TOWN OF CARMEL

LAND USE AND ZONING ORDINANCE

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Attested: _____

A True Copy: Andrew L. Hart
Town Clerk

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TOWN OF CARMEL LAND USE AND ZONING ORDINANCE

SECTION 1. General

A. Title

This Ordinance shall be known and cited as the Land Use and Zoning Ordinance of the Town of Carmel, Maine, and will be referred to as "this Ordinance."

B. Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII-A of the Maine Constitution, the provisions of Title 30-A, M.R.S.A. Section 3001 (Home Rule) and the State's growth management law, Title 30-A, M.R.S.A. Section 4311 *et seq.*

C. Purposes

The purposes of this Ordinance are:

1. To implement the provisions of the Town's comprehensive plan;

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

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

4. To promote traffic safety;

5. To provide safety from fire and other elements;

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

7. To conserve natural resources.

D. Applicability

The provisions of this Ordinance shall govern all land and all structures within the boundaries of the Town of Carmel, exclusive of the land and water area subject to the Town's Shoreland Zoning Ordinance.

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.

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 the Ordinance.

G. Effective Date

The effective date of this Ordinance shall be the date of the adoption by the legislative body on July , 2022.

H. Amendments

1. Initiation of Amendments: An amendment to this Ordinance may be initiated by:

    a. The Planning Board, provided a majority of the Board has so voted;

    b. Request of the municipal officers; or

    c. Written petition of at least 25 voters registered to vote in Carmel.

2. The Planning Board shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least ten (10) days prior to the hearing.

3. The Town Clerk shall forward to the Selectmen and Planning Board of adjacent communities of which a zoning amendment is proposed which is within 500 feet of a common town border at least ten days in advance of the public hearing. The adjacent community may provide verbal or written testimony.

4. Adoption of Amendment: An amendment of this Ordinance may be adopted by a majority vote of the Town Meeting.

I. Repeal of Existing Zoning Ordinance

Adoption of this Ordinance shall repeal the existing Land Use/Zoning Ordinance for the Town of Carmel, as adopted 1963 and revised through March 2, 2020.

SECTION 2. Nonconformance

A. Definition

A legally existing (grandfathered) nonconforming lot, structure or use is a lot, structure or use that lawfully existed as a permitted or legally nonconforming structure, use or lot immediately prior to the enactment of this Ordinance, or any subsequent amendment, and which, as a result of the enactment of this chapter, or any subsequent amendment, presently fails to comply with any of the requirements of this chapter or its amendments, including, but not limited to, the use restrictions and lot standards for the district in which it is located, or any standards set forth in this Ordinance. Any other lot, structure or use that fails to comply with any of the requirements of this article or its amendments is an illegal nonconformity.

B. Purpose

It is the intent of these provisions to promote land use conformities, except that all legally permissible nonconforming conditions that existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth in this section. All nonconformities shall be encouraged to convert to conformity whenever possible and, when required by this Ordinance, shall convert to conformity.

C. General Requirements

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

2. Repair and Maintenance: This Ordinance allows, without a permit, the normal upkeep and maintenance of nonconforming uses and structures.

3. Rebuilding: If a nonconforming structure is destroyed by fire or act of God, it may be rebuilt provided the construction is commenced within one

(1) year from date of destruction. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.

4. Illegal Nonconformity: Any nonconformity not expressly allowed to exist by this article is hereby deemed illegal and shall cease or be corrected immediately

5. Burden of Proof: The burden of establishing that any nonconformity is a legal nonconformity shall, in all cases, be upon the owner of such nonconformity and not upon the Town of Carmel.

6. Conversion to Conformity: Once converted to conformity, no lot, structure or use shall revert to nonconformity.

7. Vesting: Nothing herein shall require any change in the plans, construction, size or designated use for any building, structure or part thereof for which a completed application for a local permit is pending, or for which a permit has been issued and upon which construction has been lawfully commenced, prior to the adoption of this chapter or any amendment.

D. Nonconforming Structures

1. Expansions: No structure shall be enlarged, altered or extended in any way that increases its nonconformity. Any enlargement, alteration or extension that does not project past existing walls, foundations or eaves that already encroach into the required setback area shall not be considered to increase a structure's nonconformity. A nonconforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion is conforming for height, setback and lot coverage, and does not otherwise increase a nonconforming condition. Lot coverage may not be expanded if it is already nonconforming.

2. Foundations: Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided that the completed foundation does not extend beyond the existing dimensions of the original pre-existing structure, and that the foundation does not cause the structure to be elevated by more than three additional feet. Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming 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.

3. Rebuilding: Any structure may be razed and rebuilt up to the dimensions (length, width and height) of the individual structure that

was razed plus any enlargements, alterations or extensions permitted by Subsection D(2), provided rebuilding is begun within one year and completed within two years after the structure is razed. In no case shall a structure rebuilt under this subsection be combined with another structure or be reconstructed or replaced so as to increase its nonconformity.

4. Relocation: A nonconforming structure may be relocated within the boundaries of the lot on which the structure is located, provided that the Planning Board finds that the proposed new location and design are more appropriate with regard to location, character and natural features; fencing and screening; landscaping and topography; traffic and access; signs and lighting; and potential nuisance, provided that the site of relocation conforms to all setback requirements to the greatest practical extent, as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine Subsurface Wastewater Disposal Rules, 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 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. 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.

E. Nonconforming Uses

1. Expansions: No nonconforming use shall be enlarged or increased, or extended to occupy a greater area of land than such use occupied when it became nonconforming. Expansions of nonconforming uses are prohibited, except that nonconforming uses may, after obtaining a permit from the Planning Board, be expanded within structures existing as of the effective date of this Ordinance, or on the effective date of a subsequent amendment that causes such use to be a nonconforming. No existing structure devoted partially or entirely to a nonconforming use shall be extended or enlarged. Any nonconforming use may be extended throughout any parts of a building which, at the time such use became a nonconformity, were arranged or designed for such use;

provided, however, that no nonconforming use shall be extended to occupy any land outside such building.

2. Resumption Prohibited: A lot, building or structure in or on which a nonconforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a nonconforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. In the case of a nonconforming residential use, such use may be renewed even if it has been discontinued for more than one year.

3. Change of Use: An existing nonconforming use may be changed to another nonconforming use provided that the Planning Board finds after receiving a written application, that the proposed use is equally or more appropriate to the district than the existing nonconforming use, and that the proposed use will have no greater adverse impact on adjacent properties than the former use.

   The determination of appropriateness shall include consideration of the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use. The performance standards of this Ordinance shall apply to such requests to establish new nonconforming uses.

   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, natural beauty, floodplain management, archaeological and historic resources.

4. Moving the Non-Conforming Use: A nonconforming use or a structure housing a nonconforming use may be moved within a lot provided that the Planning Board finds that the proposed new location and design are more appropriate with regard to:
   (1) Location, character, and natural features;
   (2) Fencing and screening;
   (3) Landscaping and topography;
   (4) Traffic and access;
   (5) Signs and lighting; and
   (6) Potential nuisance.

F. Nonconforming Lots

1. Nonconforming Lots: A vacant, nonconforming lot of record created prior to August 11, 1997 which does not meet lot size or road frontage requirements under this Ordinance, 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. Such building or construction shall, in all other respects, comply with the provisions of this Ordinance, and no construction shall be commenced until the owner demonstrates to the satisfaction of the Code Enforcement Officer that there is reasonable access to the site for emergency vehicles.

2. Contiguous Built Lots: One or more vacant parcels of land that adjoin a nonconforming lot in common ownership and containing a building or structure shall be consolidated with said improved lot to the extent necessary to bring the improved lot into conformity so far as possible. If the remaining portion of the vacant parcels constitutes a conforming lot, said remaining portion shall constitute a separate lot. Otherwise, the combined lots shall constitute one lot.

   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 lots comply with applicable dimensional requirements contained in this Ordinance.

3. Contiguous Vacant Lots: If two or more contiguous lots or parcels are in single or joint ownership as of the effective date of this Ordinance or thereafter, and if any of these lots do not individually meet the dimensional requirement of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain(s) only an accessory structure, the lots shall be combined to the extent necessary to meet all dimensional standards. If the remaining portion of the vacant parcel(s) constitutes a conforming lot, said remaining portion shall constitute a separate lot; otherwise combined lots shall constitute one lot. This paragraph is intended to apply to all lots whether shown on an approved and recorded plan or not. Corporations in which two or more directors are the same individual (or their spouses) shall be treated as the same corporation (i.e., as the same single or joint owner) for the purposes of this Ordinance.

SECTION 3. Establishment of Zoning Districts

A. Purpose

The purposes of these Zoning Districts are:

1. To implement the Comprehensive Plan policies;

2. To allow future growth to occur in designated portions of the community and to restrict growth in other areas;

3. To provide for separation of land uses that might otherwise be incompatible;

4. To protect the natural resources of the community from degradation; and

5. To provide for an orderly future growth pattern of the community.

B. Types of Zones

For the purpose of this Ordinance the Town of Carmel is hereby divided into the following types of zones:

Residential - Farming Zone.
Commercial Zone.

C. Location of Zones

For the purpose of this chapter, the boundaries of all zones in the town are hereby established as shown on the zoning map of the town, which map shall be referred to and designated as the "Official Zoning Map of the Town of Carmel", and which together with all notations, references, and other explanatory matters thereon, is hereby declared a part of this chapter. The Official Zoning Map shall be identified by the signature of the Chairman of the Board of Selectmen, attested by the Town Clerk under the following words: "This is to certify that this is the Official Zoning Map referred to in section 2, Article III of the Zoning Ordinance of the Town of Carmel, Penobscot County, Maine" (Attest Carmel Town Clerk) together with the date of the adoption of this Ordinance.

