

# TOWN OF COLUMBIA FALLS CODE OF ORDINANCES

Enacted: March 19, 2024



Town Hall and Pleasant River c. 1908 (reproduced from an original postcard published by the Hugh C. Leighton Company).

*Note: This Cover Sheet and the following Road Map, What Other Permits or Approvals Might You Need, and Table of Contents, as well as the pagination of this document, are not a part of the officially adopted Columbia Falls Code of Ordinances and may be altered by the Town at any time. They are included here for convenience to the reader.*

# A ROAD MAP FOR USING THE COLUMBIA FALLS CODE OF ORDINANCES

## STEP 1. How is your property zoned?

Identify the land use district where your property is located (refer to the Town's Official Land Use District Map).



## STEP 2. Check the Schedule of Uses in Section III-2.

Review the definitions in Section IX-3 to make sure the use matches the activity you wish to conduct.

In your land use district, is the activity you wish to conduct ...

... allowed without a permit?  
(marked "Yes" in the schedule)

... allowed with a building permit, site plan, or conditional use approval?  
(marked "P" or "S" or "C" in the schedule)

... not listed or prohibited?  
(marked "No" in the schedule)

## STEP 3. Is your property also in the shoreland zone?

Identify the shoreland zoning subdistrict where your property is located  
(refer to the Town's Official Land Use District Map).

- If yes, go to step 4.
- If no, go to step 5 (skip step 4).



**STOP.** Do not conduct the activity.

## STEP 4. Check the Schedule of Uses in Section IV-2.

Review the definitions in Section IX-3 to make sure the use matches the activity you wish to conduct.

In your shoreland zoning subdistrict, is the activity you wish to conduct ...

... allowed without a permit?  
(marked "Yes" in the schedule)

... allowed with a building permit, site plan or conditional use approval?  
(marked "P" or "S" or "C" in the schedule)

... not listed or prohibited?  
(marked "No" in the schedule)



**Carry out the activity in compliance with applicable standards.**



**STOP.** Do not conduct the activity.

## STEP 5. What permits or approvals do you need to carry out the activity?

If your activity is allowed with a building permit  
(marked "P" in the schedules) ...

If your activity is allowed with site plan or conditional use approval (marked "S" or "C" in the schedules) ...

- Find the relevant standards in Chapter IV (Shoreland Zoning) and Chapter VII (Building Regulations).
- Submit a building permit application addressing the standards, participate in any applicable Planning Board meetings, and wait for approval.
- **If the permit is granted, carry out the activity in compliance with applicable standards and permit conditions.**



- Find the relevant standards in Chapter IV (Shoreland Zoning) and Chapter V (Site Plan Review).
- Submit a site plan or conditional use application addressing the standards, participate in Planning Board meetings and hearings, and wait for approval.
- **If the approval is granted, carry out the activity in compliance with applicable standards and conditions of approval.**



## OTHER CONSIDERATIONS

- **Subdivisions:** If you want to create a subdivision, refer to Chapter VI for the subdivision application process.
- **"Grandfathered" Lots, Uses, and Structures:** If your lot, structures, or uses do not meet the requirements of the Code, refer to Chapter II (Nonconforming Uses, Structures, and Lots) for details on what you may do.
- **Variances and Appeals:** If you need a variance, refer to Section I-13. If you want to appeal a decision, refer to Section I-12.
- **State and Federal Approvals:** Your activity may need state or federal permits or approvals. Refer to the list of other permits or approvals that you may need, below.

## WHAT OTHER PERMITS OR APPROVALS MIGHT YOU NEED?

In addition to the requirements of this Code, the use or development of land within the Town may be subject to regulation by the state and federal government. The responsibility for compliance with applicable state and federal requirements or obtaining the necessary state and federal approvals or permits rests entirely with the property owner. The following non-exhaustive list of state and federal laws may affect the use or development of property in the Town:

- **Minimum Lot Size Law** (12 M.R.S.A. § 4807 *et seq.*): Establishes minimum lot sizes for residential and nonresidential uses for buildings using subsurface wastewater disposal systems.
- **State Plumbing Code** (30-A M.R.S.A. § 4201 *et seq.*): Regulates installation of internal plumbing and the installation of subsurface wastewater disposal systems.
- **Conversion of Seasonal Dwellings in Shoreland Zone** (30-A M.R.S.A. § 4201 *et seq.*): Requires a permit from the LPI before a seasonal dwelling in the shoreland zone can be converted to year-round use.
- **Farmland Adjacency Act** (7 M.R.S.A. § 51 *et seq.*): Limits the use of land near registered farmland.
- **Small Borrow Pits** (30-A M.R.S.A. § 3105): Establishes standards for gravel pits of less than five acres.
- **Excavations for Borrow, Clay, Topsoil or Silt** (38 M.R.S.A. § 490-A *et seq.*): Establishes standards for borrow, clay, topsoil, or silt excavations of five or more acres.
- **Clean Water Act---Section 404** (33 U.S.C. §§ 1251 *et seq.*): Establishes standards and federal permit requirements for projects involving the discharge of dredged or fill material into waters of the United States, including certain wetlands.
- **Rivers and Harbors Act—Section 10** (33 U.S.C. §§ 401 *et seq.*): Establishes standards and federal permit requirements for projects involving elements in, over, or under any navigable water of the United States.
- **Natural Resources Protection Act (NRPA)** (38 M.R.S.A. § 480-A *et seq.*): Requires state permits for alteration or construction in or near sand dunes, coastal wetlands, fragile mountain areas, freshwater wetlands, great ponds, rivers, streams or brooks, and significant wildlife habitat.
- **Site Location of Development Act** (38 M.R.S.A. § 481 *et seq.*): Establishes standards and requires state approval for large-scale development activities including borrow pits and mining activities.
- **Stormwater Management** (38 M.R.S.A. § 420-C): Establishes standards and requires state approval for projects that include one or more acres of disturbed area.
- **Wastewater Discharge** (38 M.R.S.A. § 413 *et seq.*): Establishes standards and requires state approval for the discharge of pollutants to a stream, river, wetland, or lake of the state, or to the ocean, as well as for certain discharges to groundwater.
- **Underground Oil Storage Facilities** (38 M.R.S.A. § 561 *et seq.*): Establishes standards and requires registration of underground oil storage facilities.
- **Aboveground Oil Storage Facilities** (38 M.R.S.A. § 1391 *et seq.*; 28 M.R.S.A. § 2482): Establishes standards and requires state approval for aboveground oil storage facilities.
- **Access Management Law** (23 M.R.S.A. § 704 *et seq.*): Requires state permit on any new entrance or significant change of use of and entrance on any state road or state aid road.
- **Maine Traveler Information Services Act** (23 M.R.S.A. § 1901 *et seq.*): Also known as the “Billboard Law,” establishes standards and requires DOT approval for certain permanent and temporary signs within public rights-of-way.

DEP has additional permitting requirements for certain operations, such as those involving air emissions or the generation, storage, and treatment of certain waste (including hazardous waste). In addition, both the state and federal government regulate dams and hydropower facilities.

## HOW IS THE COLUMBIA FALLS CODE OF ORDINANCES ORGANIZED?

The Columbia Falls Code of Ordinances is divided into the following Chapters:

**Chapter I. Administration.** Chapter I provides information on:

- Which activities require permits or approvals and which ones do not
- What types of permits or approvals are needed
- What must be included in an application
- How applications are processed, and by whom
- What the process is for appealing a decision
- How to request a variance or a waiver

**Chapter II. Nonconforming Uses, Structures, and Lots.** Chapter II sets out the rules for lots, structures, and uses that lawfully existed before this Code was enacted or amended and, as a result, do not comply with one or more of the Code's requirements (such as dimensional standards).

**Chapter III. Land Use Districts.** The Town has established land use districts to protect the Town's character and prevent conflicts between incompatible uses. Chapter III describes these districts and, in Section III-2, identifies the activities that are allowed in each district as follows:

- Uses allowed without a permit (marked "Yes" in the schedule of uses)
- Uses requiring a building permit, site plan approval, or conditional use approval (marked "P" or "S" or "C" in the schedule of uses)
- Uses that are prohibited (marked "No" in the schedule of uses)

Section III-3 identifies the dimensional standards that apply to each district, including minimum lot size, minimum frontage, maximum lot coverage, minimum setbacks, and height requirements.

**Chapter IV. Shoreland Zoning.** In addition to its land use districts, the Town has established shoreland zoning subdistricts to protect important natural resources. Chapter IV describes these subdistricts and, in Section IV-2.B, identifies the activities that are allowed in each subdistrict as follows:

- Uses allowed without a permit (marked "Yes" in the schedule of uses)
- Uses requiring a permit, site plan approval, or conditional use approval (marked "P" or "S" or "C" in the schedule of uses)
- Uses that are prohibited (marked "No" in the schedule of uses)

Section IV-3 and Section IV-4 spell out the land use standards that applicants must meet to get a permit or approval from the Planning Board. Section IV-5 allows the Planning Board to approve single-family dwellings in the RP subdistrict by special exception. Section IV-6 addresses installation of public utility services in the shoreland zone.

**Chapter V. Site Plan Review.** Chapter V explains the process and review standards for obtaining site plan or conditional use approval from the Planning Board. It identifies special review standards for certain commercial and industrial projects.

**Chapter VI. Subdivision Regulations.** Chapter VI explains the process and review standards for obtaining subdivision approval from the Planning Board.

**Chapter VII. Building Regulations.** Chapter VII spells out the process and review standards for obtaining a building permit from the Planning Board.

**Chapter VIII. Special Regulations.** Chapter VIII contains special regulations, such as the Town's road standards, mass gathering standards, and food sovereignty regulations.

**Chapter IX. Rules of Construction, Acronyms, and Definitions.** Chapter IX contains rules for how the Code should be interpreted, and lists acronyms and definitions used in the Code.

**Chapter X. Legal.** Chapter X contains miscellaneous legal provisions.

# TOWN OF COLUMBIA FALLS CODE OF ORDINANCES

## TABLE OF CONTENTS

<b>CHAPTER I. ADMINISTRATION .....</b>	<b>1</b>
Section I-1.      What Are the Purposes of This Code? .....	1
Section I-2.      To Which Activities Does This Code Apply? .....	2
Section I-3.      Who Is Responsible for Administering This Code?.....	2
Section I-4.      Which Activities Do Not Require Permits or Approvals Under This Code? .....	4
Section I-5.      Which Activities Require Permits or Approvals Under This Code? .....	5
Section I-6.      What Types of Permits or Approvals Are Required?.....	5
Section I-7.      What Must Be Included in An Application for a Permit or Approval?.....	6
Section I-8.      What Are the Procedures for Administering Permits and Approvals Under This Code?.....	8
Section I-9.      How Must an Applicant Give Notice to Abutting Property Owners? .....	9
Section I-10.      What Time Limits Apply to Work Authorized by a Permit or Approval? .....	9
Section I-11.      What Activities Require a Certificate of Occupancy?.....	10
Section I-12.      What Is the Process for Requesting Reconsideration or Appealing a Decision?.....	10
Section I-13.      What Is the Process for Seeking a Variance?.....	10
Section I-14.      What Is the Process for Seeking Waivers?.....	14
Section I-15.      What Fees Must Accompany an Application for a Permit or Approval?.....	14
<b>CHAPTER II. NONCONFORMING USES, STRUCTURES, AND LOTS .....</b>	<b>16</b>
Section II-1.      Purpose.....	16
Section II-2.      General .....	16
Section II-3.      Nonconforming Uses.....	16
Section II-4.      Nonconforming Structures .....	17
Section II-5.      Nonconforming Lots .....	21
Section II-6.      Lots in Two Municipalities .....	22
<b>CHAPTER III. LAND USE DISTRICTS.....</b>	<b>23</b>
Section III-1.      Land Use Districts.....	23
Section III-2.      Schedule of Uses .....	25
Section III-3.      Dimensional Standards.....	31
<b>CHAPTER IV. SHORELAND ZONING .....</b>	<b>34</b>
Section IV-1.      Shoreland Zoning Established.....	34
Section IV-2.      Schedule of Uses for the Shoreland Zone .....	36
Section IV-3.      General Review Criteria .....	40
Section IV-4.      Land Use Standards in the Shoreland Zone.....	40
Section IV-5.      Special Exceptions .....	54
Section IV-6.      Installation of Public Utility Service .....	54
<b>CHAPTER V. SITE PLAN REVIEW .....</b>	<b>55</b>
Section V-1.      Applicability.....	55
Section V-2.      Review Procedures.....	55
Section V-3.      Application Submission Requirements .....	57
Section V-4.      General Review Criteria .....	59
Section V-5.      Additional Procedures and Review Criteria for Certain Uses and Structures .....	64

