State Minimum Lot Size Law (requires a minimum twenty thousand (20,000) ft2 for subsurface wastewater disposal) must be approved by this department.

State Fire Marshall's Office

The Fire Marshal's Office regulate many Public Safety concerns. Required permits include;

- Dance Licenses
- Fireworks Permits
- Motor Vehicle Racing Licenses
- Public Exhibition Licenses (includes Circuses, Puppet Shows, Theatrical Performances)
- Licensing of Theaters & Motion Picture Houses
- Review of handicapped access standards

Generally, the Fire Marshal's Office enforces all the State of Maine "Laws for the Fire Service" some of these laws in reference to burning permits are administered locally by the Fire Chief.

U.S. GOVERNMENT

U.S. Army Corps of Engineers

The corps of engineers' primary function with regard to land use is the enforcement of Federal Clean Water Act. This act requires permits for any work being done in "Jurisdictional Wetlands."

If a project involves wetlands, it is recommended that a professional familiar with identifying such areas be contacted and the appropriate permits be applied for prior to any work being started.

APPENDIX III HOW TO COMPLETE "THE TOWN OF MT. VERNON BUILDING OR LAND USE PERMIT APPLICATION"

It is the applicant's responsibility to provide all information required on the permit application, Incomplete applications may be returned without a permit. These instructions are provided to expedite the process of reviewing the application so that a determination can be made as quickly as possible.

The following is a guide as to where to obtain the information requested.

A. MAP/LOT

These numbers may be ascertained from the tax maps in the Town Office or on your tax bill, the maps will also provide the numbers of the contiguous (abutting) lots.

B. SUBDIVISIONS

This information is found in the Planning Board records if the information is not found in the Town Office the applicant should contact the Planning Board Chairman for assistance.

C. LOT OF RECORD YEAR

This is the year that the lot, with its present boundaries, was created. The date is usually found in the deed.

D. TYPE OF APPLICATION

Self-explanatory (see definitions if there are questions)

E. SITE PLAN REVIEW

This applies to most non-residential land use. A review of any proposed Land Use must be approved by the Planning Board prior to applying for a permit. The Planning Board should issue a review number which is to be inserted on this line.

F. PROPERTY INFORMATION

All information in this block should be provided and agree with that shown on the site plan. the percent of lot coverage is the size of a structure(s) divided by the lot size(it is usually simplest to convert all sizes to square feet) x 100. The Administrative Authority will determine if any of the information is non-conforming.

G. PROJECT DESCRIPTION

This requires a brief written description of the project and requires the submission of a scaled site plan on 8 1/2 x 11-inch paper.

H. WATER SUPPLY AND NUMBER OF BEDROOMS

Self-explanatory.

I. ESTIMATED FLOW

The present flow can be located on the Septic System Design Form HHE200, if a recent design is unavailable the flow will be assumed to be the minimum flow for a given use as found in the "State of Maine Subsurface Wastewater Disposal Rules". The proposed flow is the estimated flow from the Rules or an approved HHE-200 for any increase required due to expansion.

NOTE: Any increase in the estimated flow requires, at minimum, a properly recorded design for a system to accommodate that flow or documentation that the existing system was designed and installed to accommodate the increased flow.

J. SEPTIC SYSTEM INFORMATION

This information is on the Wastewater Disposal Permit issued by the LPI, copies of existing permits may be researched at the Town Office or the Division of Health Engineering in Augusta. Records prior to 1972 are incomplete.

K. CONDITIONS/DENIAL

This section will be completed by the Administrative Authority.

L. FLOOD PLAIN MANAGEMENT PERMIT

When working in the Flood Plain the applicant should obtain a Flood Hazard Permit Application from the Code enforcement Officer. New construction and major improvements in the Flood Plain will require elevation certification from a Licensed Surveyor and/or a Professional Engineer.

M. SITE PLAN REVIEW & SUBDIVISIONS

To apply for Site Plan review or subdivision the applicant should contact the Planning Board for the appropriate application. In all cases the applicant must provide all the information required by the appropriate sections of this Ordinance.

N. APPEALS AND VARIANCES

Anyone appealing the decision of any Administrative Authority or requesting a variance should contact the Chairman of the Board of Appeals for the appropriate application.

List of Referenced Publications

"Federal Manual for Identifying and Delineating Jurisdictional Wetlands" (U.S. Fish & Wildlife Service, U.S.EPA, U.S. Dept. of the Army, and U.S. SCS 1987)

"Hydraulic Analyses," Flood Insurance Study _ Guidelines and Specifications for Study Contractors, (FEMA 37/September 1985, as amended).

"Maine Erosion and Sediment Control Handbook for Construction-Best Management Practices"-(Cumberland County SWCD,MDEP-March 1991)

"Erosion and Sediment Control Handbook for Maine Timber Harvesting Operations"(Maine Forest Service-June 1991)

NFPA 101 "Life Safety Code"(National Fire Protective Association-Quincy, MA 1991 as amended)

Maine Guidelines for Manure and Manure Sludge Disposal on Land (University of Maine Soil and Water Conservation Commission in July 1972).