D. Uncertainty of Boundary Locations

Where due to the scale, lack of detail or illegibility of the zoning map of the town, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundary line as shown thereon, the Code Enforcement Officer (CEO) shall make an interpretation of said map upon request of any person. Any party aggrieved by any such interpretation, may take an administrative appeal to the Board of Appeals. The CEO and the Board of Appeals, in interpreting the zoning map or deciding such appeal, shall apply the following standards: (A) District boundary lines are intended to follow lot lines, or be parallel or perpendicular thereto, or to follow along the center lines of streets, highways, roads, alleys, railroad lines, or water courses, unless such boundary lines are fixed by dimensions shown on the zoning map. (B) Where district boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundary lines. (C) Boundaries indicated as approximately following town limits shall be construed as following town limits. (D) Boundaries indicated as following shorelines shall be construed as following such shorelines, and in the event of a natural change in the shoreline, shall be construed as moving with the actual shoreline. (F) If, after the application of the foregoing standards, uncertainty still exists as to the exact location of a district boundary line, the boundary line shall be determined by the Board of

Appeals after consideration of the history of the uses of the property, the history of zoning ordinances of the town, and all other relevant data.

E. Division of Lots by District Boundaries

Where a zoning district boundary line divides a lot or parcel of land in the same ownership of record at the time such line is established by adoption or amendment of this code, the use regulations applicable to the one portion of the lot may be extended into the other portion of the lot by not more than fifty (50) feet provided that the other portion is not regulated by the Town of Carmel Shoreland Zoning Ordinance.

F. Residential-Farming Zone Use

1. Areas. The entire area of the Town of Carmel not otherwise hereinafter set aside as commercial zones, as shown on the Official Zoning Map, shall constitute a residential-farming zone.

2. Uses. In the Residential-Farming Zone no building shall be constructed or altered, and no building or premises shall be used for any purpose except:

a. Family dwelling; Including a single trailer or mobile home.

b. Private Club not conducted for profit and not containing more than five sleeping rooms.

c. Church.

d. Educational Use.

e. General-purpose farm, agriculture, garden, or nursery, selling only produce or plants the major portion of which is raised in the Town of Carmel and excluding any use injurious, noxious, or offensive to the neighborhood.

f. Municipal or water supply use.

g. Accessory use customarily incident to any of the above permitted uses and not detrimental to a residential-farming neighborhood, including such uses as a doctor's, architect's, beautician's real estate or insurance agent's office in his or her residence. The term "accessory use" shall not include any use not on the same lot with the building to which is accessory; or the taking of more than four lodgers in any dwelling unit; or advertising signs except those pertaining to the lease, sale, or use of a lot or building on which they are placed, and not exceeding a total of twelve square feet. DIRECTIONAL SIGNS, not exceeding 8" x 30", will be allowed to be placed on land other than the owner with the permission of the land owner and the Board of Appeals.

h. Any uses not listed in Sections a. – g. must come before the Planning Board for a Conditional Use Permit.

G. Commercial Zone Uses

1. Area. The Commercial Zone is hereby established as shown on the zoning map of the town, which map shall be referred to and designated as the "Official Zoning Map of the Town of Carmel", and which together with all notations, references, and other explanatory matters thereon, is hereby declared a part of this chapter. More clearly stated, let it be known that the Commercial Zone shall encompass the area within 1,000 feet from the center line of Route 2 (Main Road) from Hermon Town Line to Etna Town line on both the north and south side of the road. Then, starting at the intersection of the Fuller Road and Horseback Road extending back 500 feet from the centerline on both sides of the road and in a northerly direction along Horseback Road 500 feet and in a southerly direction along Horseback Road 500 feet. In an easterly direction along the Fuller Road, 500 feet. In a westerly direction along the Fuller Road, 500 feet. Furthermore the area inclusive of Tax Map 3, Lots 24, 23H and 19 as of the date of first enactment of this Ordinance.

2. Uses. In the Commercial Zone, no land or building shall be used for any purpose injurious, noxious, or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration, noise, or other cause. Permitted uses in the Commercial Zone include the following:

a. Any use permitted in the Residential-Farming zone, excluding trailer parks and/or mobile home courts.
b. Apartment house, lodging house, hotel, motel, or overnight cabins.
c. Filling stations, parking space for storage of automobiles or garage.
d. Club
e. Office, Bank.
f. Place of amusement or assembly.
g. Restaurant, store or bakery.
h. Storage of pulpwood or logs for shipment
i. Sign advertising goods or services offered by an occupant of the premises for sale, hire, or use.
j. Light manufacturing.

SECTION 4. Dimensional Standards

A. Dimensional Requirements

Lots in all districts outside those areas regulated by the Town of Carmel Shoreland Zoning Ordinance shall meet or exceed the following minimum requirements (additional area may be required by other provisions of this ordinance and the Town of Carmel Subdivision Ordinance). After the effective date of this Ordinance no lot shall be created or reduced below the minimal requirements unless allowed by other provisions of this Ordinance.

Dimensions	Commercial	Residential / Farming	Subdivision on Newly Constructed Road
Minimum Lot Area	2 Acres	2 Acres	2 Acres
Multi-Unit Housing (2- unit Base) (*** See Note 3 below)	2.5 Acres	2.5 Acres	2.5 Acres
Minimum Frontage (feet)	200	200	150
Setback (from center of road)	68	68	68
Setback from side and rear boundaries	20	20	20

NOTES TO DIMENSIONAL REQUIREMENTS TABLE:

1. Required Frontage: All lots hereinafter created shall possess a minimum frontage consisting of the horizontal distance measured in a straight line, on one boundary of:

   (1) An accepted public way;

   (2) A way on an approved subdivision plan, whether accepted as a town way or not; or

   (3) A private Right Of Way that can be demonstrated by a recording in the Penobscot County Registry of Deeds.

2. Front Setback: The minimum front setback along a public road, privately-owned road or approved right of way shall be measured from the center of such road or right of way.

3. Multiple Unit Housing: No two-family dwelling (attached or separate units detached on the same lot) shall occupy a lot measuring less than two and one half acres (2 1/2) and 250 feet of road frontage. For each additional unit above two (2), there shall be provided an additional one-half (1/2) acre of area on the *lot and* an additional 20 feet of frontage, FRONTAGE, shall mean frontage along an accepted public way or a legal right of way.

4. Setback Measurements: All setbacks shall be measured from the property line to the nearest part of the building.

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

6. Corner Lot Obstructions: All corner lots shall be kept free from visual obstruction for a distance of 25 feet measured along the street lines.

7. Rear Lot Development: The rear lot shall have at its point of ending a "T" turnaround.

   a. Rear lots shall have, as a minimum, 2 acres.

   b. Rear lots shall be served by a 60'-wide access strip (Private Way) with a minimum of a 20'-wide traveled way with a minimum cover of 16" of gravel. The access strip (Private Way) may be either a permanent easement or may be owned fee simple. The area of the access strip (Private Way) shall not be counted towards the minimum required lot area.

   c. The minimum frontage required shall be shown parallel to the Private Way.

   d. The applicant must demonstrate the suitability of the proposed rear lot for on-site sewage disposal.

   e. No more than two rear lots shall share a single access way.

   f. The maintenance of the access strip (Private Way) shall be the responsibility of the developer, or owner, not the Town. An agreement to that effect shall be stated in the deed recorded at the Penobscot County Registry of Deeds.

   g. All access strips (Private Ways) leading to the rear lots under the provisions of this ordinance shall connect to the public road system.

   h. The Code Enforcement Officer shall approve all rear lots, using the above criteria.

SECTION 5. Conditional Use Permits

A. Purpose and Applicability

The purpose of this Section is to enable the Planning Board to review certain proposed uses of the land that have the potential of creating unusual or undue impacts on surrounding properties, municipal facilities, or the natural environment. In the Residential-Farming Zone, a building, structure, or parcel of land may be used for a conditional use as identified below. Subject to the standards set forth below, the types of uses that will be acceptable for a conditional use in the Residential-Farming Zone include the following commercial uses, and similar uses:

(1) Landscape and construction businesses
(2) Automobile body shop or auto repair facilities

(3) Small engine or equipment repair
(4) Day cares
(5) Hair salons
(6) Bed and Breakfast
(7) Residential Service Based Businesses

B. Application for Conditional Use Permit

Application for a conditional use permit shall be made to the Code Enforcement Officer on forms provided for the purpose accompanied by such fee as the Select Board shall set on an annual basis for such applications.

The applicant shall:

1) Clearly specify the location of the proposed use, including street address, Assessor's tax map and lot number, and a location map.

2) Describe the exact nature of the proposed use.

3) Submit such other materials as will enable the Planning Board to determine that the standards for approval of a conditional use permit have been met. The burden of providing the information upon which the Board bases its findings and of proving conformity with the standards shall be the applicant's.

C. Standards for a Conditional Use Permit

A conditional use may be granted by the Planning Board only in the event that the applicant has established to the satisfaction of the Board that:

1) Neither the proposed use nor the proposed site upon which the use will be located is of such a character that the use will have significant adverse impact upon the value or quiet possession of surrounding properties greater than would normally occur from such a use in the zoning district. In reaching a determination on this standard, the Board shall consider:
   i. the size of the proposed use compared with surrounding uses;
   ii. the intensity of the proposed use, including amount and type of traffic to be generated, hours of operation, expanse of pavement, and similar measures of intensity of use, compared with surrounding uses;
   iii. the potential generation of noise, dust, odor, vibration, glare, smoke, litter, and other nuisances;

iv. unusual physical characteristics of the site, including size of the lot, shape of the lot, topography, and soils, which tend to aggravate adverse impacts upon surrounding properties; and

v. the degree to which landscaping, fencing, and other design elements have been incorporated to mitigate impacts on surrounding properties.