Section V-6.	Conditional Uses .....	71
Section V-7.	Post-Approval Requirements .....	72
Section V-8.	Amendments to Approved Site Plans or Conditional Use Approvals .....	73
<b>CHAPTER VI. SUBDIVISION REGULATIONS.....</b>		<b>74</b>
Section VI-1.	Codification and Construction.....	74
Section VI-2.	Applicability.....	74
Section VI-3.	Review Procedures.....	75
Section VI-4.	Application Submission Requirements—Preliminary Subdivision Plan.....	78
Section VI-5.	Application Submission Requirements—Final Subdivision Plan .....	81
Section VI-6.	General Review Criteria .....	82
Section VI-7.	Additional Review Criteria for Mobile Home Parks.....	91
Section VI-8.	Post-Approval Requirements; Amendments to Approved Subdivision Plans.....	92
Section VI-9.	Effective Date.....	93
<b>CHAPTER VII. BUILDING REGULATIONS .....</b>		<b>94</b>
Section VII-1.	Applicability: Building Permit Required.....	94
Section VII-2.	Review Standards.....	94
<b>CHAPTER VIII. SPECIAL PURPOSE REGULATIONS .....</b>		<b>99</b>
Section VIII-1.	Board of Appeals.....	99
Section VIII-2.	Road Design and Construction Standards .....	101
Section VIII-3.	Local Food and Community Self-Governance .....	111
Section VIII-4.	Mass Gatherings .....	112
<b>CHAPTER IX. RULES OF CONSTRUCTION, ACRONYMS, AND DEFINITIONS.....</b>		<b>116</b>
Section IX-1.	Rules of Construction .....	116
Section IX-2.	Acronyms .....	117
Section IX-3.	Definitions.....	118
<b>CHAPTER X. LEGAL.....</b>		<b>140</b>
Section X-1.	Authority; Availability of Code.....	140
Section X-2.	Contents; Certain Ordinances Not Affected by Code.....	140
Section X-3.	How This Code Is Designated and Cited .....	140
Section X-4.	Effective Date.....	141
Section X-5.	Date of Applicability .....	142
Section X-6.	Conflicts with Other Ordinances or Code Provisions.....	142
Section X-7.	Amendments.....	143
Section X-8.	Effect of Repeal or Amendment.....	144
Section X-9.	Compliance and Enforcement; Penalties .....	144
Section X-10.	Performance Guarantee .....	146
Section X-11.	Validity and Severability.....	147
<b>APPENDICES.....</b>		<b>A-1</b>
Appendix A.	Standards Adopted by Reference in the Code .....	A-1
Appendix B.	Official Land Use District Map.....	B-1

## CHAPTER I. ADMINISTRATION

### Section I-1. What Are the Purposes of This Code?

The purposes of this Code are to:

- A. Promote and conserve the health, safety, and general welfare of the inhabitants of the Town.
- B. Implement the vision and goals of the Comprehensive Plan.
- C. Ensure compatible, orderly, and beneficial development of the Town and the most appropriate use of land in keeping with the purposes of the land use districts in which development is proposed, and minimize the adverse effects of development.
- D. Maintain the largely rural residential character of the Town while protecting residents from incompatible uses and preserving the private property rights of its inhabitants.
- E. Expand and nurture economic growth that contributes to the vitality of the Town's village area, and retain the historic character of this area through thoughtful planning and the use of development and design standards.
- F. Incentivize commercial and industrial development in areas along the U.S. Route 1 corridor.
- G. Further the maintenance of safe and healthful conditions; prevent and control water pollution; protect fish spawning grounds, aquatic life, and bird and other wildlife habitat; protect buildings and lands from flooding and accelerated erosion; protect archaeological and historic resources; protect commercial fishing and maritime industries; protect freshwater and coastal wetlands; control building sites, placement of structures, and land uses; conserve shore cover, as well as visual and actual points of access to inland and coastal waters; conserve natural beauty and open space; and anticipate and respond to the impacts of development in shoreland areas.
- H. Encourage food self-sufficiency for the citizens of the Town and provide citizens with unimpeded and increased access to local food; enhance the local economy by promoting the production and purchase of local agricultural products; protect access to farmers' markets, roadside stands, farm-based sales, home-based sales, and direct producer to patron sales; support the economic viability of local food producers; support and promote small-scale, local and backyard farming; preserve community social events where local food is served or sold; preserve local knowledge, and ensure the preservation of family farms and traditional food ways through small-scale farming and local food production; through local control, preserve the ability of the community and the residents of the Town to produce, process, sell, purchase and consume locally produced food; improve the health and well-being of the citizens of the Town by reducing hunger and increasing food security through improved access to wholesome, nutritious foods by supporting family farms and encouraging sustainable farming and fishing; promote self-reliance and personal responsibility by ensuring the ability of individuals, families and other entities to prepare, process, advertise and sell foods directly to consumers intended solely for consumption by the customers or their families; enhance rural economic development and the environmental and social wealth of rural communities; and reduce governmental regulation of producers and consumers of local food to the fullest extent permitted by the Maine Constitution and state law.

I. Affirmatively further the purposes of the Federal Fair Housing Act, 42 U.S.C. ch. 45, and the Maine Human Rights Act, 5 M.R.S.A. ch. 337, to achieve the applicable statewide or regional production goal established by the DECD.

STATE LAW REFERENCE—30-A M.R.S.A. § 4301 *ET SEQ.* (PLANNING AND LAND USE REGULATION); 7 M.R.S.A. § 281 *ET SEQ.* (MAINE FOOD SOVEREIGNTY ACT); 30-A M.R.S.A. § 4364-C (MUNICIPAL ROLE IN STATEWIDE HOUSING PRODUCTION GOALS).

### **Section I-2. To Which Activities Does This Code Apply?**

This Code applies to any structure, or any part of a structure, that is proposed to be erected, altered, improved, renovated, enlarged, moved (including removed from, moved onto, or moved within a lot), or demolished; land that is used or occupied; any proposed use, or a change or expansion of a use; and the creation or conveyance of a lot.

This Code does not apply to forest management activities, including timber harvesting activities, as defined in 12 M.R.S.A. § 8868(5).

STATE LAW REFERENCE—38 M.R.S.A. § 438-B(2) (TIMBER HARVESTING IN SHORELAND AREAS); 06-096 C.M.R. CH. 1000 (GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES).

### **Section I-3. Who Is Responsible for Administering This Code?**

The CEO, Planning Board, Select Board, and Board of Appeals of the Town are responsible for administering this Code.

A. **CEO.** The CEO has the following duties and powers in administering and enforcing this Code:

1. Enforce the provisions of this Code and the terms and conditions of permits, approvals, or denials issued under this Code, by inspecting premises, investigating complaints, issuing notices of violation, suspending or revoking permits or approvals, participating in legal prosecution of violations as needed, and processing or acting on consent agreements.
2. Keep written records of all essential enforcement-related transactions under this Code, including revocation and suspension actions, inspections, violations investigated, notices of violation issued, legal prosecution of violations, court actions, consent agreements, and penalties imposed.
3. Interpret the provisions of this Code, including the meaning of terms used in this Code, when performing the duties in the preceding subsections A.1-2.

B. **Planning Board.** The Planning Board has the following duties and powers in administering this Code:

1. Determine whether uses, structures, and lots comply with Chapter II (Nonconforming Uses, Structures, and Lots).
2. Determine whether a proposed use, or any structure associated with or devoted to such use, is allowed pursuant to Chapter III (Land Use Districts).
3. Review and act on all matters requiring shoreland zoning approval in Chapter IV (Shoreland Zoning).

4. Review and act on applications for site plan approval in accordance with Chapter V (Site Plan Review).
5. Review and act on subdivision applications in accordance with Chapter VI (Subdivision Regulations).
6. Review and act on all building permit applications in accordance with Chapter VII (Building Regulations).
7. Serve as the municipal reviewing authority for purposes of holding public hearings pursuant to 30-A M.R.S.A. § 4352 concerning proposed amendments to the Code or the Official Land Use District Map.
8. Recommend to the Select Board whether or not an article to amend the Code or the Official Land Use District Map should be included in the warrant for a regular or special Town Meeting.
9. Interpret the Official Land Use District Map and the location of land use district boundaries and shoreland zoning subdistrict boundaries.
10. Interpret the provisions of this Code, including the meaning of terms used in this Code, when performing the duties in the preceding subsections.
11. Keep written records of all essential non-enforcement related transactions under this Code, including applications submitted, permits and approvals granted or denied, variances granted or denied, appeals, fees collected, and proposed and enacted amendments to this Code.

C. **Select Board.** The Select Board, serving as the municipal officers of the Town, has the following duties and powers in administering and enforcing this Code:

1. Establish and maintain a fee schedule and act on any requests for fee refunds, reductions or waivers, in accordance with Section I-15.
2. Review and act on all matters requiring Select Board approval, including mass gathering applications submitted pursuant to Section VIII-4 and applications for automobile graveyards, automobile recycling businesses, and junkyards submitted pursuant to 30-A M.R.S.A. § 3751 *et seq.*
3. Enter into administrative consent agreements or institute, in the name of the Town, legal proceedings to resolve, enforce, or abate any violation of this Code.

D. **Board of Appeals.** The Board of Appeals, duly established and organized pursuant to 30-A M.R.S.A. § 2691 and Section VIII-1, has the following jurisdiction, duties, and powers in administering this Code:

1. Upon written application, review and act on variance requests, in accordance with Section I-13.
2. Interpret the location of land use district and shoreland zoning subdistrict boundaries upon referral from the Planning Board.

The Board of Appeals does not have jurisdiction to hear appeals from any decision or failure to act of the CEO or Planning Board in the administration of this Code, or from any notices of violation, enforcement orders, suspensions or revocations of permits or

approvals, written determinations of no violation, or any other enforcement decisions of the CEO.

Any aggrieved person may appeal a decision of the Board of Appeals to the Maine Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

STATE LAW REFERENCE—30-A M.R.S.A. § 4352 (MUNICIPAL REVIEWING AUTHORITY); § 2691 (BOARD OF APPEALS).

#### **Section I-4. Which Activities Do Not Require Permits or Approvals Under This Code?**

No permit or approval from the Planning Board is required for the following activities under this Code as long as the activities are conducted in compliance with applicable standards:

- A. Land uses, and any structures associated with or devoted to such uses, that are identified as allowed without a permit in the schedules of uses in Chapter III (Land Use Districts) or Chapter IV (Shoreland Zoning).
- B. Repair, maintenance, and improvement of a structure within the footprint of the structure, including insulation, plumbing, painting, re-roofing, and minor efficiency upgrades such as replacement doors or windows, replacement foundations but not replacement foundations in the shoreland zone. If in the shoreland zone, such activities must comply with Section II-4.G.
- C. Demolition of any existing structure in compliance with applicable standards and laws.
- D. Non-structural residential or household gardening, agricultural, and landscaping activities. If in the shoreland zone, such activities must comply with any applicable dimensional standards in Section III-3 and land use standards in Section IV-4.
- E. Non-structural use of land for agriculture or forestry purposes. If in the shoreland zone, such activities must comply with any applicable dimensional standards in Section III-3 and land use standards in Section IV-4.
- F. Enclosure of a pasture or area with a fence.
- G. Outside of the shoreland zone:
  - 1. Erection of free-standing structures not intended for human habitation (such as dog houses, playhouses, tool sheds, storage buildings, and solar panels) that are not more than 100 square feet in floor area in the aggregate and do not exceed 12 feet in height, as long as such structures comply with any applicable dimensional standards in Section III-3.
  - 2. Construction of farm or fire ponds.
  - 3. Short-term siting of temporary shelters such as tents, recreational vehicles, or similar shelters for a period of no more than 120 days per year.
- H. Creation or conveyance of a lot that is not part of a subdivision, as defined in 30-A M.R.S.A. § 4401(4).
- I. Repair and maintenance of an existing road culvert, or replacement of an existing road culvert as long as: (a) the replacement culvert is not more than 25% longer than the culvert being replaced and not longer than 75 feet, (b) erosion control measures are taken to prevent sedimentation of the affected water body, and (c) the culvert does not block fish passage.

Ancillary culverting activities, including excavation and filling, are included in this exemption.

- J. Archaeological excavation, as long as the excavation is conducted by an archaeologist listed on Level 1 or Level 2 approved list in accordance with the MHPC State Historic Preservation Officer's Standards for Archaeological Work in Maine, 94-089 C.M.R. ch. 812, and adequate erosion control measures are taken to prevent sedimentation of any affected water body.
- K. Outside of the shoreland zone, outdoor storage or stockpiles of winter abrasives (sand and salt) used for the maintenance of private or public roads, except for any storage or stockpiles associated with mineral extraction.
- L. Replacement or reconstruction of damaged or destroyed public utility transmission and distribution lines and related equipment.

STATE LAW REFERENCE—30-A M.R.S.A. § 4401 (SUBDIVISIONS; DEFINITIONS); 38 M.R.S.A § 438-A (MANDATORY SHORELAND ZONING; MUNICIPAL AUTHORITY); 38 M.R.S.A. § 480-A *ET SEQ.* (NATURAL RESOURCES PROTECTION ACT); 94-089 C.M.R. CH. 812 (STATE HISTORIC PRESERVATION OFFICER'S STANDARDS FOR ARCHAEOLOGICAL WORK IN MAINE).

### **Section I-5. Which Activities Require Permits or Approvals Under This Code?**

A written permit or written approval from the Planning Board is required before undertaking any of the following activities, unless the activity is listed as not requiring a permit in Section I-4:

- A. Erecting, altering, improving, renovating, enlarging, or moving (including removing from, moving onto, or moving within a lot) a structure, or any part of a structure.
- B. Establishing, changing, or expanding a land use.
- C. Renewing a discontinued nonconforming use.
- D. Creating a lot that is part of a subdivision or selling, leasing, developing, building upon, or conveying any land in a subdivision, as defined in 30-A M.R.S.A. § 4401(4).
- E. Land uses, and any structures associated with or devoted to such uses, that are identified as allowed with a permit in the schedules of uses in Chapter III (Land Use Districts) and Chapter IV (Shoreland Zoning).

Permits or approvals will be issued only if the Planning Board determines that the application materials, plans, and proposed structures and uses comply with the requirements of this Code and any other applicable Town ordinances, regulations, and rules. Any permits required by this Code are in addition to any other permits or approvals required by other law, rule, or ordinance.

STATE LAW REFERENCE—30-A M.R.S.A. § 4401 (SUBDIVISIONS; DEFINITIONS).