Kennebec County Soil Survey (USDA-Soil Conservation Service, Maine Agricultural Experiment Station, Maine Soil & Water Conservation Commission August 1978)

APPENDIX IV CONTROL OF NOISE

A.

Technical information shall be submitted describing the Applicant's plan and intent to make adequate provision for the control of noise. The applicant's plan shall contain information such as the following, when appropriate:

Maps and descriptions of the land uses, local zoning and comprehensive plans for the area potentially affected by sounds from the facility.

1.

A description of major sound sources, including tonal sound sources and sources of short duration repetitive sounds, associated with the construction, operation and maintenance of the proposed facility, including their locations within the proposed facility.

2.

A description of the daytime and nighttime hourly sound levels and, for short duration repetitive sounds, the maximum sound levels expected to be produced by these sound sources at Protected Locations near the proposed facility.

3.

A description of the Protected Locations near the proposed facility.

4.

A description of proposed major sound control measures, including their locations and expected performance.

5.

A comparison of the expected sound levels from the proposed facility with the sound level limits of this regulation prepared by a qualified engineer or noise control specialist.

B. TERMS AND CONDITIONS

The Planning Board may, as a term or condition of approval, establish any reasonable requirement to ensure that the Applicant has made adequate provision for the control of noise from the facility and to reduce the impact of noise on Protected Locations. Such conditions may include, but are not limited to, enclosing equipment or operations, imposing limits on hours of operation, or requiring the employment of specific design technologies, site design, modes of operation, or traffic patterns.

The sound level limits prescribed in this Ordinance shall not preclude the Planning Board from requiring an Applicant to demonstrate that sound levels from a facility will not unreasonably disturb wildlife or adversely affect wildlife populations. In addition, the sound level limits shall

not preclude the Planning Board as a term or condition of approval, from requiring that lower sound level limits be met to ensure that the Applicant has made adequate provision for the protection of wildlife.

C. DEFINITIONS

Terms used herein are defined below for the purpose of this noise regulation.

Ambient Sound: At a specified time, the all-encompassing sound associated with a given environment, being usually a composite of sounds from many sources at many directions, near and far, including the specific facility of interest.

Construction: Activity and operations associated with the facility or expansion of the facility or its site.

Emergency: An unforeseen combination of circumstances which calls for immediate action.

Emergency Maintenance and Repairs: Work done in response to an emergency.

Energy Sum of a Series of Levels: Ten times the logarithm of the arithmetic sum of the antilogarithms of one-tenth of the levels.

Existing Facility: A Wind Energy Facility legally constructed before the effective date of this Ordinance or a proposed Wind Energy Facility for which the Application is found complete on or before the effective date of this Ordinance. Any facility with an approved permit application which has been remanded to the municipal entity responsible for review and approval of the application by a court of competent jurisdiction for further proceedings relating to noise limits or noise levels prior to the effective date of this Ordinance shall not be deemed an existing facility and this Ordinance shall apply to the existing noise sources at that facility.

Existing Hourly Sound Level: The hourly sound level resulting from routine operation of an existing facility prior to the first expansion that is subject to this Ordinance.

Equivalent Sound Level: The level of the mean-square A-weighted sound pressure during a stated time period, or equivalently the level of the sound exposure during a stated time period divided by the duration of the period. (NOTE: For convenience, a one-hour equivalent sound level should begin approximately on the hour.)

Historic Areas: Historic sites administered by the Bureau of Parks and Lands of the Maine Department of Conservation, with the exception of the Arnold Trail.

Hourly Sound Level: The equivalent sound level for one hour measured or computed in accordance with this Ordinance.

Locally Designated Passive Recreation Area: Any site or area designated by the Town of Mount Vernon for passive recreation that is open and maintained for public use and which:

- Has fixed boundaries,
- Is owned in fee simple by the Town of Mount Vernon or is accessible by virtue of public easement,
- Is identified and described in the Town of Mount Vernon's comprehensive plan, and
- Has been identified and designated at least nine (9) months prior to submission of the Applicant's Wind Energy Facility permit application.

Maximum Sound Level: Ten times the common logarithm of the square of the ratio of the maximum sound to the reference sound of 20 micropascals. Symbol: LAFmax.

Maximum Sound: Largest A-weighted and fast exponential-time-weighted sound during a specified time interval. Unit: pascal (Pa).

Residence: A building or structure, including manufactured housing, maintained for permanent or seasonal residential occupancy providing living, cooking and sleeping facilities and having permanent indoor or outdoor sanitary facilities, excluding recreational vehicles, tents and watercraft.

Pre-Development Ambient: The ambient sound at a specified location in the vicinity of a facility site prior to the construction and operation of the proposed facility or expansion.