2) Municipal facilities serving the proposed use will not be overburdened. In reaching a determination on this standard the Board shall consider:

i. the ability of traffic to safely move into and out of the site at the proposed location;

ii. the presence of facilities to assure the safety of pedestrians passing by the site;

iii. the capacity of the street network to accommodate the proposed use;

iv. the capacity of public sewerage and water facilities, if they are to be used, to accommodate the proposed use; and

v. the capacity of the public storm drainage system, if it is to be used, to accommodate the proposed use.

3) The natural characteristics of the site, including topography, drainage, and relationship to ground and surface waters and flood plains, shall not be such that the proposed use when placed on the site will cause undue harm to the environment or to neighboring properties.

4) Undisclosed Future Uses:

i. In an application for a conditional use requiring renovation or enlargement of an existing building or new construction, the applicant shall not be required to name specifically all the uses on the lot if they are not known at the time of renovation, enlargement or new construction. Instead, the applicant shall state on his/her application all the specific uses that are anticipated for the lot.

ii. For the area on the lot for which the use is not then known, the applicant shall designate those areas as "undisclosed future uses".

iii. The applicant must designate on the application at least one known conditional use.

iv. The Planning Board may grant conditional uses for the known specific uses and the project may proceed to site review, if required, and a building permit may be issued after site plan review, with the condition that any required conditional use permits for the undisclosed future uses will be obtained when the uses are determined.

v. The lot shall not be used for the undisclosed future uses which require a conditional use until the required conditional use approval is obtained.

5) In considering the foregoing standards the Planning Board shall fully review these standards even though the applicant may also be subject to site plan approval.

D. Additional Standards in Shoreland Areas

For conditional use permit applications in shoreland areas, the Board shall additionally find that the proposed use:

1) will not result in unreasonable damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
2) will reasonably conserve shoreland vegetation;
3) will reasonably conserve visual points of access to waters as viewed from public facilities;
4) will reasonably conserve actual points of public access to waters;
5) will reasonably conserve natural beauty;
6) will reasonably avoid problems associated with flood plain development or use;
7) Access from shore shall be developed on soils appropriate for such use and constructed so as to reasonably control erosion or sedimentation on both subject and surrounding properties.
8) The use shall not unreasonably interfere with beach areas.
9) The facility shall be located so as to minimize adverse effect on marine harvesting and commercial fishing.
10) The facility shall be located so as not to interfere with commercial or recreational boating and moorings.

E. Conditions of Approval

When approving a conditional use permit, the Board shall identify in writing the conditions upon which the permit is approved. These conditions may include, but are not limited to, such requirements as:

1) street improvements;
2) access restrictions;
3) hours of use;
4) buffering and screening;
5) utility improvements;
6) performance guarantees for off-site improvements required as conditions of approval.

F. Duration of Conditional Use Permit

1) Provided all conditions and standards of approval are met, a conditional use permit shall be transferable; however, should a conditional use cease for a period of one (1) year, said conditional use shall expire and require Planning Board approval in order to resume.

2) A use granted by conditional use may be expanded in area or function only with the granting of new conditional use approval by the Board of Appeals.

G. Scope of Permit

Any permit or approval granted hereunder is subject to all elements of the final plans and specifications submitted by the applicant and to all representations, oral or written, made by or on behalf of the applicant in support of the application or with respect to the nature and scope of the use, activity or work proposed, and all such permits or approvals shall include, as an express condition, a written statement to said effect.

H. Appeal

If the Planning Board shall deny a conditional use permit, the applicant may, within thirty (30) days, file a request for review by the Board of Appeals with the Carmel Code Enforcement Officer on forms approved by the Board of Appeals.

SECTION 6. Performance Standards

A. ACCESSORY DWELLING UNIT (ADU)

(1) General. ACCESSORY DWELLING UNIT (ADU) shall be established in conformance with the provisions of this ordinance and the building standards for the town, as amended.

(2) Permit required. ADU shall only be constructed/located with a permit approved by the CEO, as follows:

(a) An application for permit for an ADU shall be issued in the name of the owner(s) of the property.
(b) A permit for ADU shall be valid for a period of 5 years.
(c) A permit shall be automatically renewed for an additional 5 year period upon presentation of an inspection report from the CEO documenting that the use continues to be in conformance with the terms, conditions and restrictions of the original plan approval.
(d) A permit for ADU shall automatically expire once the ADU becomes vacant. A new permit must be obtained if a new family member will intend to occupy the ADU.

(3) Application criteria. Any application for ADU shall include a plan showing the following:

(a) Lot boundaries and dimensions at scale;
(b) Sewerage facilities (including design of existing subsurface wastewater disposal system, if applicable);
(c) Date of plan;
(d) Property owner(s) with deed reference;
(e) Lot area;
(f) Location and setback of all buildings;

(g) Rights of way, public and private;
(h) All easements;
(i) Street names;
(j) Off-street parking spaces.

(4) Building plan. Any application for ADU shall include a building plan showing the following:

(a) Separate floor layout of all finished levels;
(b) All plumbing facilities, kind and location;
(c) Use of all rooms;
(d) All entrances/exits;
(e) All partitions, temporary or permanent;
(f) Location and type of all appliances; and
(g) Parking area.

(5) Sanitary provisions. Any request for ADU shall conform to all provisions of the Maine State Plumbing Code, and no dwelling that is served by an on-site subsurface wastewater disposal system shall be modified to create ADU until a site evaluation has been conducted by a licensed site evaluator which demonstrates that a new system can be installed to meet the disposal needs of both dwelling units.

(6) Permit Fee: No permit shall be valid until the stipulated fee has been collected by the CEO. Contact the CEO at the time of application for a current list of applicable fees.

(7) Mobile homes. Mobile Homes may be permitted as an ADU with CEO approval according to the standards set forth in section 6(A)(2). A mobile home which serves as an ADU shall be removed from the lot upon expiration of the permit unless renewed.

(8) Rental prohibition. ADU shall not be rented, leased or otherwise occupied by anyone other than the approved family members pursuant to this ordinance.

(9) Space within dwelling. ADU within the existing principal dwelling shall be converted to additional living space or to another use in accordance with the provisions of this chapter upon expiration of permit.

(10) Space within accessory building. ADU within an accessory structure may be converted to another use in accordance with the provisions of this chapter and the building standards.

(11) Minimum Lot Size. The minimum allowable lot size shall meet the requirements of the current conforming lot size for a single family home.

(12) Square footage/Size: The minimum gross living area for an ADU shall be 190 square feet. If a detached dwelling that is NOT a mobile home, the gross living area square footage shall not exceed 50% of the living area of the main dwelling unit.

B. Living Space. No dwelling, including mobile homes (exclusive of additions, thereto) shall be constructed upon a lot or moved onto another lot unless said dwelling shall contain

at least 500 square feet of living space, with a minimum of 500 square feet of ground floor space.

C. Camp: A building intended only for use on a seasonal basis. If located on the same lot with a principal building, it is considered to be an accessory structure. Use or rental as a principal structure is not allowed. A camp may be a simple one room primitive structure or a building with all modern conveniences. All plumbing and electrical improvements shall comply with the applicable codes.

D. Roadways. In the residential-farming and commercial zones, all new roadways shall meet the following minimum standards.

1. 66 foot right of way.
2. Two lanes, each lane a minimum of 10 feet wide.
3. Sloped and ditched 8 to 10 feet each way.
4. At least 24" gravel base with 6" gravel surface.
5. No culvert shall be less than 15" in diameter.
6. Bridges shall have a minimum width between curbs of 26 feet.
7. Dead end roads or streets shall have an adequate turnaround.
8. All new roadways shall be paved with a 19mm bituminous asphalt mix that will meet MDOT specification at a thickness of 2 inches and 9.5mm MDOT specification surface applied at thickness of 1.5 inches for a total depth of 3.5 inches of pavement.

E. Signs.

1. Sign Regulation Standards No person, firm or corporation shall hereafter erect, hang, place or alter the site or shape of an existing sign or sign structure of any kind without a permit having been issued in conformance with the provisions of the Ordinance. The following signs are exempt from the provisions of this Ordinance:

a. Any sign, which was lawfully in existence prior to June 2001 provided, however, any changes in size, construction, location, or lighting of said sign shall constitute a new sign and such change shall be governed by the terms of this Ordinance.
b. Real estate signs, attached or freestanding, may be erected advertising the sale lease or rental of premises and shall be removed by the owner or agent when the property is sold or leased.
c. One development of construction sign not to exceed thirty-two (32) square feet in area attached or freestanding, may be erected provided such signs shall be limited to a general identification of the project and shall be removed within thirty days after completion of the project.

2. Home Occupation Signage:
One (1) sign not exceeding twelve (12) square feet, or a total of three (3) signs not exceeding sixteen (16) square feet identifying the name, address, profession, and occupation of a permitted home occupation or lawfully existing non-conforming home occupation is permitted provided that such sign does not adversely impact the character of the neighborhood.

3. Commercial Business Zones:
Attached, detached and projecting signs, or double faced, identifying uses of goods sold or services rendered on the premises totaling two (2) square feet of area for every running foot of building road frontage, not to exceed one hundred twenty (120) square feet of total signage. Freestanding signs shall not extend to an elevation greater than twenty-five (25) feet above the level of the ground which they are erected and be limited to one per site. No attached sign or supporting structure shall extend more than five (5) feet above the level of a roof.