### **Section I-6. What Types of Permits or Approvals Are Required?**

- A. **Building Permits.** A building permit from the Planning Board is required before undertaking any use, and any structure associated with or devoted to such use, listed in the schedules of uses in Chapter III (Land Use Districts) or Chapter IV (Shoreland Zoning) as requiring a building permit.

**B. Site Plan Approval; Conditional Use Approval.** Site plan approval from the Planning Board pursuant to Chapter V (Site Plan Review) is required before undertaking any of the following activities:

1. Allowed Uses. Any use listed in the schedules of uses in Chapter III (Land Use Districts) or Chapter IV (Shoreland Zoning) as requiring site plan or conditional use approval, any change of use to another land use category listed in the schedules of uses that requires site plan or conditional use approval, and any expansion of any such use.
2. Allowed Structures. Any structure associated with or devoted to a use listed in the schedules of uses in Chapter III (Land Use Districts) or Chapter IV (Shoreland Zoning) as requiring site plan or conditional approval, including the construction, alteration, or enlargement of any existing structure associated with or devoted to a use requiring site plan or conditional use approval.
3. Parking, Loading, Outdoor Display. The expansion of any parking, loading, outdoor display, or storage area of any nonresidential use.
4. Amendments. Any modifications or changes to an approved site plan or conditional use approval.

**C. Subdivision Approval.** Subdivision approval from the Planning Board pursuant to Chapter VI (Subdivision Regulations) is required before selling, leasing, developing, building upon, or conveying for consideration any land in a subdivision, as defined in 30-A M.R.S.A. § 4401(4). Such activities may occur only after a final subdivision plan has been reviewed, approved, and endorsed by the Planning Board as required by Chapter VI (Subdivision Regulations), and an attested copy of the approved and endorsed plan has been recorded in the Washington County Registry of Deeds.

STATE LAW REFERENCE—30-A M.R.S.A. § 4401 (SUBDIVISIONS; DEFINITIONS).

### **Section I-7. What Must Be Included in An Application for a Permit or Approval?**

Any application for a permit or approval required under this Code must be submitted in writing to the reviewing authority on forms provided by the Town for that purpose and signed and dated by the applicant. Each application must be accompanied by:

- A. The name, address, and telephone number of the applicant and the name, address, and telephone number of the property owner, if different from the applicant.
- B. A fee as provided in Section I-15.
- C. Except for building permit applications, proof of adequate technical and financial capacity to carry out the proposed activities in conformance with this Code.
- D. Proof that the applicant holds right, title, or interest in the affected property.
- E. If the applicant is not the property owner, a letter of authorization from the owner.
- F. A map showing the location of the affected property in relation to the vicinity and identifying the property tax map and lot number(s).
- G. A plan drawn to scale showing, at minimum:
  1. The dimensions and size of the lot (in square feet or acres) affected by the proposal.

2. Names and locations of all public and private roadways, rights-of-way, and easements on or adjacent to the lot.
3. Names of abutting property owners.
4. The exact size and location of all existing structures and other man-made features of the lot, including their setbacks from all property lines.
5. The exact size and location of all structures proposed to be erected, altered, enlarged, moved, or demolished, including their setbacks from all property lines.
6. All water bodies, wetlands, and protected natural resources, within 250 feet of the property boundaries.
7. All minimum setback lines.
8. All land use district and shoreland zoning subdistrict boundaries.
9. Where applicable, the size and location of all areas to be cleared of vegetation and all areas of cut, filling, grading, or other earthmoving activities.
10. Where applicable, the location of soil test pits, subsurface wastewater disposal systems, site drainage, parking lots, driveways, roads, signs, buffer strips, fences, and private wells.

H. A detailed description of the existing and proposed use of each existing and proposed structure and portion of the affected lot.

I. Copies of any notices required by this Code, including verification of mailing of notices to abutters.

J. If the nature of the proposal requires the installation of a subsurface wastewater disposal system, a subsurface wastewater disposal system application (HHE-200 form) approved by the LPI and, if necessary, the DHHS.

K. For structures or uses proposed to be served by a public road, an impact statement from the Road Commissioner identifying any necessary road or culvert upgrades.

L. For structures or uses proposed to be served by a state roadway, a DOT driveway or entrance permit.

M. Estimated cost of the proposal.

N. Copies of any decisions or pending applications of any federal, state, or other local governmental authorities regarding the proposed activities.

O. Any submission requirements specific to the type of permit or approval being sought, including the following:

1. For building permit applications, a written statement and other evidence demonstrating that the proposal satisfies each of the review standards in Section VII-2.
2. For activities located in the shoreland zone that are allowed with a permit, pre-construction photographs of the shoreline vegetation and development site, and a written statement and other evidence demonstrating that the proposed activity satisfies the applicable dimensional requirements in Section III-3, each of

the review criteria in Section IV-3, the applicable land use standards in Section IV-4, and the special exception requirements of Section IV-5, if applicable.

3. For site plan or conditional use applications, the application submission requirements identified in Chapter V (Site Plan Review).
4. For subdivision applications, the application submission requirements identified in Chapter VI (Subdivision Regulations).
5. For mass gathering applications, the application submission requirements identified in Section VIII-4.

P. Such other information as may be required by the reviewing authority to determine conformance with this Code.

STATE LAW REFERENCE—38 M.R.S.A. § 439-A(10) (PHOTOGRAPHIC RECORD REQUIRED).

#### **Section I-8. What Are the Procedures for Administering Permits and Approvals Under This Code?**

- A. **Dated Receipt—Subdivision Applications.** When a subdivision application is received, the Planning Board or Town Clerk will give a dated receipt to the applicant.
- B. **Completeness Review.** Prior to starting its review of an application, the reviewing authority must determine that the application is complete for review by finding that the application is (i) accompanied by the proper application fee; (ii) contains sufficient documentation of right, title, or interest; and (iii) contains sufficient information for the reviewing authority to begin its review. If the application is found incomplete, the reviewing authority must notify the applicant and direct the applicant to submit any omitted or incomplete information within a specified period of time. If the omitted or incomplete information has not been submitted by then, the reviewing authority may return the application as incomplete and conclude its review. If the application is found complete for review, the reviewing authority must begin its full evaluation of the application.
  1. **Time Limits—Shoreland Zoning Applications.** Within 35 days of receiving an application for activities requiring a permit or approval within the shoreland zone, the Planning Board must notify the applicant in writing that the application is complete or incomplete and must specify what additional information is needed to make the application complete.
- C. **Written Decision.** The reviewing authority must issue a written decision to approve, approve with conditions, or deny each application permit or approval which is deemed complete for review.
  1. **Decision; Time Limits—Subdivision Applications.** The Planning Board must issue a written decision on a subdivision application within 30 days of a public hearing or, if no hearing is held, within 60 days of finding the application complete for review.
  2. **Decision; Time Limits—Shoreland Zoning Applications.** The Planning Board must issue a written decision on an application for activities requiring a permit or approval within the shoreland zone within 35 days of determining that the application is complete or, if the Planning Board has a waiting list of applications,

within 35 days after (i) the date of a public hearing on the application or (ii) the first available date on the Planning Board's agenda if no public hearing is held.

- D. **Burden of Proof.** The applicant has the burden of proving, by demonstrable evidence, that a proposal complies with the requirements of this Code.
- E. **Access to and Display of Permits and Approvals.** The permit holder must have a copy of all written permits or approvals on site while the authorized work is performed. Building permits must be displayed conspicuously on or adjacent to the project site, must be clearly visible from the principal traveled road, and must remain displayed until the work is completed.

STATE LAW REFERENCE—30-A M.R.S.A. § 4403(3) (NOTICE OF SUBDIVISION APPLICATIONS).

### **Section I-9. How Must an Applicant Give Notice to Abutting Property Owners?**

Whenever a provision of this Code requires the notification of owners of abutting properties of an application submission, public meeting, public hearing, site visit, or other filing or event, the following requirements apply unless otherwise specified:

- A. The applicant must send a notice, in form acceptable to the reviewing authority, to the owners of property located within 100 feet of the boundary of the lot affected by the proposal and to the Town Clerk. The notice must contain a description of the application and a sketch plan, together with the date, time, and location of any public meeting, public hearing, site visit, or other event (collectively, "Event"). The notice must be sent using certified mail, return receipt requested, at least seven days before the date of the Event. For purposes of this Section I-9, the "owners of property" are the persons listed in the most recent version of the *Town of Columbia Falls Real Estate Tax Commitment Book*, prepared by the Tax Assessor and amended periodically, and available at the Town Office.
- B. In addition, for subdivision and site plan applications, the Town must send the notice described in subsection A, above, to (i) the municipal clerk and the reviewing authority of any municipalities that abut or include any portion of the subdivision or site plan, and (ii) the public drinking water supplier if the subdivision or site plan is within its source water protection area.

STATE LAW REFERENCE—30-A M.R.S.A. § 4403(3) (NOTICE OF SUBDIVISION APPLICATIONS).

### **Section I-10. What Time Limits Apply to Work Authorized by a Permit or Approval?**

- A. **Substantial Start.** If the work authorized under a permit or approval is not substantially started within 12 months of the date of issuance of the permit or approval, the permit or approval lapses and becomes void.
- B. **Substantial Completion.** A permit or approval expires if the authorized work is not substantially completed within 24 months of the date of issuance of the permit or approval, except that a building permit expires if the authorized work is not substantially completed within 12 months of the date of issuance of the permit.
- C. **Conditions of Approval.** The Planning Board may condition its permits and approvals to require authorized work to be phased in or to set a longer or shorter timeframe for the substantial start or the substantial completion of the authorized work if, in the Planning Board's judgment, the circumstances of a proposal so require.

- D. **Extensions.** The Planning Board may grant up to a 12-month time extension for a lapsed or expired permit or approval upon a showing of good cause by the permit holder. Extensions beyond 12 months require a new permit or approval and must comply with all applicable Code requirements in effect at that time.
- E. **Discontinuation of Use.** A permit or approval expires if the use for which the permit or approval was granted is discontinued for 12 or more consecutive months.
- F. **Expiration of Permits or Approvals.** Except as provided in this Section I-10, a permit or approval has no expiration date, unless the Planning Board conditions its approval on an expiration date.

### **Section I-11. What Activities Require a Certificate of Occupancy?**

A certificate of occupancy is not required for any activities within the Town.

STATE LAW REFERENCE—25 M.R.S.A. § 2351-A (DUTY TO INSPECT BUILDINGS UNDER CONSTRUCTION).

### **Section I-12. What Is the Process for Requesting Reconsideration or Appealing a Decision?**

- A. **Reconsideration.**
  - 1. The Planning Board may reconsider any decision reached under this Code within 45 days of its prior decision. A request to the Planning Board to reconsider a decision must be filed within 10 days of the decision that is to be reconsidered. A vote to reconsider and the action taken on that reconsideration, if any, must occur and be completed within 45 days of the date of the vote on the original decision. The Planning Board may conduct additional public hearings and receive additional evidence and testimony. Notwithstanding subsection C, below, appeal of a reconsidered decision to the Maine Superior Court must be made within 15 days after the decision on reconsideration. All requests for reconsideration must be accompanied by a fee as provided in Section I-15.
  - 2. The Board of Appeals may reconsider any decision in accordance with the provisions of 30-A M.R.S.A. § 2691(3). All requests for reconsideration must be accompanied by a fee as provided in Section I-15.
- B. **No Right of Administrative Appeal.** Neither the Planning Board nor the Board of Appeals has jurisdiction to hear appeals from any decision or failure to act of a reviewing authority or municipal official in the administration or enforcement of this Code, including from any notices of violation, enforcement orders, suspensions or revocations of permits or approvals, written determinations of no violation, or any other enforcement decisions, which are advisory only.
- C. **Appeal to Superior Court.** Any aggrieved person may appeal a decision of the reviewing authority directly to the Maine Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

STATE LAW REFERENCE—30-A M.R.S.A. § 2691 (BOARD OF APPEALS); 30-A M.R.S.A. § 4353 (ZONING ADJUSTMENT).

### **Section I-13. What Is the Process for Seeking a Variance?**

- A. **Review Procedures.** The Board of Appeals hears and decides variance requests in accordance with the following review procedures:

1. **Variance Application.** An application for a variance must be submitted in writing to the Board of Appeals on forms provided by the Town for that purpose and signed and dated by the applicant. Each application must be accompanied by:
  - (a) A fee as provided in Section I-15.
  - (b) A written statement and other evidence demonstrating that the proposal satisfies each of the applicable standards in subsection B, C, D, or E, below.
2. **Copy of Variance Application to DEP.** For any variance request within the shoreland zone, the Board of Appeals must forward a copy of such variance request, including the application and all supporting information supplied by the applicant, to the DEP Commissioner at least 20 days prior to action by the Board of Appeals. Any comments received from the DEP Commissioner prior to the action by the Board of Appeals must be made part of the record and must be considered by the Board of Appeals prior to taking action on the variance request.
3. **Notice and Public Hearing.** The Board of Appeals must hold a public hearing on each variance request. The applicant must give notice of the public hearing in accordance with Section I-9. Failure of any property owner to receive notice of the public hearing will not necessitate another public hearing or invalidate any action of the Board of Appeals.
4. **Written Decision.** The Board of Appeals must state the reasons and basis for its decision in writing. The Board of Appeals must cause written notice of its decision to be mailed or hand-delivered within seven days of the decision to the applicant and, when a variance is issued for property located within shoreland zone, to the DEP Commissioner.
5. **Certificate; Recording.** If the Board of Appeals grants a variance pursuant to this Section I-13, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title, and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, must be prepared in recordable form. This certificate must be recorded by the applicant in the Washington County Registry of Deeds within 90 days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection. For the purpose of this subsection, the date of the final written approval is the date stated on the written approval.
6. **Conflict with State Law.** In the event of a conflict between this Section I-13 and 30-A M.R.S.A. §§ 4353(4), 4353(5), 4353-A, or 38 M.R.S.A. § 438-A(6-A), the state law provision controls.