Protected Location: Any location that is:

- Accessible by foot, on a parcel of land owned by a Non-Participating Landowner containing a Residence or planned Residence, or an approved residential subdivision, house of worship, academic school, college, library, duly licensed hospital or nursing home near the facility site at the time an application for a Wind Energy Facility permit is submitted under this Ordinance; or
- Within a State Park, Baxter State Park, a National Park, a nature preserve owned by a land trust, the Maine Audubon Society or the Maine chapter of the Nature Conservancy, the Appalachian Trail, the Moosehorn National Wildlife refuge, a federally designated wilderness area, a state wilderness area designated by statute, a municipal park or a locally-designated passive recreation area, or any location within consolidated public reserve lands designated by rule by the Bureau of Public Lands as a Protected Location.
- At Protected Locations more than five hundred (500) feet from living and sleeping quarters within the above noted buildings or areas, the daytime hourly sound level limits shall apply regardless of the time of day. Houses of worship, academic schools, libraries, State and National Parks without camping areas, Historic Areas, nature preserves, the Moosehorn National Wildlife Refuge, federally designated wilderness areas without camping areas, state wilderness areas designated by statute without camping areas, and locally designated passive recreation areas without camping areas are considered protected locations only

during their regular hours of operation. Transient living accommodations are generally not considered Protected Locations; however, in certain special situations where it is determined by the municipal entity responsible for review and approval of the application under Table 4-1 and Table 4-2 that the health and welfare of the guests or the economic viability of the establishment will be unreasonably impacted, the municipal entity responsible for review and approval of the application under Table 4-1 and Table 4-2 may designate certain hotels, motels, campsites and duly licensed campgrounds as protected locations. This term does not include buildings and structures located on leased camp lots, owned by the Applicant used for seasonal purposes.

- For purposes of this definition,
    - A Residence is considered planned when the owner of the parcel of land on which the Residence is to be located has received all applicable building and land use permits and the time for beginning construction under such permits has not expired, and
    - A residential subdivision is considered approved when the developer has received all applicable land use permits for the subdivision and the time for beginning construction under such permits has not expired.

Routine Operation: Regular and recurrent operation of regulated sound sources associated with the purpose of the facility and operating on the facility site.

Short Duration Repetitive Sounds: A sequence of repetitive sounds which occur more than once within an hour, each clearly discernible as an event and causing an increase in the sound level of at least 6 dBA on the fast meter response above the sound level observed immediately before and after the event, each typically less than ten seconds in duration, and which are inherent to the process or operation of the facility and are foreseeable.

Sound Component: The measurable sound from an audibly identifiable source or group of sources.

Sound Level: Ten times the common logarithm of the square of the ratio of the frequency-weighted and time-exponentially averaged sound pressure to the reference sound of 20 micropascals. For the purpose of this Ordinance, sound level measurements are obtained using the A-weighted frequency response and fast dynamic response of the measuring system, unless otherwise noted.

Sound Pressure: Root-mean-square of the instantaneous sound pressures in a stated frequency band and during a specified time interval. Unit: pascal (Pa).

Sound Pressure Level: Ten times the common logarithm of the square of the ratio of the sound pressure to the reference sound pressure of 20 micropascals.

Tonal Sound: For the purpose of this Ordinance, a tonal sound exists if, at a Protected Location, the one-third octave band sound pressure level in the band containing the tonal sound exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5 dB for center frequencies at or between 500 Hz and 10,000 Hz, by 8 dB for center frequencies at or between 160 and 400 Hz, and by 15 dB for center frequencies at or between 25 Hz and 125 Hz. Additional acoustical terms used in work associated with this Ordinance shall be used in accordance with the following American National Standards Institute (ANSI) standards:

ANSI S12.9-1988 - American National Standard Quantities and Procedures for Description and Measurements of Environmental Sound, Part 1; ANSI S3.20-1973 - American National Standard Psychoacoustical Terminology; ANSI S1.1-1960 - American National Standard Acoustical Terminology.

D. MEASUREMENT PROCEDURES

1. SCOPE

These procedures specify measurement criteria and methodology for use, with applications, compliance testing and enforcement. They provide methods for measuring the ambient sound and the sound from routine operation of the facility and define the information to be reported. The same methods shall be used for measuring the sound of construction and maintenance activities.

2. MEASUREMENT CRITERIA

a) Measurement Personnel

Measurements shall be supervised by personnel who are well qualified by training and experience in measurement and evaluation of environmental sound, or by personnel trained to operate under a specific measurement plan approved by the municipal entity responsible for review and approval of the pending application under Table 4-1 and Table 4-2.

b) Measurement Instrumentation

i.

A sound level meter or alternative sound level measurement system used shall meet all of the Type 1 or 2 performance requirements of American National Standard Specifications for Sound Level Meters, ANSI S1.4-1983.

ii.

An integrating sound level meter (or measurement system) shall also meet the Type 1 or 2 performance requirements for integrating/averaging in the International Electrotechnical Commission Standard on Integrating-Averaging Sound Level Meters, IEC Publication 804 (1985).

iii.

A filter for determining the existence of tonal sounds shall meet all the requirements of-American National Standard Specification for Octave-Band and Fractional Octave-Band Analog and Digital Filters, ANSI S1.11-1986 for Order 3, Type 3-D performance.

iv.