4. Shopping Centers:
Attached Signs – In shopping centers developed under a single ownership, each store or shop front may have an attached sign totaling one (1) square foot of area for every running foot of its frontage. Each unit in a shopping center that is a separate establishment shall be treated as such in determining the allowable frontage of signs. Freestanding Signs – Each shopping center may have an additional detached sign directing the public to the shopping center and identifying use and services rendered on the premises and having a total area not greater than one hundred-twenty (120) square feet. Freestanding signs shall not extend to an elevation greater than twenty-five (25) feet above the level of the ground which they are erected and be limited to one per site.

5. Exempt Signs:
The following signs are exempt from the processions of this section except as otherwise provided for herein:

a. Signs erected by a government body
b. Traffic control signs, signals, and/or devices.

SECTION 7. Site Plan Review

A. Purpose and Applicability

(1) The purpose of site-plan review is to assess the impact of new development on surrounding properties, municipal facilities and services, and the natural environment. Only uses that have been established as permitted uses, either as a matter of right or as a result of successful review as a conditional use, are intended to be able to proceed to site-plan review. Therefore, the purpose of site-plan review is not to establish the right of a use to be located in the area proposed, but rather it is to assure that the way the use is designed and placed on a lot is appropriate to its surroundings. This section shall apply to:

(2) Proposals for new construction of or conversion to Commercial buildings or structures, above ground or underground tanks or other installations and of multi-unit dwellings, including their accessory buildings or structures and all impervious areas.

(3) Proposals for enlargement of Commercial buildings or structures and of multi-unit dwellings, including their accessory buildings or structures and all impervious areas.

This section does not apply to agriculture or forest-management practices.

B. Procedures

(1) The following procedure shall govern the submission and review of all mandatory site plans as well as Section 4, Dimensional Standards shall be observed.

(2) Applicants are required to meet in a pre-application conference with the Planning Board prior to formal submission of an application or starting any excavation work or site preparation.

(3) No building permit, sign permit, or plumbing permit shall be issued by the Code Enforcement Officer or Local Plumbing Inspector for any use or development within the scope of this article until a site plan of development has been approved by the Planning Board.

(4) Every applicant applying for site plan approval shall submit to the Code Enforcement Officer three (3) copies of a complete site plan of the proposed development and a digital copy supplied via email or on a digital recording device, ac- companied by a fee as determined by the Carmel Fee Schedule. The Code Enforcement Officer shall retain two (2) copies of the plan and forward one (1) copy for review by the Town Manager and Fire Chief. Within ten (10) days after receipt of the site plan, the Town Manager and Fire Chief, shall submit written comments to the Carmel Planning Board.

(5) A complete application for site-plan approval shall be submitted at least fifteen (15) days prior to the Planning Board meeting at which the applicant wishes to be heard. However, any application that is not complete, including the payment of fees, shall not be placed on the agenda but shall be returned to the applicant by the Code Enforcement Officer with instruction as to the additional information required. The Code Enforcement Officer shall review the proposed project for Zoning Ordinance compliance and to determine that all conditional uses and/or variances that may be necessary first have been obtained from the Planning Board or the Board of Appeals as appropriate. The Code Enforcement Officer shall continue to review the project for Zoning Ordinance compliance as changes are made during the site-plan review process. Any supplemental information or plan revisions shall be submitted no less than seven (7) days prior to the Planning Board meeting.

(6) The Planning Board shall hold a public hearing within 30 days of the receipt of a completed application and place on the next regular Planning Board Agenda. The time limit for scheduling such public hearing may also be extended by mutual agreement for extension of time for a public hearing or of the time for review shall be in writing, signed by the Planning Board and the applicant or applicant's agent.

(7) Within thirty (30) days after the date on which the site-plan application first appears on the Planning Board agenda, the board shall act to approve, approve with conditions

or disapprove the site-plan application submitted or amended in writing and shall forward copies of its decision to the applicant, building inspector, Town Manager and Select Board of the Town of Carmel. The time limit for review may be extended by mutual agreement between the Planning Board and applicant. During this thirty (30) day period, the board may schedule an on-site visit.

(8) Within seven (7) days of reaching its decision, the Planning Board shall notify the applicant in writing of its action and the reason for taking such action. All decisions of the Carmel Planning Board under this article shall contain a statement setting forth its findings of fact, its conclusions and reasons therefore upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof. Notice of any decision shall be mailed by certified letter with return receipt re- quested or hand-delivered to the applicant.

(9) An appeal from a decision of the Planning Board concerning a site-plan application may be filed by an aggrieved party with the Zoning Board of Appeals within thirty (30) days after the decision of the Planning Board. The Zoning Board of Appeals shall have no authority to decide any appeal that is not filed within that thirty (30) day period.

(10) On appeal, the review of the site Plan decision shall be limited to correction of clear errors of law made by the Planning Board in connection with the site plan decision, and the Zoning Board of Appeals shall have no authority to reverse or modify a factual finding of the Planning Board. In connection with such an appeal, the review of the Zoning Board of Appeals shall be based exclusively on the record before the Planning Board. Upon receipt of an appeal of a site-plan decision, the Zoning Board of Appeals may defer consideration of that appeal for a period not to exceed thirty (30) days, in order to permit consideration of an appeal of the issuance or denial of a building permit for the same project. At such a meeting concerning both appeals, the appeal of the issuance or denial of the building permit shall not be limited to the review of clear errors of law, and shall be considered separately from the appeal of the site-plan decision of the Planning Board. A decision of the Zoning Board of Appeals concerning an appeal to the Superior Court within forty-five (45) days of the date of the vote on the original decision as provided by Title 30-A M.R.S.A., Section 2691.

(11) Any permit or approval granted hereafter is subject to all elements of the final plans and specifications submitted by the applicant and to all representations, oral or written, made by or on behalf of the applicant in support of the application or with respect to the nature and scope of the use, activity or work proposed, and all such permits or approvals shall include, as an express condition, a written statement to said effect.

(12) The Carmel Planning Board may, at its sole discretion, require a performance guarantee from the developer in the form of a certified check payable to the *Town of Carmel* or a performance bond running to the town and issued by a corporate surety acceptable to the Carmel Planning Board or an escrow agreement with the town, managed by a financial institution acceptable to the Carmel Planning Board or a non-revocable letter of credit from a financial institution. The conditions and amount of such a

performance guarantee shall be determined by the Planning Board with the advice of the various town departments or agencies concerned. The amount shall at least be equal to the total cost of furnishing, installing, connecting and completing the entire street-grading, paving, storm drain- age, utilities and any other improvements specified in the site plan. The performance guarantee shall not be released by the Planning Board until it has been established that the work required has been completed in accordance with the approved site plan.

C. Elements of the Site Plan. The site plan shall be drawn to a scale of not less than one

(1) inch equal to fifty (50) feet and shall contain the following:

(1) **Name and Title**

Owner's name and address and proposed identifying title of the development along with the date, project cost and anticipated completion date. Names of abutting landowners are required in all cases. In addition, show all land owners within the area required by the site plan in accordance with Section (C)(9), Building Location, below.

(2) **Scale**

Scale and orientation.

(3) **Parcel Size**

Dimensions (to the nearest foot) and acreage of the parcel to be built on or converted as well as a sketch map showing general location of the site within the town.

(4) **Contours**

Existing contours at elevation intervals of not more than two (2) feet. Proposed contours to be shown on contrasting demarcation at intervals of not more than two (2) feet prepared and sealed by a surveyor licensed in the State of Maine.

(5) **Boundaries**

Boundaries of all contiguous property under the control of the owner or applicant, regardless of whether all or part is being developed at the time.

(6) **Zoning**
Zoning classification(s) of the property lines of the property to be developed and the source of this in- formation.

(7) **Bearings and Distances**
The bearing and distances of all property lines of the property to be developed and the source of this information. The board may require a formal boundary survey when sufficient information is not avail- able to establish, on the ground, all property boundaries.

(8) **Building Location**
The location of all building setbacks required by ordinance; the size, shape and location of existing and proposed buildings, structures and other significant physical features both within the development and outside the perimeter of the development in accordance with the following schedule:

Additions or separate buildings having a ground-floor and/or new impervious area of:	**Distance beyond property line of development:**
Up to 10,000 Sq. Ft.	One Hundred Feet (100')
10,000+ Sq. Ft. up to 50,000 Sq. Ft.	Two Hundred Feet (200')
More than 50,000 Sq. Ft.	Three Hundred Feet (300')

(9) **Other Data**
The location, dimensions, front view and ground-floor elevations of all existing and proposed buildings in the site, location and dimensions of driveways, parking and loading areas, and walkways, intersecting roads or driveways within 200 feet of the site; location and dimensions of all provisions for water supply and wastewater disposal, open drainage courses, wetlands, stands of trees and other important natural features, with a description of such features to be retained and of any new landscaping planned. Location and dimensions of any existing easements and rights-of-way and copies of existing covenants or deed restrictions. Location of all pedestrian access and handicapped access when required and the dimensions thereof, existing and proposed. Such other information as the Carmel Planning Board may, from time to time, request.

It shall be the requirement that any commercial or industrial development of any structure requiring Site-Plan Review and consisting of two or more floors, provide some means of fire suppression if the second floor or above is to be used for other than storage. This requirement may be waived with the approval of the Town of Carmel fire chief or his designated assistant.

(10) **Signs**
Location, front view and dimensions of existing and proposed sign.

(11) **Lighting**
Location and type of exterior lighting and the intensity of illumination thereof.

(12) **Permits and Approvals**

Copies of applicable state approvals and permits, including Maine Department of Transportation entrance permits for property adjacent to Maine State Highways, provided, however, that the board may approve site plans subject to the issuance of specified state approvals and permits where it determines that it is not feasible for the applicant to obtain them at the time of site-plan review.