B. **Undue Hardship.** The Board of Appeals may grant a variance if a proposed structure or use complies with all of the provisions of this Code except for the specific provisions from which relief is sought, and only when strict application of this Code to the applicant and the applicant's property would cause undue hardship. The term "undue hardship" as used in this subsection B means:

1. The land in question cannot yield a reasonable return unless a variance is granted;

2. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
3. The granting of the variance will not alter the essential character of the locality; and
4. The hardship is not the result of action taken by the applicant or a prior owner.

Within the shoreland zone, the specific provisions from which relief is sought are limited to dimensional standards. The establishment of a new use or the expansion of an existing use that is otherwise prohibited in the district in which the use is located is not allowed by variance.

**C. Variance from Dimensional Standards; Practical Difficulty.**

1. The Board of Appeals may grant a variance from certain dimensional standards of this Code when strict application of the dimensional standards to the applicant and the applicant's property would cause a practical difficulty and when the following conditions exist:
  - (a) The need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood;
  - (b) The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
  - (c) The practical difficulty is not the result of action taken by the petitioner or a prior owner;
  - (d) No other feasible alternative to a variance is available to the applicant;
  - (e) The granting of a variance will not unreasonably adversely affect the natural environment; and
  - (f) The property is not located in whole or in part within the shoreland zone.
2. As used in this subsection C:
  - (a) "Dimensional standards" means and is limited to those provisions of this Code relating to minimum lot size, maximum lot coverage, minimum road frontage, and minimum setback requirements.
  - (b) "Practical difficulty" means that the strict application of the dimensional standards of this Code to the property for which a variance is sought would preclude the ability of the applicant to pursue a use of the property which is allowed in the district in which the property is located and would result in significant economic injury to the applicant.
  - (c) "Significant economic injury" means the value of the property if the variance were denied would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land.

**D. Setback Variance for Single-Family Dwellings.** Outside the shoreland zone, the Board of Appeals may grant a variance from the minimum setback requirements of this Code for a single-family dwelling that is the primary year-round residence of the applicant only when the Board of Appeals determines that strict application of the Code to the applicant and the applicant's property would cause an undue hardship. A variance granted under this subsection D may not exceed 20% of the applicable setback requirement and may not be granted if the variance would cause the area of the single-family dwelling to exceed the maximum lot coverage. For purposes of this subsection D, "undue hardship" means:

1. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
2. The granting of a variance will not alter the essential character of the locality;
3. The hardship is not the result of action taken by the applicant or a prior owner;
4. The granting of the variance will not substantially reduce or impair the use of abutting property; and
5. The granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

**E. Disability Variances.**

1. **Disability Variance.** The Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board of Appeals shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" includes railing, wall, or roof systems necessary for the safety or effectiveness of the structure.
2. **Disability Vehicle Storage Variance.** Outside of the shoreland zone, the Board of Appeals may grant a variance to an owner of a dwelling unit who resides in the dwelling unit and who is a person with a permanent disability for the construction of a place of storage and parking for a noncommercial vehicle owned by that person and no other purpose. The width and length of the structure may not be larger than two times the width and length of the noncommercial vehicle. The owner must submit proposed plans for the structure with the request for the variance pursuant to this subsection E to the Board of Appeals.
  - (a) The person with the permanent disability must prove by a preponderance of the evidence that the person's disability is permanent.
  - (b) For purposes of this subsection E.2, "noncommercial vehicle" means a motor vehicle as defined in 29-A M.R.S.A. § 101(42) with a gross vehicle weight of no more than 6,000 pounds, bearing a disability registration plate issued pursuant to 29-A M.R.S.A. § 521, and owned by the person with the permanent disability.

3. **Confidentiality of Medical Records.** All medical records submitted to the Board of Appeals and any other documents submitted for the purpose of describing or verifying a person's disability are confidential.
- F. **Limitation; Conditions.** The Board of Appeals must limit any variances granted pursuant to this Section I-13 as strictly as possible to ensure conformance with the purposes and provisions of this Code to the greatest extent possible. The Board of Appeals may impose conditions on any variance granted under this Section I-13.

STATE LAW REFERENCE—30-A M.R.S.A. § 4353 (VARIANCE); 38 M.R.S.A. § 438-A(6-A) (VARIANCES IN THE SHORELAND ZONE); 06-096 C.M.R. CH. 1000 (GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES).

## **Section I-14. What Is the Process for Seeking Waivers?**

Upon written request from an applicant, the reviewing authority may grant the following waivers.

- A. **Submission Requirements.** The reviewing authority may waive any of the submission requirements contained in this Code if it finds that: (i) due to special circumstances of the application, the information is not necessary for it to determine compliance with the standards governing its review of the application; and (ii) granting a waiver would not adversely affect abutting properties or the general health, safety, and welfare of the residents of the Town and would be consistent with federal and state law.
- B. **Site Plan Review.** The Planning Board may modify or waive any of the review criteria contained in Chapter V (Site Plan Review) if it finds that: (i) due to special circumstances of the site or the proposals, the standards are not applicable or would be an unnecessary burden upon the applicant; and (ii) granting a waiver would not adversely affect abutting properties or the general health, safety, and welfare of the residents of the Town.
- C. **Subdivisions.** When the Planning Board finds that extraordinary and unnecessary hardship may result from strict compliance with the regulations contained in Chapter VI (Subdivision Regulations), or where there are special circumstances of a particular plan, the Planning Board may waive any of the regulations contained in Chapter VI (Subdivision Regulations) as long as such waiver would not be contrary to law or have the effect of nullifying the purpose of this Code, the Comprehensive Plan, or any other ordinance. In granting a waiver, the Planning Board may impose conditions that will substantially secure the objectives of the requirements that have been waived.

## **Section I-15. What Fees Must Accompany an Application for a Permit or Approval?**

- A. **Fee Schedule.** The Select Board must establish a schedule of fees which bears a substantial relationship to the cost of processing, reviewing, and administering applications. The fee schedule may be amended from time to time by order of the Select Board as it deems necessary, fair, and reasonable. For administrative ease, the fee schedule may also identify Town-imposed fees, costs, rents, assessments, fines, and penalties other than those associated with the processing, review, and administration of applications (including fees, costs, rents, fines, and penalties related to cemetery plots, assessing records, parking tickets, photocopying and printing, recreational programming, facility rentals, and statutorily mandated fees) to which this Section I-15 does not apply.
- B. **Special Fee.**
  1. If the reviewing authority determines that an application, by virtue of its size, uniqueness, complexity, or other factors, is likely to require a disproportionate

share of Town resources to process, review, or administer, the reviewing authority may designate the application as a “special application” and may assess a special fee in addition to any applicable fees established by the fee schedule in subsection A, above, or any other ordinance or law. The reviewing authority may designate an application as a special application at any time during the processing of the application. The designation by the reviewing authority of an application as a special application is final.

2. The special fee may not exceed the actual costs associated with processing, reviewing, and administering the special application. The special fee may include the actual fees and costs of (i) Town personnel time, administration, supplies, advertising, legal notices, mailings, postage, or photocopies and other document reproductions; (ii) administering Town meetings, referenda, public hearings, public information sessions, or workshops; (iii) specialized computer software or technical support necessary or advisable to process, review and administer the special application; (iv) in-house or third party attorneys’ fees; (v) in-house or third party professional reviews of the special application or the record related thereto, or other expert or consulting fees, including the costs of services of state or federal reviewing agencies, professional consultants, planners, visual impact experts, traffic impact experts, and economic development and finance consultants.
3. The reviewing authority must notify the applicant in writing of the special application designation and provide the applicant with an estimate of the special fee. The applicant must pay to the Town the estimated special fee within 14 days of receipt of the notification; otherwise, the special application must be returned as incomplete. If the estimated special fee is depleted prior to the completion of processing, reviewing, and administering the special application, the reviewing authority may provide the applicant with a revised estimate of the special fee from time to time, and the applicant must pay to the Town the revised estimate, less any prior estimate already paid, within 14 days of receipt of the notification.
4. The Town must deposit the special fee into an escrow account and may draw on the account to pay for the actual costs associated with processing the special application.
5. After the reviewing authority renders its final decision on the special application, the Town must provide the applicant with an accounting of the actual costs of processing the special application and must return any unspent portion of the special fee to the applicant within 60 days.

C. **Refunds; Waivers.** The Select Board, in its sole discretion, may refund, reduce, or waive any fee or special fee assessed under this Section I-15 when the person requesting the refund, reduction, or waiver demonstrates to the satisfaction of the Select Board that an extreme hardship or injustice would result from payment of the fee.

## CHAPTER II. NONCONFORMING USES, STRUCTURES, AND LOTS

### Section II-1. Purpose

It is the intent of this Chapter that all nonconforming conditions comply with this Code over time. Nonconforming conditions that legally existed before the effective date of the provisions of this Code, or that are created by amendments to this Code, are allowed to continue if they comply with the requirements in this Chapter II (Nonconforming Uses, Structures, and Lots).

### Section II-2. General

- A. **No Greater Nonconformity.** Except as otherwise expressly provided in this Chapter II (Nonconforming Uses, Structures, and Lots), a nonconforming condition may not become more nonconforming. An increase in nonconformity includes: (i) any change to a nonconforming use that expands the nonconforming use or the introduction of a new nonconforming use, and (ii) any change to a structure or lot that causes further deviation from any dimensional standard creating the nonconformity (such as a reduction in the minimum shoreland setback, increase in lot coverage, or increase in height of a structure). Lot changes or structural expansions that meet dimensional standards or cause no further increase in the linear extent of nonconformance of an existing structure are not increases in nonconformity. For example, there is no increase in nonconformity with respect to the minimum shoreland setback if a structural expansion extends no further into the minimum 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 shoreline than the closest portion of the existing structure from that shoreline. Included in this allowance are expansions that in-fill irregularly shaped structures.
- B. **Conversion to Conformity.** Once converted to a conforming condition, a lot, structure, or use may not be reverted to a nonconforming condition.
- C. **Prohibited Nonconformity.** A nonconformity not expressly allowed by this Chapter II (Nonconforming Uses, Structures, and Lots) is prohibited and must cease or be corrected immediately.
- D. **Burden of Proof.** The burden of establishing that a nonconformity is legally existing rests on the owner of such nonconformity and not upon the Town or any reviewing authority.
- E. **Transfer of Ownership.** Legally existing nonconforming uses, structures, or lots 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 Chapter II (Nonconforming Uses, Structures, and Lots).

### Section II-3. Nonconforming Uses

The nonconforming use of a structure or lot, or any portion of a structure or lot, may be continued but only in strict compliance with the following requirements:

- A. **Actual and Substantial Use.** A use is nonconforming if: (i) the use existed prior to the enactment of the Code provision that restricts or prohibits the use; (ii) the preexisting use was actual and substantial, as demonstrated by substantial investment in the use or substantial financial loss if the use is discontinued; and (iii) the nonconforming use reflects the original nature and purpose of the preexisting use, is not different in quality or character

as well as in degree of the preexisting use, and is not different in kind in its effect on the neighborhood where it is located.

- B. **Expansion of Nonconforming Use—Outside Shoreland Zone.** Outside of the shoreland zone, a nonconforming use may be expanded within the boundaries of a lot or within one or more existing structures located on a lot if the expanded use complies with dimensional standards to the greatest extent possible, as determined by the Planning Board.
- C. **Expansion of Nonconforming Use—Within Shoreland Zone.** Within the shoreland zone, the expansion of a nonconforming use is prohibited except that a nonconforming residential use may, after obtaining a permit from the Planning Board, be expanded within one or more existing residential structures or within any expansions of such structures allowed pursuant to Section II-4.C. For purposes of this subsection C, and notwithstanding the definition of expansion of a use in Section IX-3, “expansion” means an enlargement in the footprint, floor area, or ground area devoted to a use; a change in the location of a use; or the addition of one or more months to a use’s operating season.
- D. **Resumption Prohibited.** Except as provided in subsection E, below, if a nonconforming use ceases or is discontinued for any reason for a period of 24 or more consecutive months, any subsequent use must comply with the requirements of this Code in all respects. The Planning Board may, for good cause shown by the applicant, grant up to a 12-month extension to that time period. If a nonconforming use is superseded by a conforming use for any period of time, the prior nonconforming use must not be resumed.
- E. **Resumption of Nonconforming Residential Uses.** A nonconforming residential use on a lot may resume if it is discontinued for any reason for a period of 24 or more consecutive months but not more than a period of five years, as long as the residential structures on the lot comply with dimensional standards to the greatest extent possible, as determined by the Planning Board.
- F. **No Change of Nonconforming Use.** A nonconforming use may not be changed to another nonconforming use.

38 M.R.S.A. § 435 *ET SEQ.* (MANDATORY SHORELAND ZONING); 06-096 C.M.R. CH. 1000 (GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES).

## Section II-4. Nonconforming Structures

A nonconforming structure may be continued, but only in strict compliance with the following requirements:

- A. **Repair, Maintenance, and Improvement.** A nonconforming structure may be maintained, repaired, and improved within the footprint of the structure as it existed at the time the structure became nonconforming.
- B. **Expansion of Nonconforming Structure—Outside Shoreland Zone.** An accessory dwelling unit may be constructed on a lot containing one or more single-family dwellings that is nonconforming as to minimum lot size without increasing the nonconformity of the existing structure or creating a new nonconformity. Additionally, a nonconforming structure located outside of the shoreland zone may be added to or expanded only if:
  - 1. The addition or expansion satisfies all applicable dimensional standards, including height limits and setback requirements, of the district in which the structure is located;

2. The addition or expansion results in no new nonconforming conditions; and
3. The addition or expansion does not cause or worsen safety problems (including reduction of sight distances from driveways, entrances, or intersections) and does not increase any adverse impact on adjacent properties.