An acoustical calibrator shall be used of a type recommended by the manufacturer of the sound level meter and that meets the requirements of American National Standard Specification for Acoustical Calibrators, ANSI S1.40-1984.

v.

A microphone windscreen shall be used of a type recommended by the manufacturer of the sound level meter.

c) Calibration

i.

The sound level meter shall have been calibrated by a laboratory within twelve (12) months of the measurement, and the microphone's response shall be traceable to the National Bureau of Standards.

ii.

Field calibrations shall be recorded before and after each measurement period and at shorter intervals if recommended by the manufacturer.

d) Measurement Location, Configuration and Environment

i.

Except as noted in Appendix IV(D)(2)(d)(ii) below, measurement locations shall be at nearby Protected Locations that are most likely affected by the sound from routine operation of the facility.

ii.

For determining compliance with the 50 dBA (45 dBA from 8 p.m. to 7 a.m.) property line hourly sound level limit described in Section 6(E)(11) and Section 6(E)(34) of this Ordinance, measurement locations shall be selected at the property lines of the proposed facility or contiguous property owned by the Applicant, as appropriate. Sound measurement shall take into account the impact of any body of water on sound levels.

iii.

The microphone shall be positioned at a height of approximately 4 to 5 feet above the ground, and oriented in accordance with the manufacturer's recommendations.

iv.

Measurement locations should be selected so that no vertical reflective surface exceeding the microphone height is located within thirty (30) feet. When this is not possible, the measurement location may be closer than thirty (30) feet to the reflective surface, but under no circumstances shall it be closer than six (6) feet.

v.

When possible, measurement locations should be at least fifty (50) feet from any regulated sound source on the facility.

vi.

Measurement periods shall be avoided when the local wind speed exceeds 12 mph and/or precipitation would affect the measurement results.

e) Measurement Plans

Plans for measurement of pre-development ambient sound or post facility sound may be discussed with the Codes Enforcement Officer.

3. MEASUREMENT OF AMBIENT SOUND

a) Pre-Development Ambient Sound

Measurements of the pre-development ambient sound are required only when the Applicant elects to establish the sound level limit in accordance with Appendix IV(D)(4)(b) for a facility in an area with high ambient sound levels, such as near highways, airports, or pre-existing facilities; or when the Applicant elects to establish that the daytime and nighttime ambient hourly sound levels at representative Protected Locations exceed 45 dBA and 35 dBA, respectively.

i.

Measurements shall be made at representative Protected Locations for periods of time sufficient to adequately characterize the ambient sound. At a minimum, measurements shall be made on three (3) different weekdays (Monday through Friday) during all hours that the facility will operate. If the proposed facility will operate on Saturdays and/or Sundays, measurements shall also be made during all hours that the facility will operate.

ii.

Measurement periods with particularly high ambient sounds, such as during holiday traffic activity, significant insect activity or high coastline waves, should generally be avoided.

iii.

At any measurement location the daytime and nighttime ambient hourly sound level shall be computed by arithmetically averaging the daytime and nighttime values of the measured one-hour equivalent sound levels. Multiple values, if they exist, for any specific hour on any specific day shall first be averaged before the computation described above.

b) Post-Facility Ambient Sound

i.

Measurements of the post-facility ambient one-hour equivalent sound levels and, if short duration repetitive sounds are produced by the facility, the maximum sound levels made at nearby Protected Locations and during representative routine operation of the facility that are not greater than the applicable limits of Appendix IV(D)(3)(b)(iii) clearly indicate compliance with those limits.

ii.

Compliance with the limits of Section 6(E)(11) and 6(E)(14) of this Ordinance and Appendix IV(D)(2)(d) may also be demonstrated by showing that the post-facility ambient hourly sound level, measured in accordance with the procedures of Appendix IV(D)(3)(a) above during routine operation of the facility, does not exceed the pre-development ambient hourly sound level by more than one decibel, and that the sound from routine operation of the facility is not characterized by either tonal sounds or short duration repetitive sounds.

iii.

Compliance with the limits of Section 6(E)(11) and 6(E)(14) of this Ordinance and Appendix IV(D)(2)(d) may also be demonstrated by showing that the post facility maximum sound level of any short duration repetitive sound, measured in accordance with the procedures of Appendix IV(D)(3)(a) above, during routine operation of the facility, does not exceed the pre-development ambient hourly sound level by more than five decibels.

iv.

If any of the conditions in Appendix IV(D)(3)(b)(i), Appendix IV(D)(3)(b)(ii) or Appendix IV(D)(3)(b)(iii) above are not met, compliance with respect to the applicable limits must be determined by measuring the sound from routine operation of the facility in accordance with the procedures described in Appendix IV(D)(4).

4. MEASUREMENT OF THE SOUND FROM ROUTINE OPERATION OF FACILITY

a) General

i.

Measurements of the sound from routine operation of facilities are generally necessary only for specific compliance testing purposes in the event that community complaints result from operation of the facility, for validation of an Applicant's calculated sound levels when requested by the municipal entity responsible for review and approval of the pending application under 9.1, for determination of existing hourly sound levels for an existing facility or for enforcement by the Codes Enforcement Officer.

ii.