(13) **Signature Block**

A signature block on the site plan, including space to record a reference to the order by which the plan is approved as well as space to record any conditions placed on the site plan.

(14) **Supplemental Information**

The Planning Board may require any and all of the following submissions where it determines that, due to the scale, nature of the proposed development or relationship to surrounding properties, such in- formation is necessary to ensure compliance with the intent and purpose of this ordinance.

a. A storm-water drainage and erosion-control plan prepared by an engineer or landscape architect registered in the State of Maine, showing:
   1. The existing and proposed method of handling storm-water runoff.
   2. The direction of flow of the runoff through the use of arrows.
   3. The location, elevation and size of all catch basins, drywells, drainage ditches, swales, detention basins and storm sewers.
   4. Engineering calculations used to determine drainage requirements based upon a 25-year storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed.
   5. Methods of controlling erosion and sedimentation during and after construction.

b. A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, telephone and any other utility services to be installed on site.

c. A planting schedule keyed to the site plan and indicating the varieties and sizes of trees, shrubs and other plants to be planted.

(15) **Space for Approval**

Suitable space to record, on the site plan, approval by the Carmel Planning Board, date and conditions of approval, certification of standard completion by the Carmel Code Enforcement Officer as follows:

APPROVED: Carmel Planning Board

_____ Chairperson _____
DATE

_____ Board Members

_____

_____

_____

Conditions _____

_____

D. Waiver of Submission Requirements

The Planning Board may modify or waive any of the submission requirements when it determines that, because of the size of the project or circumstances of the site, such requirements would not be applicable or would be an unnecessary burden upon the applicant and that such modification or waiver would not adversely affect the abutting landowners or the general health, safety and welfare of the town.

E. Approval Criteria

The following criteria are to be used by the Planning Board in judging applications for site-plan reviews and shall serve as minimum requirements for approval of the site plan. 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 and such burden of proof shall include the production of evidence necessary to complete the application.

(1) **Preserve and Enhance the Landscape**
The landscape shall be preserved in its natural state insofar as practical by minimizing tree removal, disturbance of soil and by retaining existing vegetation during construction. After construction is completed, landscaping shall be designed and planted to define, soften or screen the appearance of off-street parking areas from the public right-of-way and abutting properties and/or structures and to minimize the encroachment of the proposed use on neighboring land uses.

(2) **Erosion Control**
Filling, excavation and earth-moving activity shall be carried out in a way that keeps erosion and sedimentation to a minimum, including:

a) Preservation and protection of natural vegetation where possible.

b) Keeping duration of exposure of disturbed soils to as short a period as possible and stabilizing the disturbed soils as quickly as practicable.

c) Use of temporary vegetation or mulching to protect exposed critical areas during development.

d) Use of debris basins, sediment basins, silt traps or other acceptable methods to trap the sediment from storm- water runoff.

e) No storage of fill materials within 65 feet of the banks of any stream, intermittent or perennial, or water body.

f) No removal of topsoil from any lot, except for that removed from areas to be occupied by buildings, paving or other surfaces that will not be re-vegetated.

(3) **Relationship of the Proposed Building to Environment and Neighboring Buildings.** The physical placement of proposed buildings or structures on the site shall fit harmoniously with the terrain of the site and with neighboring buildings or structures, taking into account the bulk, location and height of the buildings or structures and such natural features as slope, soil type and drainage ways. The proposed building or structures shall not interfere unreasonably with the solar access of existing buildings or adjacent parcels.

(4) **Vehicular Access, Parking and Circulation.**

The proposed site layout shall provide for safe access to and egress from the public and private roads as well as MDOT standards and permits

The street serving the site shall be adequate to carry the anticipated traffic and the site plan shall locate points of access to avoid hazardous conflicts with existing turning movements and traffic flows.

Pedestrian ways shall be safely separated from vehicular traffic.

(5) **Surface Water Drainage**
Adequate provision shall be made for surface drainage so that removal of storm waters will not have an unreasonably adverse effect on neighboring properties, downstream water quality, soil erosion or the public storm-drain system. Whenever possible, on-site absorption of runoff waters shall be used to minimize discharges from the site. Drainage facilities shall be designed for a twenty-five (25) year storm frequency.

The development shall not impose an unreasonable burden on sewers and storm drains, water lines or other public utilities. New utilities shall be sized and existing utilities upgraded to adequately handle the demands of the development.

(6) **Special Features of Development**
Exposed storage areas, exposed machinery installation, service areas, truck-loading areas, utility buildings and similar structures shall have setbacks and screening to provide a buffer to sight and sound sufficient to minimize their adverse impact on other land uses within the development area and on sur- rounding properties.

(7) **Exterior Lighting**
All exterior lighting shall be designed and shielded to avoid undue adverse impact on neighboring properties and rights-of-way.

(8) **Emergency Vehicle Access**
Provisions shall be made for convenient and safe emergency-vehicle access to all buildings and structures at all times of the year, including twenty (20) foot-wide fire lanes at locations as may be recommended by the fire department.

F. Additional Standards for Specific Uses

1. Mineral Extraction

   a. Rock quarries are not permitted within the Town of Carmel, and not included under mineral extraction or other permitted uses.

   b. Any mineral extraction which requires a permit from the Maine Department of Environmental Protection under the Site Location of Development Act, 38 M.R.S. sec. 490-A *et. seq.* shall obtain written approval from the Department of Environmental Protection in addition to approval by the Board under the Site Plan Review procedures of this Ordinance. Site Plan Review approval by the Planning Board shall be conditioned upon State approval, and require review of submissions and approval by the Planning Board of any additional conditions set forth in this Ordinance. To the extent setbacks and other requirements of this Ordinance are more restrictive than State law, they shall apply to all mineral extraction permits in the Town of Carmel.

   c. In addition to the requirements of review by the Maine Department of Environmental Protection, any mineral extraction operation in the Town of Carmel in excess of one (1) acre of excavated area requires a mineral extraction permit from the Board. In addition to the submission requirement contained in Section 5.C, the following must be submitted.

      1. The existing and proposed limits of excavation clearly delineated.

      2. Location, function and ground area of all structures, facilities, parking lots, roads, and mud run-off areas.

      3. The phases of excavation and reclamation.

      4. Entrance and exit layout.

      5. Gates or other means for controlling access.

6. Pre- and post-development topography using an interval of no greater than 5 foot contours.

7. Surface drainage and watersheds on parcel, pre- and post-excavation.

8. Location of topsoil stockpile areas.

9. Areas where natural vegetation will be left and where plantings will be made to screen the operation from view.

10. Slopes and vegetation for protecting adjacent structures.

11. Location of any test pits or borings and observation wells documenting the seasonal high water table.

12. At least one cross section along the long axis of the pit and another cross section at a right angle to it. The cross section diagrams should show the existing grade, the proposed final grade including maximum depth of elevation, depth to ground water and the stratigraphy of the surficial deposits at the site.

13. Proposed disposal method of stumps and grubbings.

14. Plans and schedule for reclamation.

d. Review Criteria and Standards

1. A natural buffer strip of not less than 250 feet shall be maintained between the location of any extraction of materials and all property lines. This buffer strip may be reduced to 50 feet with written consent from abutting property owners and Board approval. Where no natural buffer exists, the Planning Board may impose conditions on approval to provide for adequate screening or buffering from neighboring properties.

2. The average slope of any cut bank measured from a point located 10 feet from the buffer strip to the bottom of the cut bank in the pit shall not exceed a horizontal to vertical ratio of 2:1. The owner of the borrow pit is responsible for maintaining this condition.

3. All petroleum products shall be kept out of the pit and no refueling or oil changes shall be conducted in the pit unless such activities comply with applicable standards promulgated by the Maine Department of Environmental Protection.

4. There shall be no storage or dumping on the pit of any substances that could produce harmful leachate, unless such substances are placed under cover and on impermeable, spill-proof base. Such potentially deleterious substances include, but are not limited to salt, rubbish, creosoted timber and petroleum products.

5. No oiling of access and haul roads is permitted.

6. No ditches, trenches, pumping or other methods shall be used to lower the water table to permit more gravel extraction than could occur under natural conditions.

7. Access to the pit shall be strictly controlled.

8. Reclamation of the pit shall not be made with any substance that could either have a deleterious leachate or create an impermeable base.

9. Stumps and grubbings shall be disposed of in a manner approved by the Board.

10. Suitable traffic control measures shall be made available by the operator at all access points to public streets.

11. Upon cessation of the extraction of materials or upon the expiration of the Board approval, the site shall be rehabilitated in accordance with a plan.

12. To the extent not addressed or modified by more restrictive conditions herein, the Planning Board shall review and apply the remaining performance standards for approval as applied by the Maine Department of Environmental Protection in 38 M.R.S. sec. 490-D, as amended, for all mineral extraction operations in the Town of Carmel greater than one (1) acre in size, and up to five (5) acres.

2. Solar Energy

a. All principal and accessory use medium-scale and large-scale solar energy systems and commercial solar energy systems are prohibited in all zoning districts of the Town of Carmel.

b. Standards for Roof-Mounted and Small-Scale Ground-Mounted Solar Energy Systems

1. Roof-mounted and building-mounted solar energy systems and equipment may be permitted, unless they are determined by the Code Enforcement Officer and the Fire Chief to present one or more unreasonable safety risks, including, but not limited to, the following:

    a. Weight load;

    b. Wind resistance;

    c. Ingress or egress in the event of fire or other emergencies; or

    d. Proximity of a ground-mounted system relative to buildings.

2. All solar energy system installations shall be installed in compliance with the photovoltaic systems standards of the latest edition of the National Fire Protection Association (NFPA1).

3. All wiring shall be installed in compliance with the photovoltaic systems standards of the latest edition of the National Electrical Code (NFPA 70).