C. **Expansion of Nonconforming Structure—Within Shoreland Zone.** A nonconforming structure located in the shoreland zone may be added to or expanded as follows:

1. All new principal and accessory structures, excluding functionally water-dependent uses, must comply with the minimum shoreland setback requirements in Section III-3.B. A nonconforming structure may be added to or expanded after obtaining a permit from the Planning Board, if such addition or expansion does not increase the nonconformity of the structure and complies with subsections C.2 and C.3, below.
2. Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the minimum shoreland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the minimum shoreland setback requirement.
  - (a) Notwithstanding subsection C.2., above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable standards are met and the expansion is not prohibited by subsection C.1:
    - i. The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
3. All other legally existing nonconforming principal and accessory structures that do not comply with the minimum shoreland setback requirements may be expanded or altered as follows, as long as other applicable standards are met and the expansion is not prohibited by subsections C.1 or C.2, above:
  - (a) For structures located less than 75 feet from the normal high-water line of a water body or upland edge of a wetland, the maximum combined total footprint of all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any such structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
  - (b) In addition to the limitations in subsection C.3.(a), above, for structures that are legally nonconforming due to their location within the RP subdistrict when located at less than 250 feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland,

the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the RP subdistrict was established on the lot, whichever is greater. The maximum height of any such structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body or upland edge of a wetland must comply with the footprint and height limits in subsection C.3.(a), above.

4. An approved plan for expansion of a nonconforming structure must be recorded by the applicant in the Washington County Registry of Deeds within 90 days of approval. The recorded plan must show the existing and proposed footprint of the nonconforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zoning subdistrict boundary, and evidence of approval by the review authority.

D. **Foundations—Within Shoreland Zone.** Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure located in the shoreland zone, the structure and new foundation must be placed such that the minimum shoreland setback is met to the greatest extent possible, as determined by the Planning Board, basing its decision on the considerations specified in the definition of “greatest extent possible.”

E. **Relocation.** A nonconforming structure may be relocated within the boundaries of the lot on which the structure is located as long as (i) the site of relocation complies with all setback requirements to the greatest extent possible, as determined by the Planning Board, and (ii) the existing subsurface wastewater disposal system or replacement system, if any, complies with the requirements of the state wastewater disposal rules. In no circumstance may a structure be relocated in a manner that causes the structure to be more nonconforming.

1. In determining whether the relocation of a structure complies with setback requirements to the greatest extent possible, the Planning Board must base its decision on the considerations specified in the definition of “greatest extent possible.”
2. When it is necessary to remove vegetation within the water body or wetland setback area in order to relocate a structure, the Planning Board must require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section IV-4.R (Revegetation Requirements). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting must comply with the following provisions:
  - (a) Trees removed to relocate a structure must be replanted with at least one native tree, three feet in height, for every tree removed. If more than five trees are planted, no one species of tree may make up more than 50% of the number of trees planted. Replaced trees must be planted no farther from the water body or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be reestablished. An area at least the same size as the area where vegetation and ground cover were disturbed, damaged, or removed must be reestablished within

the minimum shoreland setback area. The vegetation and ground cover must consist of similar native vegetation and ground cover that was disturbed, damaged, or removed.

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

**F. Reconstruction or Replacement—Outside Shoreland Zone.** A nonconforming structure located outside of the shoreland zone that is removed, demolished, damaged, or destroyed, regardless of the cause, may be reconstructed or replaced within the footprint of the structure as it existed immediately prior to the event of removal, demolition, damage, or destruction. Reconstruction or replacement of the structure must commence within two years of the event of removal, demolition, destruction, or damage; otherwise, the reconstructed or replacement structure must comply with all requirements of the district in which the structure is located. In no case may a structure be reconstructed or replaced so as to increase its nonconformity. A structure reconstructed or replaced pursuant to this subsection F may be added to or expanded pursuant to subsection B, above.

**G. Reconstruction or Replacement—Within Shoreland Zone.**

- 1. A nonconforming structure in the shoreland zone that is located less than the required setback from a water body or wetland that is removed, damaged, or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such removal, damage, or destruction may be reconstructed or replaced as long as (i) a permit is obtained within 18 months of the date of the removal, damage, or destruction and (ii) such reconstruction or replacement is in compliance with the minimum shoreland setback requirement to the greatest extent possible, as determined by the Planning Board.
- 2. In no case may a structure be reconstructed or replaced so as to increase its nonconformity.
- 3. If the reconstructed or replacement structure is less than the required setback it must not be any larger than the original structure, except as allowed pursuant to subsection C.1, as determined by the nonconforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure may be replaced or constructed at less than the setback requirement for a new structure.
- 4. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation must be replanted in accordance with subsection E (Relocation).
- 5. A nonconforming structure that is located less than the required setback from a water body or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Planning Board within one year of such damage, destruction, or removal.
- 6. In determining whether the reconstruction or replacement complies with the setback to the greatest extent possible, the Planning Board must base its decision

on the considerations specified in the definition of “greatest extent possible,” as well as the physical condition and type of foundation present, if any.

STATE LAW REFERENCE—38 M.R.S.A. § 435 *ET SEQ.* (MANDATORY SHORELAND ZONING); 06-096 C.M.R. CH. 1000 (GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES); 10-144 C.M.R. CH. 241 (MAINE SUBSURFACE WASTEWATER DISPOSAL RULES); 30-A M.R.S.A. § 4364-B (ACCESSORY DWELLING UNITS).

## **Section II-5. Nonconforming Lots**

- A. **Nonconforming Lots.** A nonconforming lot of record may be built upon, without the need for a variance, if the lot is in separate ownership and not contiguous with any other lot in the same ownership, and if all provisions of this Code except the minimum lot size, minimum road frontage, minimum shore frontage, and minimum lot width requirements can be met.
- B. **Contiguous Built Lots.**
  1. If two or more contiguous lots are in a single or joint ownership of record on the date of applicability of this Code (or on June 12, 1996 if the lots are in the shoreland zone), if all or part of the lots do not comply with the dimensional standards of this Code, and if a principal use or structure exists on each lot, the nonconforming lots may be conveyed separately or together, as long as the lots comply with the state minimum lot size law and the state wastewater disposal rules.
  2. If two or more principal uses or structures exist on a single lot of record on the date of applicability of this Code (or on June 12, 1996 if the lots are in the shoreland zone), each may be sold on a separate lot as long as each lot complies with the state minimum lot size law and the state wastewater disposal rules. When such lots are divided, each lot thus created must conform to the dimensional standards of this Code to the greatest extent possible.
- C. **Contiguous Lots, Vacant or Partially Built.** If two or more contiguous lots or parcels are in single or joint ownership of record on the date of applicability of this Code (or on June 12, 1996 if the lots are in the shoreland zone), if any of these lots do not individually comply with the dimensional standards of this Code, and if one or more of the lots are vacant or contain no principal structure, the lots must be combined to the extent necessary to comply with the dimensional standards.
- D. **Construction of Accessory Structures—Within Shoreland Zone.** On a nonconforming lot on which only a residential structure exists, where an accessory structure cannot be located to comply with the minimum shoreland setbacks, the Planning Board may issue a permit to place a single accessory structure, containing no utilities, for the storage of yard tools and similar equipment. Such accessory structure must (i) not exceed 80 square feet in floor area or eight feet in height, (ii) comply with the minimum shoreland setbacks to the greatest extent possible, and (iii) comply with all other applicable standards, including maximum lot coverage and vegetation clearing limitations. In no case may the accessory structure be located closer to the water body than the principal structure.

STATE LAW REFERENCE—12 M.R.S.A. § 4807 *ET SEQ.* (MINIMUM LOT SIZE); 38 M.R.S.A. §§ 435-448 (MANDATORY SHORELAND ZONING); 06-096 C.M.R. CH. 1000 (GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES); 10-144 C.M.R. CH. 241 (MAINE SUBSURFACE WASTEWATER DISPOSAL RULES).

## **Section II-6. Lots in Two Municipalities**

When a lot is transected by a municipal boundary, this Code applies only to that portion of the lot located in the Town.

## CHAPTER III. LAND USE DISTRICTS

### Section III-1. Land Use Districts

A. **Land Use Districts Established.** To implement the provisions of this Chapter III (Land Use Districts), the Town is divided into the following land use districts:

Symbol	Land Use District	Characteristics	Comprehensive Plan (Historical Reference) <sup>1</sup>
V	Village	Village mixed high-density residential and compatible non-residential uses; pedestrian-oriented with historic buildings constructed before 1930	Historic village
M	Mixed Use Rural	Growth area for low-density predominantly residential and compatible commercial development along rural highways	Rural residential district; transitional areas
C	Corridor	Growth area for commercial and other non-residential development	U.S. Route 1 corridor
R	Rural	Low-density, predominantly forestry, agriculture, and resource extraction uses	Rural areas; mixed residential district

B. **Official Land Use District Map.** The location and boundaries of the land use districts are established as depicted on the Official Land Use District Map for the Town, which are made part of this Code and attached as Appendix B. The Official Land Use District Map is certified by the attested signature of the Town Clerk and is on file with the Town Clerk.

C. **Relationship to Shoreland Zoning.** Shoreland zoning subdistricts, as established by Section IV-1.B and depicted on the Official Land Use District Map, are overlay districts. Accordingly, uses, structures, and lots located in the shoreland zone are also located in one or more land use districts.

D. **Interpretation of Land Use District Boundaries.** Unless otherwise set forth on the Official Land Use District Map:

1. Boundaries indicated as approximately following the center lines of roads, highways, public utilities, or rights-of-way follow such center lines.
2. Boundaries indicated as approximately following established lot lines or Town boundaries follow such lines.
3. Boundaries indicated as approximately following the shoreland zone follow the shoreland zone, as defined. Boundaries indicated as approximately following the

---

<sup>1</sup> Pursuant to 30-A M.R.S.A. 4326(3-A)(A)(4)(b), the Town was not required to identify in its 1999 Comprehensive Plan any designated growth areas.

shoreline of any water body or wetland follow the shoreline of the water body or wetland.

4. Boundaries indicated as being parallel to or extensions of any of the features listed in subsections D.1, D.2, or D.3, above, are so construed.
5. Distances not specifically indicated on the Official Land Use District Map are determined by the scale of the map.
6. The Planning Board has the initial authority to interpret the Official Land Use District Map and the location of land use district boundaries. Any minimum setback must be determined by actual site measurement. Where physical or natural features existing on the ground are at variance with those shown on the Official Land Use District Map or in other circumstances where the Planning Board cannot definitely determine the location of a district boundary by the rules in this subsection D, the Planning Board may refer the matter to the Board of Appeals. Referrals of the Planning Board and appeals from boundary interpretation decisions of the Planning Board are *de novo*. The Board of Appeals is the final administrative authority as to the location of district boundaries.

## **E. Description and Purpose of Land Use Districts**

1. **Village District (V).**
  - (a) *Description.* The center of the Town of Columbia Falls, known as the Village, is characterized by medium-density residential uses predominantly composed of buildings constructed before 1930, complemented by home occupations and a variety of low-intensity commercial activity. The V district includes many buildings representing a variety of historic and contemporary architectural styles, as well as other buildings which contribute to the historic village setting.
  - (b) *Purpose.* The purpose of the V district is to maintain the historic mixed use residential and compatible non-residential land use pattern while promoting the architectural design that embodies the present character of this area. Rehabilitation of existing buildings is encouraged, and new construction should respect the existing scale, location, and massing of adjacent buildings.
2. **Mixed Use Rural District (M).**
  - (a) *Description.* The lands adjoining the Tibbettstown Road and Centerville Road are characterized by predominantly low-density residential uses, complemented by home occupations and a variety of low-intensity commercial activity.
  - (b) *Purpose.* The M district is a growth area for the type of low-density, mixed use residential and compatible commercial development that currently exists along the Town's rural highways.

3. Corridor District (C).

- (a) *Description.* U.S. Route 1 transects the Town from west to east and is characterized by predominantly commercial uses. The C district includes most of the properties along the U.S. Route 1 corridor.
- (b) *Purpose.* The C district is a growth area for commercial and other non-residential development. A mix of uses at higher densities is intended to allow predominantly commercial, industrial, retail, and recreational uses in proximity to each other.

4. Rural District (R).

- (a) *Description.* The interior northeast of the Town is characterized by low-density resource extraction uses, such as forestry, agriculture, and gravel extraction operations.
- (b) *Purpose.* The purpose of the R district is to maintain the rural character of the Town's interior by facilitating forestry, agriculture, and natural resource extraction uses and accommodating low-density residential development.

STATE LAW REFERENCE—30-A M.R.S.A. § 4352(3) (ZONING MAP REQUIRED); 30-A M.R.S.A. 4312 (GROWTH MANAGEMENT ACT).