Measurements shall be obtained during representative weather conditions when the facility sound is most clearly noticeable. Preferable weather conditions for sound measurements at distances greater than about five hundred (500) feet from the sound source include overcast days when the measurement location is downwind of the facility and inversion periods (which most commonly occur at night).

iii.

Measurements of the facility sound shall be made so as to exclude the contribution of sound from facility equipment that is exempt from this regulation.

b) Measurement of the Sound Levels Resulting from Routine Operation of the Facility

i.

When the ambient sound levels are greater than the sound level limits, additional measurements can be used to determine the hourly sound level that results from routine operation of the facility. These additional measurements may include diagnostic measurements such as measurements made close to the facility and extrapolated to the Protected Location, special checkmark measurement techniques that include the separate identification of audible sound sources, or the use of sound level meters with pause capabilities that allow the operator to exclude non-facility sounds.

ii.

For the purposes of computing the hourly sound level resulting from routine operation of the facility, sample diagnostic measurements may be made to obtain the one hour equivalent sound levels for each sound component.

iii.

Identification of tonal sounds produced by the routine operation of a facility for the purpose of adding the 5 dBA penalty in accordance with Appendix IV(D)(4)(b)(iv) requires aural perception by the measurer, followed by use of one third octave band spectrum analysis instrumentation. If one or more of the sounds of routine operation of the facility are found to be tonal sounds, the hourly sound level component for tonal sounds shall be computed by adding 5 dBA to the one-hour equivalent sound level for those sounds.

iv.

Identification of short duration repetitive sounds produced by routine operation of a facility requires careful observations. For the sound to be classified as short duration repetitive sound, the source(s) must be inherent to the process or operation of the facility and not the result of an unforeseeable occurrence. If one or more of the sounds of routine operation of the facility are found to be short duration repetitive sounds, the hourly sound level component for short duration repetitive sounds shall be computed by adding 5 dBA to the one-hour equivalent sound level for those sounds. If required, the maximum sound levels of short duration repetitive sounds shall be measured using the fast response [LAFmax]. The duration and the frequency of occurrence of the events shall also be measured. In some cases, the sound exposure levels of the events may be measured. The one-hour equivalent sound level of a short duration repetitive sound may be determined from measurements of the maximum sound level during the events, the duration and frequency of occurrence of the events, and their sound exposure levels.

v.

The daytime or nighttime hourly sound level resulting from routine operation of a facility is the energy sum of the hourly sound level components from the facility, including appropriate penalties, (see Appendix IV(D)(4)(b)(iii) and Appendix IV(D)(4)(b)(iv) above). If the energy sum does not exceed the appropriate daytime or nighttime sound level limit, then the facility is in compliance with that sound level limit at that Protected Location.

c) Reporting Sound Measurement Data

The sound measurement data report should include the following:

i.

The dates, days of the week and hours of the day when measurements were made.

ii.

The wind direction and speed, temperature, humidity and sky condition.

iii.

Identification of all measurement equipment by make model and serial number.

iv.

The most recent dates of laboratory calibration of sound level measuring equipment.

v.

The dates, times and results of all field calibrations during the measurements.

vi.

The applicable sound level limits, together with the appropriate hourly sound levels and the measurement data from which they were computed, including data relevant to either tonal or short duration repetitive sounds.

vii.

A sketch of the site, not necessarily to scale, orienting the facility, the measurement locations, topographic features and relevant distances, and containing sufficient information for another investigator to repeat the measurements under similar conditions.

viii.

A description of the sound from the facility and the existing environment by character and location.

APPENDIX V DECOMMISSIONING PLAN

Pursuant to Section 6(D)(4-A)(k), the Applicant shall provide a plan for decommissioning a Large Scale Residential or Commercial Wind Energy Facility. The decommissioning plan shall include, but shall not be limited to the following:

A.

A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if no electricity is generated for a continuous period of twelve (12) months. The Applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation of electricity, that although the project has not generated electricity for a continuous period of twelve (12) months, the project has not been abandoned and should not be decommissioned.

B.

A description of the work required to physically remove all Wind Turbines, associated foundations to a depth of twenty-four (24) inches, buildings, cabling, electrical components, and any other Associated Facilities to the extent they are not otherwise in or proposed to be placed into productive use. All earth disturbed during decommissioning must be graded and re-seeded, unless the landowner of the affected land requests otherwise in writing. [Note: At the time of decommissioning, the Applicant may provide evidence of plans for continued beneficial use of any or all of the components of the Wind Energy Facility. Any changes to the approved decommissioning plan shall be subject to review and approval by the Planning Board.]

C.

An estimate of the total cost of decommissioning less salvage value of the equipment and itemization of the estimated major expenses, including the projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs may include, but is not limited to, the cost of the following activities: turbine removal, turbine foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization and road infrastructure removal and permanent stabilization.

D.