4. Prior to operation, electrical connections must be inspected and approved by an electrical inspector or master electrician.

c. Planning Board Application and Review

1. Applicability:

    a. Roof mounted solar energy systems are not subject to Planning Board Review.

    b. Small scale ground mounted systems totaling less than 15,000 square feet (approximately one-third of an acre) per lot are not subject to Planning Board Review, and must receive a permit from the Code Enforcement Officer.

    c. Medium-scale ground-mounted solar energy systems are equal to or greater than 15,000 square feet but less than 87,120 square feet (two acres) and are prohibited in all zoning districts of the Town of Carmel.

    d. Large-scale ground-mounted solar energy systems are equal to or greater than 87,120 square feet (two acres) and are prohibited in all zoning districts of the Town of Carmel.

d. General Applicability

1. Notwithstanding the provisions of 1 M.R.S.A section 302 or any other law to the contrary, the requirements of Section 7(F)(2) shall apply retroactively to all solar energy systems, including all pending applications and proceedings that commenced after December 15, 2023.

2. All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations and standards.

3. Any upgrade, modification or structural change that materially alters the size, placement or output of an existing solar energy system shall comply with the provisions of this section.

e. Permitting

1. A solar energy system or device shall be installed or operated within the town after a permit is issued by the Code Enforcement Officer, provided it is in compliance with this ordinance.

2. Permitted Use: Roof-mounted solar energy systems and small ground mounted solar energy systems are permitted in all zoning districts, and are considered structures subject to the dimensional standards of Section 4.

3. Wind Energy

a. The intent of the Section is to regulate the placement, construction, and modification of wind turbines while allowing the safe, effective, and efficient use of this technology.

1. All hobbyist wind turbine energy systems are limited to one hobbyist wind turbine per parcel in all zoning districts of the Town of Carmel.

2. All personal wind turbine energy systems are limited to one personal wind turbine per parcel in all zoning districts of the Town of Carmel.

3. All commercial wind turbine energy systems are prohibited in all zoning districts of the Town of Carmel.

4. All wind turbine energy systems of two or more wind turbines per parcel are prohibited in all zoning districts of the Town of Carmel.

b. Siting Requirements for Wind Turbines

1. Small wind turbines shall be a permitted use in all Districts.

2. Each parcel shall be limited to one wind turbine

3. Wind turbine towers shall not exceed a maximum height of one hundred (100) feet above existing grade.

4. Wind turbine towers shall not be lighted unless required by the Federal Aviation Administration (FAA).

c. Setback Requirements

1. Wind turbines shall be set back a distance equal to one hundred ten percent (110%) of the height of the tower and blade length from adjoining property lines.

d. Sound Requirements

1. An automatic braking, governing or feathering system shall be required to prevent uncontrolled rotation.

2. Prior to approval, the applicant shall provide documentation from the manufacturer that the wind turbine will not produce noise levels in excess of the standards in subsection 3, as measured at the closest property line.

3. After approval and installation of the wind turbine, sound measurements at the closest property line shall not exceed the ambient and maximum permitted operating decibel levels listed in the table below.

Ambient Reading Without Wind Tower (dBA)	Maximum Permitted Reading With Wind Tower (dBA)
45	55
50	56
55	61
60	62
65	66

4. Upon complaint of an abutter, ambient and maximum permitted decibel measurements shall be performed by an agent designated by the Code Enforcement Officer. The report shall be submitted to the Code Enforcement Officer for review. The fee for this service shall be paid by the complainant unless the maximum permitted decibel level has been exceeded in which case the owner of the wind turbine shall pay the fee.

5. If the maximum decibel readings are exceeded, the installation shall be considered in violation of the provisions of this Section.

6. The nuisance violation must be corrected within 90 days from notification

of the violation and if the violation cannot be corrected, the wind turbine shall be removed or relocated.

e. General Applicability

1. Notwithstanding the provisions of 1 M.R.S.A section 302 or any other law to the contrary, the requirements of Section 7(F)(3) shall apply retroactively to all wind energy systems, including all pending applications and proceedings that commenced after December 15, 2023.

f. Permitting Requirements

1. The applicant for a wind turbine shall provide the following information to the Code Enforcement Officer;

a. A site plan of the property showing the location of the proposed wind turbine, existing and proposed structures, and any other significant features on the property;

b. Structural drawings of the tower, base pad, footings, and guy wires prepared by the manufacturer or a professional engineer;

c. Drawings and specifications of the generator, hub, and blades, prepared by the manufacturer or a professional engineer; and

d. Photographs of the proposed site and the specific wind turbine to be installed.

SECTION 8. Administration, Enforcement and Penalties

A. Administering Bodies and Agents

1. Code Enforcement Officer

a. Appointment. A Code Enforcement Officer shall be appointed or reappointed annually by the Municipal Officers.

b. Powers and Duties. The Code Enforcement Officer shall have the following powers and duties:

1. Enforce the provisions of this Ordinance.

2. Act upon building applications, refer permits requiring site plan approval to the Planning Board, and refer requests for variances and administrative appeals to the Board of Appeals.

3. Enter any property at reasonable hours with the consent of the property owner, occupant or agent, to inspect the property or structure for compliance with the laws or ordinances set forth in this section.

4. Investigate complaints and reported violations.

5. Keep written inspection reports and thorough records.

6. Issue violation notices.

7. Participate in appeals procedures.

8. Appear in court when necessary.

9. Confer with citizens in the administration and enforcement of this Ordinance.

10. Regularly attend meetings of the Board of Appeals and meetings of the Planning Board, as necessary.

11. Revoke a permit if it was issued in error or if it was based on erroneous information.

2. Planning Board. The municipal Planning Board shall be responsible for reviewing and acting upon applications for conditional use permits and site plan review approval. Following site plan review approval, applicants shall return to the Code Enforcement Officer for a building permit.

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

B. Permits Required

1. After the effective date of this Ordinance, no person shall engage in any use of land requiring a permit in the district in which it would occur without first obtaining a permit.

2. Applications for permits shall be submitted in writing. The Enforcement Officer or Planning Board may require the submission of whatever information is necessary to determine conformance with the provisions of this Ordinance.

3. All building permits for permitted uses shall be obtained from the Enforcement Officer.

4. No building permit shall be issued for any structure or use involving the construction, installation or alteration of plumbing facilities unless a plumbing permit for such facilities has first been secured by the applicant or his authorized agent, according to the requirements of this Ordinance.

5. All permits and approvals issued by the Planning Board or Code Enforcement Officer shall expire if a start to construction of the building or structure, or commencement of the use is not begun within one (1) year of the date on which the permit or approval was issued. Upon good cause shown, the person or board issuing the original permit or approval may extend its effectiveness for an additional six months. Upon extension of a permit or approval, the applicant will be charged any difference between the fee originally paid and the fee at the time of the issuance of the extension.

C. Fees

All applications for a permit, appeal, variance or Site Plan Review shall be accompanied by the following fees: The Selectmen shall have the authority to revise the fee schedule after holding a public hearing.

DWELLINGS: First two hundred square feet - $30.00. Each additional square foot is multiplied by $0.25.

ACCESSORY BUILDINGS: First two hundred square feet - $30.00. Each additional square foot is multiplied by $0.10.

COMMERCIAL/INDUSTRIAL: First two hundred square feet - $50.00. Each additional square foot is multiplied by $0.10.

ADDITIONS: Will be charged in accordance to what type primary structure is.

PORCHES/DECKS/POOLS/WHARVES/SIGNS/PRIVATE CAMPSITES: Will be - $30.00.

SPECIAL USE PERMITS: $150.00 plus all costs of public notice required

CHANGE OF USE TO LIVING SPACE: Will be - $0.15 per square foot.

1. Appeals/Variances
   ...$40
2. Late Permits
   ...Three times regular fee

Value to be based upon the prior year's square footage evaluations from the tax assessor.

3. Site Plan Review ...$150 plus all costs of public notice required

D. Procedure for Administering Permits

Within 30 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 8(A), 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 Planning Board or the Code Enforcement Officer, as appropriate, shall approve or deny all permit applications in writing within 60 days of receiving a completed application. However, if the Planning Board has a waiting list of applications such approval or denial shall occur within 60 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 30 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. Permits may be made subject to reasonable conditions to insure conformity with the purposes and provisions of this Ordinance, and the permittee shall comply with such conditions. 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.

The burden of proof that a proposed land use activity is in conformity with the purposes and provisions of this Ordinance shall lie with the applicant.

E. Occupancy Permit

No newly constructed, placed, relocated, or expansion of any existing structure, intended for human habitation shall be occupied until an Occupancy Permit has been issued by the Code Enforcement Officer in accordance with the following.

1. Within five (5) working days of the receipt of a request of an Occupancy Permit the Code Enforcement Officer shall inspect the property to determine compliance with the Building Permit and that any subsurface wastewater disposal system required has been installed, inspected and approved by the Local Plumbing Inspector.

2. Upon finding that the Building Permit has been complied with and that any subsurface wastewater disposal system required has been installed, inspected and approved by the Local Plumbing Inspector the Code Enforcement Officer shall issue an Occupancy Permit.

F. Enforcement

1. <u>Enforcement Procedure</u>

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

b. The Code Enforcement Officer shall conduct on-site inspections to 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. The Code Enforcement Officer shall not issue any new Permits to any person, organization, business or corporation that has received written notification from the Code Enforcement Officer of a violation of this ordinance until said violation(s) have been corrected, unless the Permit is required to correct the existing violation(s).

2. Legal Actions: When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recording fines without court action. Such agreements should 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.