### **Section III-2. Schedule of Uses**

A. **Symbols Used in the Schedule of Uses.** The symbols contained in the schedule of uses in subsection B, below, have the following meanings:

1. Land Use District Symbols

V	Village District	C	Corridor District
M	Mixed Use Rural District	R	Rural District

2. Permit Symbols

Yes	The use, and any structures associated with or devoted to such use, is allowed without a permit
P	The use, and any structures associated with or devoted to such use, is allowed with a building permit from the Planning Board
S	The use, and any structures associated with or devoted to such use, is allowed with site plan approval from the Planning Board
C	The use, and any structures associated with or devoted to such use, is allowed with conditional use approval from the Planning Board
No	The use, and any structures associated with or devoted to such use, is prohibited
1, 2, 3, etc.	Numbers adjacent to letter symbols refer to notes at the end of the schedule of uses containing additional requirements

**B. Schedule of Uses.**

LAND USE CATEGORY	V	M	C	R
Accessory Use or Structure <sup>2</sup>	Yes/P/S/C	Yes/P/S/C	Yes/P/S/C	Yes/P/S/C
Affordable Housing Development	S	S	C	C
Agriculture <sup>3</sup>	Yes/P	Yes/P	Yes/P	Yes/P
Agriculture, Piggery	No	No	C	S
Agriculture, Poultry	No	No	C	S
Agriculture, Product Processing:				
— Community-Scale <sup>4</sup>	Yes/P	Yes/P	Yes/P	Yes/P
— Industrial-Scale	No	No	No	C
Ambulance / Fire Station	C	S	S	S
Animal Shelter	No	S	S	No
Aquaculture:				
— Community-Scale	C	S	S	S
— Industrial-Scale	No	No	No	No
Assisted Living Facility	S	S	S	No
Auction / Auction House	C	S	S	No
Automobile Graveyard / Automobile Recycling Business / Junkyard	No	No	C <sup>5</sup>	No
Auto / Boat Sales, Service, and Storage	No	S	S	No
Auto Washing Facility	No	No	S	No
Bank	S	No	S	No
Bar / Tavern / Cocktail Lounge	S	C	S	No
Bed and Breakfast / Small Inn	S	S	S	No
Boarding House	S	S	S	No
Boarding Kennel	No	S	S	No

<sup>2</sup> Accessory uses, and any structures associated with such uses, are allowed pursuant to the same permitting requirements as apply to the principal use in this schedule of uses.

<sup>3</sup> Structures associated with agriculture uses are allowed with a building permit from the Planning Board.

<sup>4</sup> Structures associated with community-scale agriculture product processing are allowed with a building permit from the Planning Board.

<sup>5</sup> In addition to securing conditional use approval from the Planning Board, automobile graveyards, automobile recycling businesses, and junkyards must obtain a permit from the Select Board pursuant to 30-A M.R.S.A. § 3751 *et seq.*

LAND USE CATEGORY	V	M	C	R
Boat Launching Facility	S	S	S	S
Brewery / Distillery / Winery	S	C	S	No
Building Materials Yard	C	C	S	S
Campground	C	S	S	S
Campsite	P	P	P	P
Cemetery	S	S	No	No
Children's Summer Camp	S	S	S	S
Communication Tower <sup>6</sup>	C	S	S	S
Community Center	S	S	S	No
Community Garden	Yes	Yes	Yes	Yes
Day Care Facility	S	S	S	No
Dwelling, Multi-Family	S	S	C	C
Dwelling, Single-Family	P	P	P	P
Dwelling, Two-Family	P	P	P	P
Dwelling Unit, Accessory (ADU)	P	P	P	P
Education Facility	S	S	S	No
Electric Vehicle Charging Station	C	C	S	No
Emergency Operations	Yes	Yes	Yes	Yes
Equestrian Facility:				
— Small	S	S	S	S
— Large	No	No	C	C
Equipment Rental Service	No	S	S	C
Essential Services <sup>7</sup>	P/S	P/S	P/S	P/S
Farm Stand	Yes	Yes	Yes	Yes
Farmers Market	S	S	S	S

<sup>6</sup> No permit or approval is required for (i) an emergency wireless telecommunications facility owned and operated by a governmental entity; (ii) an amateur (“ham”) radio station licensed by the FCC; (iii) a CB radio antenna; or (iii) a parabolic dish or antenna less than seven feet in diameter that is an accessory structure to a permitted use.

<sup>7</sup> Roadside distribution lines and non-roadside or cross-country distribution lines involving 10 or fewer poles require a building permit. Incidental collection or supply towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants, and similar accessories require no permit or approval. All other essential services require site plan approval. Essential services in the shoreland zone must comply with the requirements of Section IV-4.K.

LAND USE CATEGORY	V	M	C	R
Firewood Processing and Sales	No	C	S	S
Food Truck	P	P	P	No
Food Truck Park	No	S	S	No
Fuel Retail Sales	No	C	C	No
Fuel Storage Depot, Bulk	No	No	No	No
Function Hall / Lodge / Clubhouse	S	C	S	S
Funeral Home	S	S	S	No
Garden Materials Yard	S	S	S	S
Gas Station	No	C	S	No
General Contractor Yard <sup>8</sup>	No	C	S	C
Governmental Use	S	S	S	S
Group Home:				
— Small	P	P	P	No
— Large	No	S	S	No
Health Institution	No	S	S	No
Home Occupation	P	P	P	P
Hospice Facility	No	S	S	No
Hotel / Motel / Large Inn	No	C	S	No
Laundromat	No	S	S	No
Liquor Store	S	C	S	No
Live Theater / Music / Entertainment:				
— Small-Scale	S	S	S	No
— Large-Scale	No	No	S	No
Livestock, Personal Use	Yes	Yes	Yes	Yes
Manufacturing, Heavy	No	No	No	No
Manufacturing, Light	No	S	C	No
Marijuana Establishment	No	No	No	No
Marijuana Home Cultivation	Yes	Yes	Yes	Yes
Marijuana Small-Scale Caregiver Operation	C	C	S	S

<sup>8</sup> Temporary storage of materials and equipment on site of a construction project is allowed without a permit.

LAND USE CATEGORY	V	M	C	R
Marina	C	No	No	No
Mass Gathering <sup>9</sup>	Yes	Yes	Yes	Yes
Midway / Fairground	C	C	S	S
Mineral Exploration <sup>10</sup>	No	Yes	Yes	Yes
Mineral Extraction <sup>11</sup> :				
— Mineral Mining, Metallic	No	No	No	No
— Mineral Extraction, Small	No	S	S	S
— Mineral Extraction, Medium	No	No	C	C
— Mineral Extraction, Large	No	No	No	C
— Mineral Extraction, Handling or Processing	No	No	No	C
Minimart	No	C	S	No
Mobile Home Park	No	C	C	No
Movie Theater	S	S	S	No
Neighborhood Convenience Store	S	S	S	No
Office Building:				
— Small	S	S	S	No
— Large	C	C	S	No
Outdoor Flea Market / Open-Air Market	S	S	S	No
Parking Garage	S	C	S	No
Pawn Shop	C	C	S	No
Public Open Space	Yes	Yes	Yes	Yes
Recreation, Indoor	C	C	S	No
Recreation, Low-Intensity <sup>12</sup>	Yes	Yes	Yes	Yes
Recreation, Outdoor	C	C	S	No

<sup>9</sup> Requires Select Board approval pursuant to Section VIII-4.

<sup>10</sup> Requires a Planning Board permit if more than 100 square feet of surface area, in total, is disturbed.

<sup>11</sup> Mineral extraction is allowed with a building permit from the Planning Board if (i) the mineral extraction occurs on a site for the purpose of facilitating a permitted use other than mineral extraction on that site, such as the construction of a road, driveway, or residential dwelling; or (ii) the mineral extraction area is less than ½ acre and no more than 1,500 cubic yards of material are removed, handled, or processed within any 12-month period for the exclusive, non-commercial use of the property owner.

<sup>12</sup> Structures accessory to low-intensity recreation are allowed with a building permit from the Planning Board.

LAND USE CATEGORY	V	M	C	R
Redemption / Recycling / Transfer Facility	No	No	S	No
Religious Assembly	S	S	S	No
Research Facility	C	C	S	No
Resort / Glamprground:				
— Small	C	S	S	No
— Large	No	No	No	No
Restaurant	C	C	S	No
Restaurant, Drive-Through	No	No	S	No
Retail Business:				
— Small	S	S	S	S
— Large	No	C	S	No
Sawmill <sup>13</sup>	No	S	S	S
Self-Storage Facility	No	C	S	No
Signs	P	P	P	P
Solar Energy Facility	No	S	S	S
Solar Energy Facility, Accessory	P	P	P	P
Vehicle and Small Engine Repair Shop	No	S	S	No
Veterinary Service	S	S	S	S
Warehousing and Distribution	No	C	S	No
Water Extraction:				
— Small-Scale	No	C	S	S
— Large-Scale	No	No	No	No
Wind Farm, Industrial-Scale	No	No	No	No
Wind Turbine, Accessory	P	P	P	P

C. **Uses Not Listed in Schedule of Uses.** No use is allowed unless it is listed as an allowed use in the schedule of uses in subsection B, above, and, if located in the shoreland zone, it is also listed as an allowed use in the schedule of uses in Section IV-2.B. Any use not expressly allowed or expressly prohibited in a land use district is prohibited in that district.

<sup>13</sup> Temporary portable sawmills are allowed without a permit in every district.

### Section III-3. Dimensional Standards

A. **Schedule of Dimensional Standards.** Except as provided in subsection C, below, all uses, structures, and lots must comply with the following dimensional standards. The land use district symbols contained in the schedule of dimensional standards have the meanings set forth in Section III-2.A.1. “N/A” means “not applicable in this district.”

	V	M	C	R
<b>Dimensional Standards</b>				
Minimum lot size <sup>14</sup> (square feet)	43,560 (1 acre)	43,560 (1 acre)	43,560 (1 acre)	43,560 (1 acre)
Minimum road frontage (feet)	100	100	100	100
Minimum shore frontage (in the shoreland zone) (feet)	For any residential use: 150 if adjacent to tidal areas; 200 if adjacent to non-tidal areas.			
	For any governmental, institutional, commercial, or industrial use (per principal structure): 200 if adjacent to tidal areas; 300 if adjacent to non-tidal areas.			
	For any low-intensity recreation use: 200 if adjacent to tidal or non-tidal areas.			
Maximum lot coverage (%)	75%	50%	75%	25%
	If in the shoreland zone: 70% for any lot in the GD subdistrict.			
	20% for any lot in any other shoreland zoning subdistrict. <sup>15</sup>			
<b>Setback Requirements<sup>16</sup></b>				
Minimum public road setback (feet)	10	50	50	50
Minimum setback from any common lot line, including from private roads (feet)	15	15	15	15

<sup>14</sup> Except that, in the shoreland zone, for any governmental, institutional, commercial, or industrial use that is adjacent to non-tidal areas, the minimum lot size is 60,000 square feet (per principal structure). Refer to Section IV-4.E for additional requirements for campgrounds. Refer to Section V-5.C.3.(a) for affordable housing development density bonus allowance.

<sup>15</sup> The 20% maximum lot coverage does not apply to public boat launching facilities.

<sup>16</sup> Refer to Section V-5.A.3.(d) for additional setback requirements for communication towers. Refer to Section V-5.B.3.(c) for additional setback requirements for solar energy facilities.

	V	M	C	R
<b>Setback Requirements (continued)</b>				
Minimum shoreland setback (applicable to principal and accessory structures, parking areas, roads and driveways, and campsites unless otherwise provided in Section IV-4) <sup>17</sup> (feet)		If in the shoreland zone:		
		125 from the normal high-water line of any significant river segment. This provision does not apply to structures related to hydropower facilities.		
		75 from the normal high-water line of a water body other than a significant river segment. <sup>18</sup>		
		250 in the RP subdistrict, from the normal high-water line of a water body, except for structures, roads, parking spaces, or other activities specifically allowed in the RP subdistrict in which case the minimum shoreland setback line specified above applies.		
<b>Height</b>				
Maximum height of principal structure or accessory structure (feet) <sup>19</sup>		50	75	75
		If in the shoreland zone: 35		

## B. Rules for Determining Conformance with Dimensional Standards.

1. For uses, structures, and lots in the shoreland zone:
  - (a) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two lots are not included in calculating minimum lot size.
  - (b) Lots located on opposite sides of a public or private road are each a separate lot, unless such road was established by the property owner on both sides of the road after September 22, 1971.
  - (c) The minimum width of any portion of any lot within 100 feet of the normal high-water line of a water body or upland edge of a wetland must be equal to or greater than the minimum shore frontage for a lot with the proposed use.

<sup>17</sup> The minimum shoreland setback line does not apply to structures that require direct access to the water body or wetland as an operational necessity, such as piers, docks, and retaining walls, or other functionally water-dependent uses.

<sup>18</sup> The 75-foot minimum shoreland setback does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and uses located nearer to the water body or wetland due to an operational necessity, excluding temporary docks for recreational uses. Any road or driveway providing access to permitted structures within the shoreland setback area must comply with the requirements of Section IV-4.F except for that portion of the road or driveway necessary for direct access to the structure. For roads and driveways, this minimum shoreland setback applies (i) unless no reasonable alternative exists as determined by the Planning Board, in which case the minimum shoreland setback line is 50 feet upon clear showing by the applicant that appropriate techniques (including the installation of settling basins or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the waterbody or wetland) will be used to prevent sedimentation of the water body or wetland; or (ii) except on slopes of greater than 20%, in which case the minimum shoreland setback line is increased by 10 feet for each 5% increase in slope above 20%.

<sup>19</sup> Refer to Section V-5.A.3.(c) for height requirements for communication towers. Refer to Section V-5.B.3.(b) for height requirements for solar energy facilities.

2. Except as provided below, if more than one dwelling unit or principal governmental, institutional, commercial, or industrial structure or use is constructed or established on a single parcel, all dimensional standards apply to each dwelling unit, principal structure, or use. For structures or uses located outside of the shoreland zone:
  - (a) Accessory dwelling units are exempt from the minimum lot size requirement.
  - (b) For multi-family dwellings and affordable housing developments, the minimum lot frontage requirement applies to each building rather than each dwelling unit. Refer to Section V-5.C.3.(a) for the affordable housing development density bonus allowance.