A demonstration in the form of a performance bond, surety bond, letter of credit, parental guarantee or other form of financial assurance as may be acceptable to the Planning Board that upon the end of the useful life of the Wind Energy Facility the Applicant will have the necessary financial assurance in place for 100% of the total cost of decommissioning, less salvage value. The Applicant may propose securing the necessary financial assurance in phases, as long as the total

required financial assurance is in place a minimum of five (5) years prior to the expected end of the useful life of the Wind Energy Facility.

APPENDIX VI FLOODPLAIN MANAGEMENT ORDINANCE

This following is an electronic copy of the Mt. Vernon Floodplain Management Ordinance. It is included in this appendix, verbatim as adopted and recommended by the State. Information within this Ordinance will not populate in the table of contents, index, or be available by searches.

FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF MOUNT VERNON, MAINE

ENACTED: 06-11-2011
Date

EFFECTIVE: 06-11-2011
Date

CERTIFIED BY: Rachel Meader
Signature

CERTIFIED BY: Rachel Meader
Print Name

Town Clerk
Title

Affix Seal

60.3(c)
Prepared by SPO/jpp
12/27/2010

Town of Mount Vernon

FLOODPLAIN MANAGEMENT ORDINANCE

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60.3 (c) Rev. 4/09
(prepared 12/27/2010 by SPO/jpp)

ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Mount Vernon, 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 Mount Vernon, 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 Mount Vernon, 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 Mount Vernon 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 Mount Vernon 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 Mount Vernon, Maine.

The areas of special flood hazard, Zones A and AE for the Town of Mount Vernon, Kennebec County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Kennebec County" dated June 16, 2011 with accompanying "Flood Insurance Rate Map" dated June 16, 2011 with panels:

95, 115, 120, 285, 292, 305, 310, 311, 316, 317, 319

derived from the county wide digital flood insurance rate map entitled "Digital Flood Insurance Rate Map, Kennebec County," hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development(as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, 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 Mount Vernon, Maine.

ARTICLE III - 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 A only, of the:

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

   a. in Zones AE, from data contained in the "Flood Insurance Study – Kennebec County, Maine" as described in Article I; or,

   b. in Zone A:

      (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.K. and VIII.D.;

      (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,

      (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.

2. highest and lowest grades at the site adjacent to the walls of the proposed building;

3. lowest floor, including basement; and whether or not such structures contain a basement; and,

4. level, in the case of non-residential structures only, to which the structure will be floodproofed;

I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;

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 Article VI by a registered professional engineer or architect:

1. a Floodproofing Certificate (FEMA Form 81-65, 03/09, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;

2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;

3. a certified statement that bridges will meet the standards of Article VI.M.;

4. a certified statement that containment walls will meet the standards of Article VI.N.;

L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of $10 for all minor development and $55 for all new construction or substantial improvements shall be paid to the Administrative Authority 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.

ARTICLE V - 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 Article VI (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 – Kennebec County, Maine," as described in Article I;
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 Article III.H.1.b.; Article VI.K.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,

3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.

C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;

D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;

E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office 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 Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction , "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. 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 Article VI.G.1.a.,b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or

water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

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 Article IX of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

ARTICLE VI - 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. **Residential** - New construction or substantial improvement of any residential structure located within:

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

2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.

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

1. Zones 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 Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D., or

a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.

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

1. Zones AE, shall:

a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;

b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,

c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:

(1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,

(2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

(3) all components of the anchoring system described in Article VI.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.; and

b. meet the anchoring requirements of Article VI.H.1.c.

I. **Recreational Vehicles** - Recreational Vehicles located within:

1. Zones A and AE, shall either:

a. be on the site for fewer than 180 consecutive days,

b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,

c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.

J. **Accessory Structures** - Accessory Structures, as defined in Article XIII, located within Zones A and AE, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

1. be 500 square feet or less and have a value less than $3000;

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

3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;

4. be located outside the floodway;

5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,

6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. **Floodways -**

1. In Zones 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 Digital Flood Insurance Rate Map, Kennebec County unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. In Zones AE and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

   a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,

   b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).

3. In Zones AE and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. **Enclosed Areas Below the Lowest Floor -** New construction or substantial improvement of any structure in Zones AE and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," 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 Article XIII;

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:

   a. be engineered and certified by a registered professional engineer or architect; or,

   b. meet or exceed the following minimum criteria:

(1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

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

(3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

3. The enclosed area shall not be used for human habitation; and,

4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

M. **Bridges** - New construction or substantial improvement of any bridge in Zones AE and A 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 Article VI.K.; and

b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

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

1. Zones AE and A 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 Article III.K.

O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE and A, in and over water and seaward of the mean high tide if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and

2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

ARTICLE VII - 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 Article VI, paragraphs F, G, or H.

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.

ARTICLE VIII - 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 Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously

described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE IX - APPEALS AND VARIANCES

The Board of Appeals of the Town of Mount Vernon 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. other criteria of Article IX and Article VI.K. are met; and,

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

E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,

2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

F. Any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as $25 per $100 of insurance coverage;

2. such construction below the base flood level increases risks to life and property; and,

3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

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

3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.