3. Fines:

a. 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 and/or State laws which the town is authorized to enforce, shall be penalized in accordance with Title 30-A MRSA Section 4452.

b. 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/or State laws which the town is authorized to enforce for the purpose of eliminating such violations. Consent agreements shall, when appropriate, include a corrective action and a fine. The Municipal Officers are granted the authority to set the amount of the fine and revise the fine amount from time to time after a public hearing.

Fines set forth below are to be assessed per day:

First Violation	$100.00 Minimum
Second Violation	$200.00 Minimum
Third Violation	$300.00 Minimum
Fourth Violation	$400.00 Minimum

Monetary fines shall be based upon the severity of the violation in relation to public health, safety and welfare.

SECTION 9. Appeals

A. Establishment

A Board of Appeals is hereby created in accordance with the provisions of Title 30-A, MRSA Section 2691. The Board of Appeals shall keep minutes of its proceedings, recording the vote of each member on all matters coming before the Board. The minutes of the Board, and all correspondence, shall be a public record. Three members of the Board shall constitute a quorum for conducting a meeting and taking action.

B. Appointment and Composition

There shall be a Board of Appeals of five members and two alternate members, all of whom shall be residents of the Town of Carmel. The members of the Board of Appeals shall be appointed by the Board of Selectmen, in accordance with the laws of the State of Maine and the following provisions shall apply.

1. Terms of Board member shall be for three years except that initial appointments shall be made so that the terms of not more than two members expire in any given year.
2. Neither Municipal officers nor their spouses shall be appointed as members of the Board of Appeals.

3. When there is a permanent vacancy, the Board of Selectmen shall appoint a person to fill the unexpired term within ninety (90) days.
4. The Board shall elect a Chairman and Secretary from its own membership.
5. A quorum for the conduct of business shall consist of at least four members.
6. An appeal shall lie from the decision of the Code Enforcement Officer or Planning Board, to the Board of Appeals, and from the Board of Appeals to the Superior Court according to the provisions of the laws of the State of Maine.

C. Powers and Duties

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

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

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

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

   a. Dimensional variances may be granted only from dimensional requirements including but not limited to frontage (including shore frontage), lot area, lot width, height, percent of lot coverage and setback requirements.

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

c. The Board shall not grant a variance unless it finds that:

1) The proposed structure or use would meet the performance standards of this Ordinance except for the specific provision which has created the nonconformity and from which relief is sought; and

2) The strict application of the terms of this Ordinance would result in undue hardship.

The term "undue hardship" shall mean all of the following:

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

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

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

dd) That the hardship is not the result of action taken by the applicant or a prior owner.

d. 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.

e. All variances granted shall be recorded in the Registry of Deeds as required by Title 30-A M.R.S.A. Section 4353(5). Any variance not so recorded shall be void.

D. Disability Variance

Notwithstanding Section 10(C)(2) above, pursuant to Title 30-A M.R.S.A. Section 4353-A, the Code Enforcement Officer may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Code Enforcement Officer shall restrict any variance

granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Code Enforcement Officer may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include ramps and associated railings, wall or roof systems necessary for the safety or effectiveness of the ramps.

E. Appeal Procedure

1. Time Limit: An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. Such appeal shall be taken within 30 days of the date of the decision.

2. Written Notice: Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:

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

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

3. Record of Case: 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.

4. Public Hearing: The Board of Appeals shall hold a public hearing on the appeal within 35 days of its receipt of an appeal request.

5. Decision by Board of Appeals

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

   b. Majority Vote: 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 which it is required to decide under this Ordinance, or to affect any variation in the application of this

Ordinance from its stated terms.

c. Burden of Proof: The person filing the appeal shall have the burden of proof.

d. Action of Appeal: Following the public hearing on an appeal, the Board 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.

e. Time Frame: The Board shall decide all appeals within 35 days after the close of the hearing, and shall issue a written decision on all appeals.

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

6. Appeal to Superior Court: An appeal may be taken by any aggrieved party to Superior Court in accordance with State laws within 30 days from the date of any decision of the Board of Appeals.

7. Reconsideration: The Board of Appeals may reconsider any decision reached within 30 days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

SECTION 10. Definitions

Accessory Structure or Use: a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Accessory Dwelling Unit (ADU): A temporary self-contained dwelling unit, attached or detached, established, used and maintained solely for the purpose of domicile for family of the current property owner. The family relationship in this case is limited to 3 degrees of relationship separation.

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

Aggrieved Party: an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance; or a person whose land abuts or is across a road or street or body of water from land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or

denial of such permit or variance.

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

Alteration: any change or modification in construction, or change in the structural members of a building or structure such as bearing walls, columns, beams or girders or in the use of a building. The term shall include change, modification, or addition of a deck, dormer, staircase, or roof of the building.

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

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

Arterial Street: a major thoroughfare which serves as a major traffic way for travel between and through the municipality.

Authorized Agent: an individual or a firm having written authorization to act on behalf of a property owner. The authorization shall be signed by the property owner.

Automobile Body Shop: a business establishment engaged in body, frame or fender straightening and repair or painting and undercoating.

Automobile Graveyard: a place where two or more unregistered, unserviceable, discarded, worn-out or junked automotive vehicles, or bodies, or engines thereof are gathered together and may include the sale of used vehicles.

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

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

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

Boarding, Lodging Facility: any residential structure where lodging and/or meals are provided

for compensation for a period of at least one week, and where a family residing in the building acts as proprietor or owner. There shall be no provisions for cooking in any individual guest room.

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

Buffer: an area of land on a developed property, together with a specific and required amount of plantings or natural vegetation, earthen berms, or structures such as fencing, to minimize the impact of development upon surrounding properties.

Bulk Grain Storage: establishments primarily engaged in the warehousing and storage of grain for resale or own use other than normal storage associated with on-site consumption.

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

Campground: land upon which one or more tents are erected or trailers are parked for temporary family recreational use for a fee on sites arranged specifically for that purpose. The word "campground" shall include the words "camping ground", and "tenting grounds."

Cemetery: property used for the interring of the dead.

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

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

Code Enforcement Officer: a person appointed by the municipal officers to administer and enforce this code.

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

Commercial Hazardous Waste Facility: As defined in 38, M.R.S.A., Section 1303 as may be amended.

Commercial Recreation: any commercial enterprise which receives a fee in return for the provision of some recreational activity including but not limited to: campgrounds, racquet and

tennis clubs, health facility, amusement parks, golf courses, gymnasiums and swimming pools, etc., but not including bowling alleys or amusement centers, as defined herein.

Commercial Use: the use of lands, buildings, or structures, other than a small enterprise, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Community Center: a building which provides a meeting place for local, nonprofit community organizations on a regular basis. The center shall not be engaged in activities customarily carried on by a business.

Complete Application: an application shall be considered complete upon submission of the required fee and all information required by these regulations for a Final Plan, or by a vote by the Board to waive the submission of required information. The Board shall issue a receipt to the applicant upon its determination that an application is complete.

Comprehensive Plan: comprehensive plan means a document or interrelated documents containing the elements established under Title 30-A, M.R.S.A. Section 4326, subsection 1 to 4, including the strategies for an implementation program which are consistent with the goals and guidelines established under subchapter II.

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

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

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

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

Day Care: homes and centers licensed as such by the Maine Department of Human Services.

Density: the number of dwelling units per lot of land.

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

Development: any manmade changes to improve or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

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

Direct Watershed: that portion of the watershed which does not first drain through an upstream lake.

District: a specified portion of the municipality, delineated on the Official Zoning Map within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

Driveway: a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

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

1. Single-family dwelling: Any structure containing only one dwelling unit for occupation by not more than one family.

2. Two-family dwelling: A building containing only two dwelling units for occupation by not more than two families.

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

Dwelling Unit: a room or suite of rooms used by a family as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities.

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

Essential Services: 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.

Expansion of a Structure: an increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached: decks, garages, porches and greenhouses.

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

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

Family Development: a development that would otherwise constitute a subdivision as defined by Title 30-A, Section 4401 but the development meets the exception because of a gift to a person related to the donor by blood, marriage or adoption.

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

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

Flood or Flooding: means:

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; and
    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 by some similarly unusual and unforeseeable even which results in 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.

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

Forest Management Activities: timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

Forested Wetlands: freshwater wetland dominated by woody vegetation that is six meters (approximately 19.7 feet) tall or taller.

Forestry: the operation of timber tracks, tree farms, forest nurseries, the gathering of forest products, or the performance of forest services.

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

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

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

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

3. This definition does not include forested wetlands for the purposes of Shoreland Zoning.

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

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

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 recreational fishing and boating facilities, waterfront dock facilities, boatyards and boat building facilities, navigation aides, industrial uses requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site.

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

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

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

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

Ground Cover (Shoreland Zoning): small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Hazardous Waste: as defined in 38 M.R.S.A. Section 1303 as may be amended.

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.

High Intensity Soil Survey: a soil survey conducted by a Certified Soil Scientist, meeting the standards of the National Cooperative Soil Survey, which identifies soil types down to 1/10 acre or less at a scale equivalent to subdivision plan submitted. The mapping units shall be the soil series. Single soil test pits and their evaluation shall not be considered to constitute high intensity soil surveys.

Historic Structure: means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary 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.

Hospital: an institution providing, but not limited to, overnight health services, primarily for in-patients, and medical or surgical care for the sick or injured, including as an integral part of the institution such related facilities as laboratories, out-patient departments, training facilities, central services facilities, and staff offices.

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

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

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

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

Industrial or Commercial Street: a street servicing only residential properties and which has an average daily traffic of less than 200 vehicles per day.

Industrial Park or Development: a subdivision developed exclusively for industrial uses, or a subdivision planned for industrial uses and developed and managed as a unit, usually with provision for common services for the users.