C. **Dimensional Standards for Parking Areas.** Parking areas must comply with the dimensional standards applicable to structures within the land use district in which they are located, except as follows:

1. The minimum shoreland setback for parking areas serving public boat launching facilities in any shoreland zoning subdistrict is 50 feet if the Planning Board finds that no other reasonable alternative exists farther from the water body or wetland.

STATE LAW REFERENCE—12 M.R.S.A. § 4807 *ET SEQ.* (MINIMUM LOT SIZE); 38 M.R.S.A. § 437 (SIGNIFICANT RIVER SEGMENTS IDENTIFIED); 38 M.R.S.A. § 438-A *ET SEQ.* (MANDATORY SHORELAND ZONING); 06-096 C.M.R. CH. 1000 (GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES); 10-144 C.M.R. CH. 241 (MAINE SUBSURFACE WASTEWATER DISPOSAL RULES).

## CHAPTER IV. SHORELAND ZONING

### Section IV-1. Shoreland Zoning Established

- A. **Applicability.** The provisions of this Chapter IV (Shoreland Zoning) apply to uses, structures, and lots located within the shoreland zone.
- B. **Shoreland Zoning Subdistricts Established.** To implement the provisions of this Chapter IV (Shoreland Zoning), the Town is divided into the following shoreland zoning subdistricts:

Symbol	Shoreland Zoning Subdistrict Name
LR	Limited Residential District
LC	Limited Commercial District
GD	General Development District
RP	Resource Protection District
SP	Stream Protection District

- C. **Official Land Use District Map.** The location and boundaries of the shoreland zoning subdistricts established in subsection B, above, are depicted on the Official Land Use District Map for the Town, which is made part of this Code and is attached as Appendix B. The Official Land Use District Map must be drawn at a scale of not less than one inch equals 2,000 feet. Shoreland zoning subdistrict boundaries must be clearly delineated and a legend indicating the symbols for each subdistrict must be placed on the map. The Official Land Use District Map is certified by the attested signature of the Town Clerk and is filed with the Town Clerk.
- D. **Relationship to Land Use Districts.** Shoreland zoning subdistricts are overlay districts. Accordingly, uses, structures, and lots located in the shoreland zone are also located in one or more land use districts.
- E. **Interpretation of Shoreland Zoning Subdistrict Boundaries.**
  - 1. Shoreland zoning subdistrict boundaries are interpreted in accordance with the rules for the interpretation of land use district boundaries in Section III-1.D, subsections 1 through 6. Any conflict between the Official Land Use District Map and the shoreland zoning subdistrict descriptions in subsection F, below, are resolved in favor of the Official Land Use District Map.
  - 2. The Planning Board has the initial authority to interpret the Official Land Use District Map and the location of shoreland zoning subdistrict boundaries. Any minimum shoreland setback must be determined by actual site measurement. Where physical or natural features existing on the ground are at variance with those shown on the Official Land Use District Map or in other circumstances where the Planning Board cannot definitely determine the location of a district boundary by the rules in this Section IV-1.E, the Planning Board may refer the matter to the Board of Appeals. Referrals of the Planning Board and appeals from boundary interpretation decisions of the Planning Board are *de novo*. The Board of Appeals is the final administrative authority as to the location of district boundaries.

**F. Description of Shoreland Zoning Subdistricts.**

1. **Resource Protection (RP) Subdistrict.** The RP subdistrict includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district includes the following areas when they occur within the limits of the shoreland zone, exclusive of the SP subdistrict, except that areas which are currently developed and areas which comply with the criteria for the LC or GD subdistricts need not be included within the RP subdistrict:
  - (a) Floodplains.
  - (b) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
  - (c) Areas of two or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland and are not surficially connected to a water body during the period of normal high water. These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.
  - (d) Land areas along rivers subject to severe bank erosion, undercutting, or riverbed movement and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.
2. **Limited Residential (LR) Subdistrict.** The LR subdistrict includes areas suitable for residential and recreational development. It includes areas other than those in the RP or SP subdistricts, and areas which are used less intensively than those in the LC or GD subdistricts.
3. **Limited Commercial (LC) Subdistrict.** The LC subdistrict includes areas of mixed, light commercial and residential uses, exclusive of the SP subdistrict, which should not be developed as intensively as the GD subdistrict. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.
4. **General Development (GD) Subdistrict.** The GD subdistrict includes the following types of existing, intensively developed areas, and may be applied to newly established GD subdistricts where the pattern of development at the time of adoption is undeveloped or not as intensively developed:
  - (a) Areas of two or more contiguous acres devoted to commercial, industrial, or intensive recreational activities, or a mix of such activities, including:
    - i. Areas devoted to manufacturing, fabricating, or other industrial activities;
    - ii. Areas devoted to wholesaling, warehousing, retail, trade, and service activities or other commercial activities; and
    - iii. Areas devoted to intensive recreational development and activities, including amusement parks, racetracks, and fairgrounds.

(b) Areas otherwise discernible as having patterns of commercial, industrial, or intensive recreational uses.

Portions of the GD subdistrict may also include residential development, but no area may be designated as a GD subdistrict based solely on residential use.

5. **Stream Protection (SP) Subdistrict.** The SP subdistrict includes all land areas within 75 feet of the normal high-water line of a stream, exclusive of those areas within 250 feet of the normal high-water line of a river or within 250 feet of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within 250 feet of the normal high-water line of a river or within 250 feet of the upland edge of a freshwater or coastal wetland, such shoreland area must comply with the requirements of the shoreland zoning subdistrict associated with such river or wetland.

STATE LAW REFERENCE—38 M.R.S.A. § 435 (MANDATORY SHORELAND ZONING; SHORELAND AREAS); 06-096 C.M.R. CH. 1000 (GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES).

#### **Section IV-2. Schedule of Uses for the Shoreland Zone**

A. **Symbols Used in the Schedule of Uses.** The symbols contained in the schedule of uses in subsection B, below, have the following meanings:

1. Shoreland Zoning Subdistrict Symbols

RP	Resource Protection District
LR	Limited Residential District
LC	Limited Commercial District
GD	General Development District
SP	Stream Protection District

2. Permit Symbols

Yes	The use, and any structures associated with or devoted to such use, is allowed without a permit, subject to applicable standards including those set forth in Section IV-4
P	The use, and any structures associated with or devoted to such use, is allowed with a building permit from the Planning Board
LPI	Allowed with a permit from the LPI
S	The use, and any structures associated with or devoted to such use, is allowed with site plan approval from the Planning Board
C	The use, and any structures associated with or devoted to such use, is allowed with conditional use approval from the Planning Board

S/C	The use, and any structures associated with or devoted to such use, is allowed with site plan approval from the Planning Board if it requires site plan approval in the underlying land use district, as set forth in Section III-2, and is allowed with conditional use approval from the Planning Board if it requires conditional use approval in the underlying land use district, as set forth in Section III-2
No	The use, and any structures associated with or devoted to such use, is prohibited
1, 2, 3, etc.	Numbers adjacent to letter symbols refer to notes at the end of the schedule of uses containing additional requirements

#### B. Schedule of Uses in the Shoreland Zone.

LAND USE CATEGORY	SP	RP	LR	LC	GD
1. Non-intensive Recreational Use Not Requiring Structures, Including Hunting, Fishing, and Hiking	Yes	Yes	Yes	Yes	Yes
2. Motorized Vehicular Traffic on Existing Roads and Trails	Yes	Yes	Yes	Yes	Yes
3. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting	P	P	Yes	Yes	Yes
4. Fire Prevention Activities	Yes	Yes	Yes	Yes	Yes
5. Wildlife Management Practices	Yes	Yes	Yes	Yes	Yes
6. Soil and Water Conservation Practices	Yes	Yes	Yes	Yes	Yes
7. Mineral Exploration <sup>20</sup>	No	Yes/P	Yes/P	Yes/P	Yes/P
8. Mineral Extraction:					
A. Mineral Mining, Metallic	No	No	No	No	No
B. Mineral Extraction, Small	No	No	No	S	C
C. Mineral Extraction, Medium	No	No	No	No	No
D. Mineral Extraction, Large	No	No	No	No	No
E. Mineral Extraction Handling or Processing	No	No	No	No	No
9. Surveying and Resource Analysis	Yes	Yes	Yes	Yes	Yes
10. Emergency Operations	Yes	Yes	Yes	Yes	Yes
11. Agriculture <sup>21</sup>	Yes	P	Yes	Yes	Yes
12. Aquaculture					
A. Community-Scale	S	C	S	S	S
B. Industrial-Scale	No	No	No	No	No

<sup>20</sup> Requires a Planning Board permit if more than 100 square feet of surface area, in total, is disturbed.

<sup>21</sup> Structures associated with agricultural uses are allowed with a Planning Board permit.

LAND USE CATEGORY	SP	RP	LR	LC	GD
13. Residential Structures and Uses:					
A. Dwelling, Single-family or Dwelling, Two-family	P <sup>22</sup>	P <sup>23</sup>	P	P	P
B. Driveway for Single-family Dwelling or Two-family Dwelling	P <sup>24</sup>	P	P	P	P
C. Multi-family Dwelling	No	No	S	S	S
14. Non-Residential Structures and Uses:					
A. Commercial	No	No <sup>25</sup>	No <sup>26</sup>	S/C	S/C
B. Industrial, other than Metallic Mineral Mining	No	No	No	No	S/C
C. Governmental and Institutional	No	No	S/C	S/C	S/C
D. Small Non-Residential Facility for Educational, Scientific, or Nature Interpretation Purposes	P <sup>27</sup>	P	P	P	P
15. Structure Accessory to Allowed Uses	P <sup>28</sup>	P	P	P	P
16. Pier, Dock, Wharf, Bridge, and Other Structures and Uses Extending Over or Below the Normal High-Water Line or Within a Wetland:					
A. Temporary <sup>29</sup>	P	P	P	P	P
B. Permanent <sup>30</sup>	S	S	S	S	S
17. Conversion of Seasonal Residence to Year-round Residence	LPI	LPI	LPI	LPI	LPI
18. Home Occupation	P	P	P	P	P
19. Private Subsurface Wastewater Disposal System for Allowed Uses	LPI	LPI	LPI	LPI	LPI

<sup>22</sup> A variance from the setback requirement must be obtained from the Board of Appeals.

<sup>23</sup> Single-family dwellings are allowed by special exception in accordance with Section IV-5 (Special Exceptions). Two-family dwellings are prohibited.

<sup>24</sup> A variance from the setback requirement must be obtained from the Board of Appeals.

<sup>25</sup> Except for commercial uses otherwise listed in this schedule of uses, such as marinas and campgrounds, that are allowed in the RP subdistrict.

<sup>26</sup> Except for commercial uses otherwise listed in this schedule of uses, such as marinas and campgrounds, that are allowed in the LR subdistrict.

<sup>27</sup> A variance from the setback requirement must be obtained from the Board of Appeals.

<sup>28</sup> A variance from the setback requirement must be obtained from the Board of Appeals.

<sup>29</sup> Temporary structures are structures which remain in or over the water for less than seven months in any period of 12 consecutive months. No permit is required for bridges and other crossings not involving earthwork.

<sup>30</sup> Permanent structures are structures which remain in or over the water for seven months or more in any period of 12 consecutive months.

LAND USE CATEGORY	SP	RP	LR	LC	GD
20. Essential Services: <sup>31</sup>					
A. Roadside Distribution Line (34.5kV and lower) <sup>32</sup>	P	P	Yes	Yes	Yes
B. Non-Roadside or Cross-Country Distribution Line Involving 10 or Fewer Poles in the Shoreland Zone	P	P	P	P	P
C. Non-Roadside or Cross-Country Distribution Line Involving 11 or More Poles in the Shoreland Zone	P	P	P	P	P
D. Other Essential Services	S	S	S	S	S
21. Service Drop to Allowed Use	Yes	Yes	Yes	Yes	Yes
22. Recreation, Low-Intensity	P	P	yes	yes	yes
23. Campsite	P	P	P	P	P
24. Campground	No	No/S/C <sup>33</sup>	S/C	S/C	S/C
25. Road Construction	P	No <sup>34</sup>	P	P	P
26. Parking Facility	No	No/P <sup>35</sup>	S	S	S
27. Marina	C	No	C	C	C
28. Filling and Earthmoving, less than 10 cubic yards	P	P	Yes	Yes	Yes
29. Filling and Earthmoving, 10 cubic yards or more	P	P	P	P	P
30. Signs	P	P	P	P	P
31. Solar Energy Facility, Accessory	No	No	P	P	P

C. **Uses Not Listed in Schedule of Uses.** No use is allowed in the shoreland zone unless it is listed as an allowed use in the schedule of uses in subsection B, above, and it is also listed as an allowed use in the schedule of uses in Section III-2.B in the applicable land use district. Any use not expressly allowed or expressly prohibited in a shoreland zoning subdistrict is prohibited in that subdistrict.

STATE LAW REFERENCE—38 M.R.S.A. § 435 *ET SEQ.* (MANDATORY SHORELAND ZONING); 06-096 C.M.R. CH. 1000 (GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES).

<sup>31</sup> Incidental collection or supply towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants, and similar accessories require no permit or approval.

<sup>32</sup> In subdistricts where a permit is not required, the developer must file a “notice of intent to construct” with the Planning Board prior to installation of any such distribution line.

<sup>33</sup> Not allowed in the RP subdistrict except if the affected area is designated as an RP subdistrict due to the existence of a floodplain, in which case Planning Board approval is required.

<sup>34</sup> Except as provided in Section IV-4.G.3.

<sup>35</sup> Not allowed in the RP subdistrict except if the area is zoned for resource protection due to floodplain criteria, in which case a Planning Board permit is required.