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

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

6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code

Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

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

ARTICLE X - 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.

ARTICLE XI - 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.

ARTICLE XII - 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.

ARTICLE XIII - 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 - means a small detached structure that is incidental and subordinate to the principal structure.

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

Area of Special Flood Hazard - means 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 I of this Ordinance.

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

Basement - means 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 - 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.

Development - means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

Elevated Building - means a non-basement building

a. built, in the case of a building in Zones AE and A, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and

b. 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 AE and 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 VI.L..

Elevation Certificate - An official form (FEMA Form 81-31, 03/09, as amended) that:

a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,

b. is required for purchasing flood insurance.

Flood or Flooding - means:

a. A general and temporary condition of partial or complete inundation of normally dry land areas from:

   1. The overflow of inland or tidal waters.

   2. The unusual and rapid accumulation or runoff of surface waters from any source.

b. 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 a.1. of this definition.

Flood Elevation Study - means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

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

Flood Insurance Study - see **Flood Elevation Study**.

Floodplain or Flood-prone Area - means any land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management - means 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 - means zoning 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 - means 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 - mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

Mean Sea Level - means, 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 - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

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

New Construction - means 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)- means 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 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 earths crust, glacial rebound, and subsidence and the increasing use of satellite technology.

100-year flood - see **Base Flood**.

Recreational Vehicle - means a vehicle which is:

a. built on a single chassis;

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

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

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

Regulatory Floodway -

a. means 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 one foot, and

b. when not designated on the community's Digital 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 - means 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 - means 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 - means, 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 - means, 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 - means 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:

a. 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

b. 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.

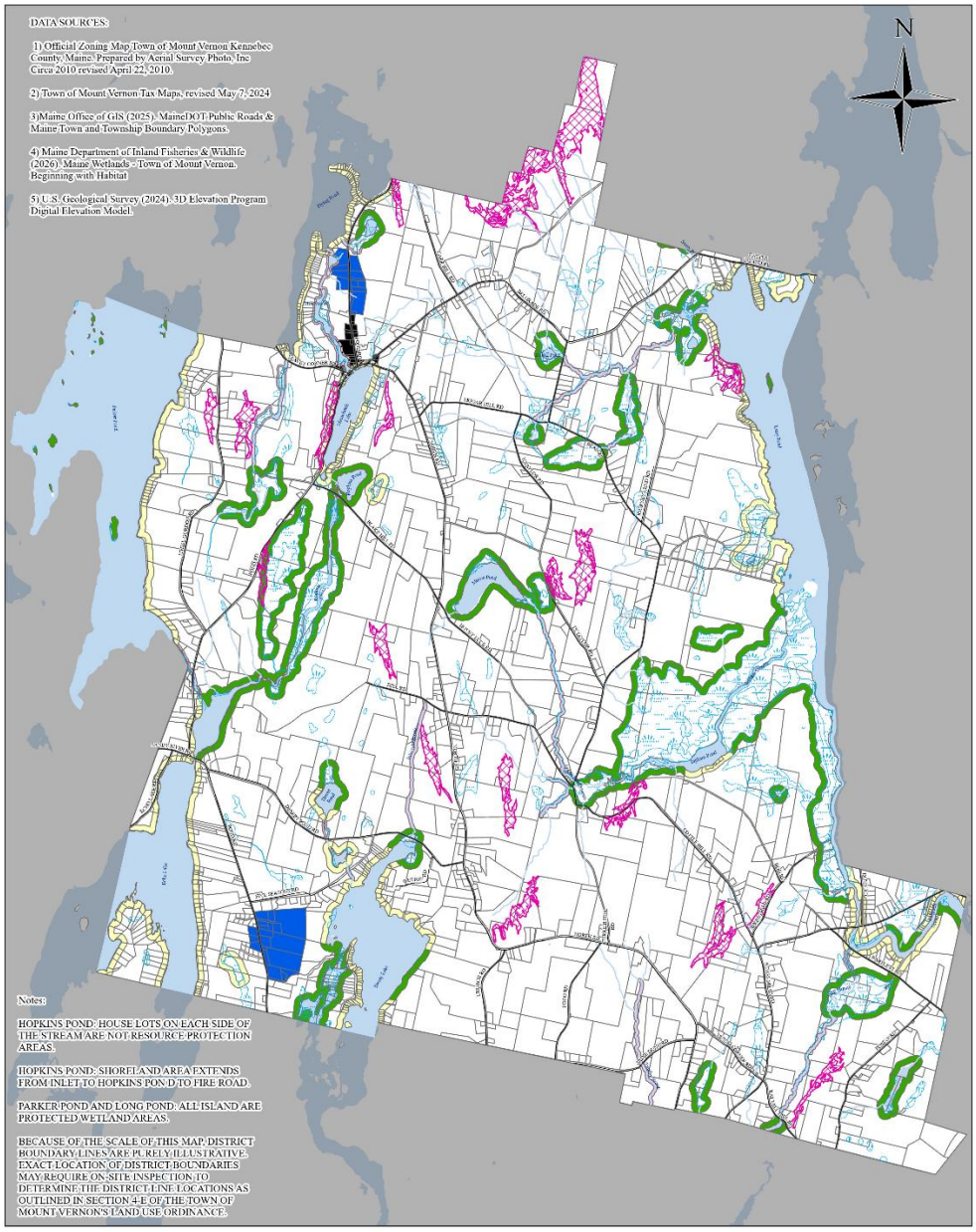
Variance - means a grant of relief by a community from the terms of a floodplain management regulation.