Junkyard: a yard, field or other area used as place of storage for:

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 or plastic debris, waste and all scrap iron, steel and other scrap ferrous or non-ferrous material; and
4. garbage dumps, waste dumps and sanitary landfills.

Kennel: an establishment in which more than four dogs or four cats are sold, housed, bred, boarded or trained for a fee.

Level of Service: a description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the Highway Capacity Manual, 1985 edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

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

Lot Area: the total horizontal area within the lot lines.

Lot, Corner: a lot at least two contiguous sides abutting upon a street or right-of-way.

Lot, Coverage: the percentage of a lot covered by all buildings, parking areas and impervious services.

Lot Lines: the lines bounding a lot as defined below:

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

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

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

Lot, Minimum Area: the required lot area within a district for a single use. The lot area shall be determined on the basis of the "Net Residential Acreage Calculation" as contained in the Performance Standards section of this code.

Lot of Record: a parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the County Register of Deeds.

Lot, Shorefront: any lot abutting a body of water.

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

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

Lowest Floor: means 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.

Manufactured Housing/Mobile Home Unit: means structures, transportable in one or two sections, which were constructed in a manufacturing facility and are transported to a building site and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein and as otherwise defined in 30-A MRSA section 4358(1). This definition should not be deemed to exclude pre-1976 mobile homes except that the Board may as a condition of subdivision approval restrict pre-1976 mobile homes.

Manufacturing: the making of goods and articles by hand or machinery. Manufacturing shall include assembling, fabricating, finishing, packaging or processing operations.

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 equipment, boat and tackle shops, and 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.

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 exploration shall not include testing for a quarry.

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, peat, or other like material from its natural location, and to transport the product removed, away from the extraction site. Mineral extraction shall not include the term quarry.

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

Minor Street: a street with average daily traffic of less than 200 vehicles per day.

Mobile Home Park: a parcel of land under unified ownership approved by the Town of Carmel's Planning Board pursuant to the Town of Carmel Subdivision Ordinance and Mobile Home Park Ordinance for the placement of three (3) or more mobile homes.

Mobile Home Park Lot: mobile home park lot means the area of land on which an individual home is situated within a mobile home park and which is reserved for use by the occupants of that home. A municipality shall require a lot to be designated on a mobile home park plan.

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

Native (Shoreland Zoning): indigenous to the local forests.

Neighborhood "Convenience" Stores: a store of less than 1,500 square feet of floor space intended to service the convenience of a residential neighborhood primarily with the sale of merchandise, including such items as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items.

New Construction: means structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by a community. Non-conforming condition: non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Code or subsequent amendment took effect.

Nonconforming Lot: a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

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

Nonconforming Use: use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Normal High-Water Line: 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. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

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

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

100 Year Flood: the flood having a one percent chance of being equaled or exceeded in any given year.

Open Space Development: a subdivision in which the lot sizes are reduced below those normally required which in return for the provision of permanent open space owned in common by lot/unit owners, the Town, or a land conservation organization.

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

Permitted Use: uses which are listed as permitted uses in the various districts set forth in this code. The term shall not include prohibited uses.

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

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

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

Planning Board: the planning board of the Town of Carmel.

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

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

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

Privately-Owned Street: a residential street not including a street serving a mobile home park, which is not intended to be dedicated as a public way.

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

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

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

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

Quarry: a place where stone is excavated from rock.

Rear lot: any lot or parcel of land that does not have frontage on a public or private road or lacks the minimum frontage as required under Section 4, note 1.

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

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

Reconstructed: the rebuilding of a road or section of a road to improve its serviceability.

Recording Plan: a copy of the Final Plan which is recorded at the Registry of Deeds and which need not show information not relevant to the transfer of an interest in the property, such as sewer and water line locations and sizes, culverts, and building lines.

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

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

Repair: to take necessary action to fix normal damage or storm damage.

Replacement System: a system intended to replace:

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

Residential-based Service Business: certain limited business uses of residential premises which do not significantly detract from the residential character and tranquility of the surrounding area, provided they are regulated. There are businesses at a residence, where the services are performed off the premises, and instances where the resident is employed by a service building and wishes to keep certain business vehicles or equipment at his personal residence for convenience, and the use is accessory and incidental to the residential use.

Examples of the types of service businesses covered by this definition include but are not limited to:

1. forest harvesters
2. excavation services
3. well drilling services
4. painting and/or building contractors
5. oil burner services
6. independent truckers
7. snowplowing services
8. automotive towing/wrecker services
9. art and crafts sold off premises
10. service businesses similar in operation to those listed above.

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. The term shall include mobile homes, but not recreational vehicles.

Residual Basal Area (Shoreland Zoning): the average of the basal area of trees remaining on a harvested site.

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

Resubdivision: the division of an existing subdivision or any change in the plan for an approved subdivision which effects the lot lines, including land transactions by the subdivider not indicated on the approved plan.

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

Right-of-way: all public or private roads and streets, state and federal highways, private ways (now called public easements), and public land reservations for the purpose of public access, including utility rights-of-way.

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

River: a free-flowing body of water including its associated 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.

Seasonal Dwelling: a dwelling unit lived in less than seven months of the year and not the principal residence of the owner.

Service Business: establishments engaged in providing services for individuals and businesses such as laundries, beauty shops, barbershop, advertising and equipment leasing.

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

1. in the case of electric service

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

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

2. in the case of telephone service

    a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or

    b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback: the minimum horizontal distance from a lot line to the nearest part of a building, including porches, steps and railings.

Setback, water (Shoreland Zoning): the nearest horizontal distance from the normal high-water line to the nearest part of a structure, road, parking space or other regulated object or area.

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

Shore Frontage: the length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation.

Shoreland Zone: the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 75 feet of a stream; or within 250 feet of the upland edge of a freshwater wetland.

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

Significant Scenic View Locations: points where scenic views can be accessed as identified in Carmel's Comprehensive Plan.

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

Skid Trail: a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

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

Solar Energy Systems Definitions:

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

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

Mounting: The manner in which a solar PV system is affixed to the roof or or ground, (i.e., roof mount, or ground mount).

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

etc. in Alternative Current (AC).

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

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

Solar Energy System: A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means. It may be roof-mounted or ground-mounted, and may be of any size as follows:

1. Small-scale Solar Energy System is one whose physical size based on total airspace projected over a roof or the ground is less than 15,000 square feet per lot (approximately one-third of an acre);

2. Medium-scale Solar Energy System is one whose physical size based on total airspace projected over a roof is equal to or greater than 15,000 square feet but less than 87,120 square feet and

3. Large-scale Solar Energy System is one whose physical size based on total airspace projected over a roof is equal to or greater than 87,120 square feet.

Solar Energy System, Ground-Mounted: A Solar Energy System that is structurally mounted to the ground and is not roof-mounted.

Solar Energy System, Roof-Mounted: A Solar Energy System that is mounted on the roof or surface of a building or other structure.

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

Start of Construction: means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, 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.

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 edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another waterbody or wetland within the Shoreland Zone.

Stream, River or Brook: river, stream or brook means a channel between defined banks including the floodway and associated floodplain wetlands where the channel is created by the action of the surface water and characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock.

Street: public and private ways such as alleys, avenues, highways, roads and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways, farm roads or logging roads.

Structure: anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as storage enclosures, decks, patios, canopies, pools and solar panels.

Subdivision: for the purpose of this Ordinance, subdivision shall be as defined in Title 30-A, M.R.S.A. Section 4401.

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

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

Subsurface Sewage Disposal System: a collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, subchapter 1.

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

Swimming Pool: an outdoor manmade receptacle or excavation designed to hold water to a depth of at least 24 inches, primarily for swimming or bathing, whether in the ground or above the ground.

Timber Harvesting: the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting.

Tract, or Parcel, of Land: 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.

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

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

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

Variance: a relaxation of the terms of this code where such relaxation will not be contrary to the public interest where, owing to conditions peculiar to the property, and not the result of the actions of the applicants, a literal enforcement of the code would result in undue hardship. Variances permissible under this code are limited to height of buildings, structures, lot size, yard and open spaces sizes, and setbacks. No variance can be granted for the establishment of any use otherwise prohibited, nor shall a variance be granted because of the presence of nonconformities in the immediate or adjacent districts.

Vegetation: all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

Veterinary Hospital or Clinic: a building used for the diagnosis, care and treatment of ailing or injured animals which may include overnight accommodations. The overnight boarding of healthy animals shall be considered a kennel.

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.

Warehousing/Storage: the storage of goods, wares and merchandise in a warehouse.

Water Body: any great pond, river, stream.

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

Wetland: a freshwater wetland.

Wetlands Associated with Great Ponds and Rivers: wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.

Wind Energy Systems Definitions:

Wind Energy Facility: An electricity generating facility consisting of one or more wind turbines under common ownership or operating control, and includes substations, MET Towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customer(s).

Wind Turbine, Commercial: A wind energy conversion system which converts wind energy into electricity through the use of a wind-driven turbine generator when the total height exceeds one-hundred (100) feet or the nameplate capacity exceeds one-hundred (100) kilowatts, or if 40 percent or more of the energy generated is not consumed on the property and provided for sale or trade to a utility or other property. Such wind turbine includes the turbine, blade, tower, base and pad transformer, if any.

Wind Turbine, Personal: A wind energy conversion system which converts wind energy into electricity through the use of a wind-driven turbine generator when the total height is one-hundred (100) feet or less and where no less than 60 percent of the energy generated remains on the property.

Wind Turbine, Hobbyist: A wind energy conversion system which converts wind energy into electricity through the use of a wind-driven turbine generator when the total height is less than fifty (50) feet and the prop diameter is twelve (12) feet or less.

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