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

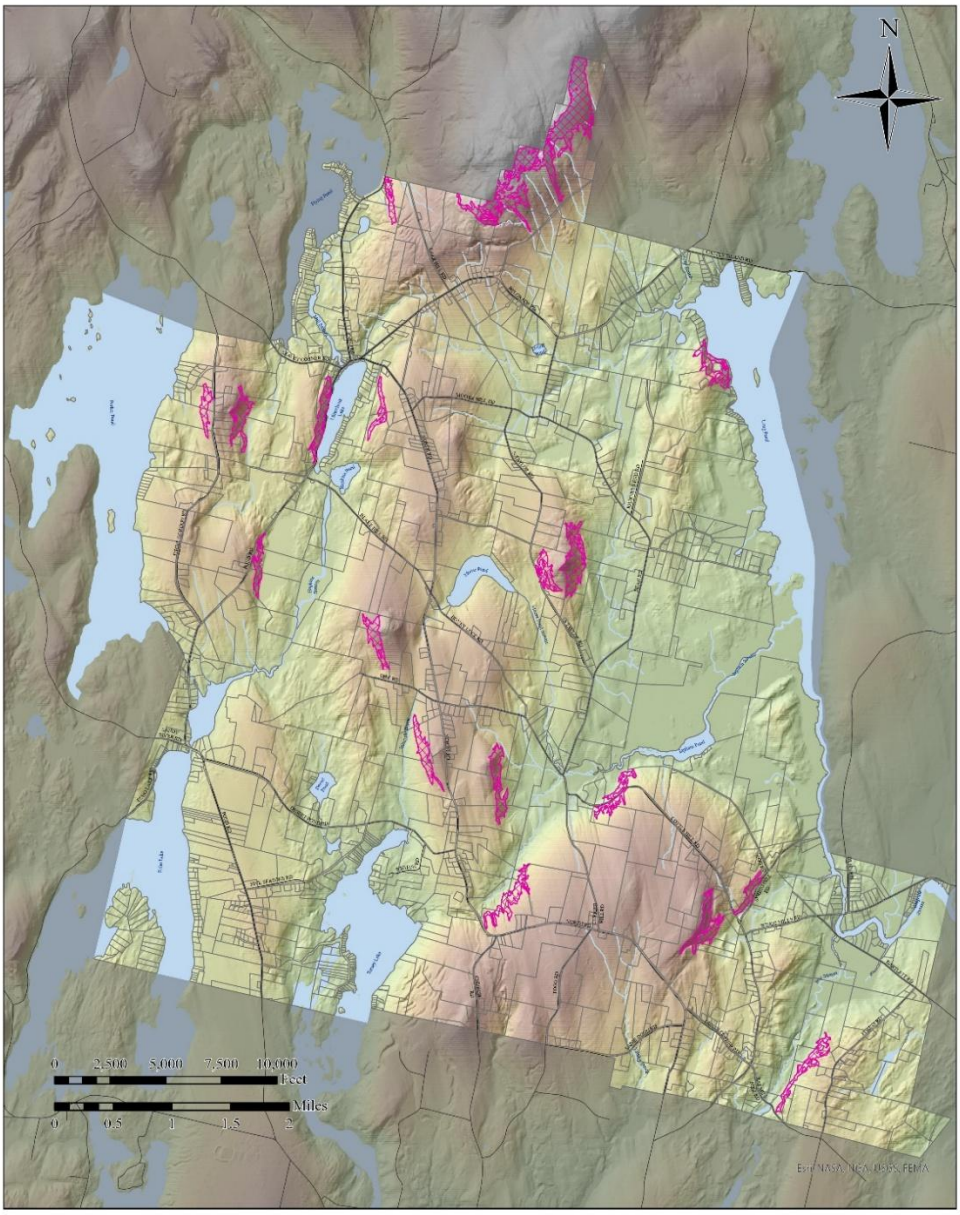
ARTICLE XIV - ABROGATION

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).

APPENDIX VII LAND USE MAP



APPENDIX VIII MT. VERNON TIMBER HARVESTING STEEP SLOPE DISTRICT MAP ≥25%



Mount Vernon - Timer Harvesting Steep Slope District ≥ 25%

Land Use Ordinance Table 4-1

Based on USGS Elevation Data

May 4, 2026

Color denotes areas exceeding noted gradient and 10 acre minimum

Kennebec Valley Council of Governments
Regional service, local results

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Registrar of Voters
6/30/26

ATTESTED BY
ABIGAIL ANDERSON
TOWN CLERK
ON 06 30 2026