### **Section IV-3. General Review Criteria**

For structures and uses located in the shoreland zone that are allowed with a building permit or site plan or conditional use approval from the Planning Board in the schedule of uses in Section IV-2.B, the proposal must:

- A. Maintain safe and healthful conditions.
- B. Not result in water pollution, erosion, or sedimentation to surface waters.
- C. Adequately provide for the disposal of all wastewater.
- D. Not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat.
- E. Conserve shore cover and visual, as well as actual, points of access to inland and coastal waters.
- F. Protect archaeological and historic resources.
- G. Avoid problems associated with floodplain development and use.
- H. Comply with the dimensional standards in Section III-3 and all applicable provisions of this Code, including Section IV-4, Section IV-5, and Section IV-6.

STATE LAW REFERENCE—38 M.R.S.A. § 435 *ET SEQ.* (MANDATORY SHORELAND ZONING); 06-096 C.M.R. CH. 1000 (GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES).

### **Section IV-4. Land Use Standards in the Shoreland Zone**

In addition to complying with all other applicable standards (including the dimensional standards in Section III-3), all uses in the shoreland zone, and any structures associated with those uses, must comply with the following standards, as applicable:

- A. **Retaining Walls.** Retaining walls that are not necessary for erosion control must comply with the minimum shoreland setback for structures in the shoreland zone, except if all of the following conditions are met:
  - 1. The site where the retaining wall will be constructed has been previously altered and an effective vegetated buffer does not exist.
  - 2. The retaining wall is at least 25 feet from the normal high-water line of a water body or upland edge of a wetland.
  - 3. The site where the retaining wall will be constructed is a legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings.
  - 4. The total height of the retaining wall is, in the aggregate, no more than 24 inches.
  - 5. The retaining wall is located outside of a floodplain.
  - 6. The area behind the retaining wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development (including patios and decks) will occur within the minimum setback area.

7. A vegetated buffer area is established within 25 feet of the normal high-water line of a water body or upland edge of a wetland when a natural buffer area does not exist. The buffer area must comply with the following characteristics:
  - (a) The buffer must include shrubs and other woody and herbaceous vegetation. Where the natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
  - (b) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
  - (c) Only native species may be used to establish the buffer area; and
  - (d) A footpath not to exceed the standards in subsection O.2.(a) may traverse the vegetated buffer area.

B. **Stairways.** Stairways or similar structures are allowed with a building permit from the Planning Board to provide shoreline access in areas of steep slopes or unstable soils as long as (i) the structure is limited to a maximum of four feet in width, (ii) the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland unless a NRPA permit has been obtained from the DEP, and (iii) the applicant demonstrates that no reasonable access alternative exists on the property.

C. **Minimum Floor Elevation in Floodplain.** The lowest floor elevation or openings of all buildings and structures, including basements, must be elevated at least one foot above the elevation of the floodplain. Accessory structures need not comply with the elevation requirements of this subsection C.

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

1. No more than one pier, dock, wharf, or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a lot contains at least twice the minimum shore frontage as specified in Section III-3.A, a second structure may be allowed and may remain as long as the lot is not further divided.
2. Access from shore must be developed on soils appropriate for such use and constructed so as to control erosion.
3. The location must not interfere with existing developed or natural beach areas.
4. The facility must be located so as to minimize adverse effects on fisheries.
5. The facility must be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock, or wharf in non-tidal waters must not be wider than six feet for noncommercial uses.
6. No new structure may be built on, over, or abutting a pier, wharf, dock, or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity. A structure constructed on a float or floats is prohibited

unless it is designed to function as, and is registered with the MDIFW, as a watercraft.

7. New permanent piers or docks on non-tidal waters are not allowed unless it is clearly demonstrated to the Planning Board that a temporary dock is not feasible, and a NRPA permit has been obtained from the DEP.
8. Existing structures built on, over or abutting a pier, dock, wharf, or other structure extending beyond the normal high-water body or within a wetland may not be converted to dwelling units in the shoreland zone.
9. Except in the GD subdistrict, structures built on, over, or abutting a pier, dock, wharf, or other structure extending beyond the normal high-water line of a water body or within a wetland must not exceed 20 feet in height above the pier, dock, wharf, or other structure.
10. Vegetation may be removed in excess of the standards in subsection O (Clearing or Removal of Vegetation) to conduct shoreline stabilization of an eroding shoreline, as long as a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible, as determined by the Planning Board.
  - (a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site by land must be limited to no more than 12 feet in width. When the stabilization project is complete, the construction equipment accessway must be restored.
  - (b) Revegetation must occur in accordance with subsection O (Clearing or Removal of Vegetation).

**E. Campgrounds.**

1. Campgrounds must contain a minimum of 5,000 square feet of land area per campsite. Roads, driveways, land supporting wetland vegetation, and land below the normal high-water line of a water body are not included in calculating this minimum land area per campsite.
2. The areas intended for placement of a recreational vehicle, tent, or shelter, and utility and service buildings must be set back a minimum of 75 feet from the normal high-water line of water bodies or the upland edge of a wetland.

**F. Parking Areas.**

1. Parking areas must be adequately sized for the proposed use and designed to prevent stormwater runoff from flowing directly into a water body, or wetland and, where feasible, to retain all runoff on-site.
2. Parking areas must be sized as follows:
  - (a) Typical parking space: approximately 10 feet wide and 20 feet long, except that parking spaces for a vehicle and boat trailer must be 40 feet long.
  - (b) Internal travel aisles: approximately 20 feet wide.

**G. Roads and Driveways.** The following standards apply to the construction of roads or driveways and drainage systems, culverts, and other related features.

1. Existing public roads may be expanded in width within the legal right-of-way regardless of their setback from a water body or wetland.
2. New permanent roads are prohibited along any portion of a significant river segment except (i) to provide access to structures or facilities within the shoreland zone or (ii) when the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone, in which case the roads must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
3. New roads and driveways are prohibited in the RP subdistrict except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in an RP subdistrict upon a finding that no reasonable alternative route or location is available outside of the district. When a road or driveway is permitted in an RP subdistrict, the road or driveway must be set back as far as practicable from the normal high-water line of a water body or upland edge of a wetland.
4. Road and driveway banks must be no steeper than a slope of two horizontal to one vertical, and must be graded and stabilized in accordance with subsection S (Erosion and Sedimentation Control Standards).
5. Road and driveway grades must be no greater than 10% except for segments of less than 200 feet.
6. To prevent road and driveway surface drainage from directly entering water bodies or wetlands, roads and driveways must be designed, constructed, and maintained to empty onto an unscarified buffer strip at least 50 feet plus two times the average slope in width between the outflow point of the ditch or culvert and the normal high-water line of a water body or upland edge of a wetland. Surface drainage that is directed to an unscarified buffer strip must be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
7. Ditch relief (cross drainage) culverts, drainage dips, and water turnouts must be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch.
  - (a) Ditch relief culverts, drainage dips and water turnouts must be spaced along the road or driveway at intervals no greater than indicated in the following table:

Grade (%)	Spacing (feet)
0-2	250
3-5	200-135
6-10	100-80

Grade (%)	Spacing (feet)
11-15	80-60
16-20	60-45
21+	40

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is 10% or less.
- (c) On sections having slopes greater than 10%, ditch relief culverts must be placed at approximately a 30-degree angle downslope from a line perpendicular to the centerline of the road or driveway.
- (d) Ditch relief culverts must be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends must be stabilized with appropriate materials.

8. Ditches, culverts, bridges, dips, water turnouts, and other stormwater runoff control installations associated with roads and driveways must be maintained on a regular basis to ensure effective functioning.

H. **Signs.** Signs in the RP, SP, LR, and LC districts must comply with the applicable sign standards in Section VII-2.G.

I. **Stormwater Runoff.**

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

J. **Wastewater Disposal.** All subsurface wastewater disposal systems must be installed in conformance with the state wastewater disposal rules and the following standards:

1. Clearing or removal of woody vegetation necessary to site a new subsurface wastewater disposal system and any associated fill extensions must not extend closer than 75 feet from the normal high-water line of a water body or the upland edge of a wetland.
2. A holding tank is not allowed for a first-time residential use in the shoreland zone.

K. **Essential Services.**

1. Where feasible, the installation of essential services must be limited to existing public rights-of-way and existing service corridors.
2. The installation of essential services, other than roadside distribution lines, is not allowed in the RP or SP subdistrict, except (i) to provide services to a permitted use within the subdistrict or (ii) where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities must be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
3. Damaged or destroyed public utility transmission and distribution lines, towers, and related equipment may be replaced or reconstructed without a permit.

L. **Mineral Exploration.** Mineral exploration to determine the nature or extent of mineral resources must be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than an aggregate of 100 square feet of ground surface. A permit from the Planning Board is required for mineral exploration which exceeds this disturbance limitation. All excavations, including test pits and holes, must be immediately capped, filled, or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

M. **Mineral Extraction.**

1. A reclamation plan must be approved by the Planning Board. The plan must describe, in detail, procedures to be undertaken to fulfill the requirements of subsection M.3, below.
2. No part of any mineral extraction operation, including drainage and runoff control features is permitted within 75 feet of the normal high-water line of any water body, the upland edge of a wetland, or any property line.
3. An applicant proposing a new gravel pit along any portion of a significant river segment must demonstrate to the Planning Board that no reasonable mining site outside of the shoreland zone exists. When a gravel pit must be located within the shoreland zone, it must be (i) set back as far as practicable from the normal high-water line of the river but not less than 75 feet and (ii) screened from the river by existing vegetation.
4. Within 12 months following the completion of mineral extraction operations at any extraction site, which operations are deemed completed when less than 100 cubic yards of materials are removed in any consecutive 12-month period, ground levels and grades must be established as follows:
  - (a) All debris, stumps, and similar material must be removed for disposal in an approved location or buried on-site. Only materials generated on-site may be buried or covered on-site.
  - (b) The final graded slope must be 2½ to one slope or flatter.
  - (c) Topsoil or loam must be retained to cover all disturbed land areas, which must be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam must be obtained from off-site sources if necessary to complete the stabilization project.
5. In keeping with the purposes of this Chapter IV (Shoreland Zoning), the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction on surrounding uses and resources.

N. **Agriculture.**

1. All spreading of manure must comply with the *Manure Utilization Guidelines* (DACF, Nov. 1, 2001), the Nutrient Management Act (7 M.R.S.A. §§ 4201-4214), and the DACF rules adopted pursuant to the Nutrient Management Act.
2. Manure must not be stored or stockpiled within 75 feet of water bodies or wetlands. All manure storage areas must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater.

3. Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area require a conservation plan to be filed with the Planning Board. Agricultural activities must comply with the provisions of the conservation plan.
4. New tilling of soil is not allowed within 75 feet of rivers and coastal wetlands or within 25 feet of tributary streams or freshwater wetlands. Operations in existence as of March 25, 2013, that are not in conformance with this provision may be maintained but must not be enlarged.
5. Newly established livestock grazing areas are not allowed within 75 feet of rivers and coastal wetlands, or within 25 feet of tributary streams or freshwater wetlands. Livestock grazing associated with ongoing agricultural activities that are not in conformance with these setback provisions may continue, as long as such grazing is conducted in accordance with a conservation plan that has been filed with the Planning Board.

**O. Clearing or Removal of Vegetation—for Activities Other Than Timber Harvesting.**

1. Clearing Vegetation in RP Subdistrict. The cutting or removal of vegetation is limited to that which is necessary for uses expressly authorized in the RP subdistrict.
2. Vegetative Buffer Strip. Except in areas as described in subsection O.1, above, within the shoreline buffer, a buffer strip of vegetation must be preserved as follows:
  - (a) *Cleared Openings, Footpath.* Cleared openings greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present), as measured from the outer limits of the tree or shrub crown, are not allowed, except that a single footpath not to exceed six feet in width as measured between tree trunks and shrub stems is allowed for accessing the shoreline, as long as a cleared line of sight to the water through the buffer strip is not created.
  - (b) *Selective Cutting, Well-Distributed Stand of Trees.* Selective cutting of trees within the buffer strip is allowed as long as a well-distributed stand of trees and other natural vegetation is maintained.
    - i. *Well-Distributed Stand of Trees.* A “well-distributed stand of trees” is defined as maintaining a rating score of 16 or more points in each 25-foot by 50-foot rectangular (1,250 square foot) area as determined by the following rating system:

Diameter of Tree at DHB (inches)	Points
2 - < 4	1
4 - < 8	2
8 - < 12	4
12 or greater	8

In applying this point system:

- a. The 25-foot by 50-foot rectangular plots must be established where the property owner or lawful land occupant proposes clearing within the required buffer strip;
- b. Each successive plot must be adjacent to, but not overlap, a previous plot;
- c. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this subsection O;
- d. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this subsection O;
- e. Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

- ii. *Other Natural Vegetation.* “Other natural vegetation” is defined as retaining existing vegetation under three feet in height and other ground cover and retaining at least five tree saplings less than two inches DBH for each 25-foot by 50-foot rectangular area. If five tree saplings do not exist, no woody stems less than two inches DBH may be removed until five tree saplings have been recruited into the plot.
- iii. *Total Volume Limit.* Notwithstanding subsections O.2.(b)(i) and (ii), above, no more than 40% of the total volume of trees four inches or more DBH may be removed in any 10-year period.

- (c) *Preservation of Ground Cover.* To protect water quality and wildlife habitat, existing vegetation under three feet in height and other ground cover including leaf litter and the forest duff layer, must not be cut, covered, or removed, except to provide for a footpath or other permitted uses pursuant to subsection O.2 and O.2.(a), above.
- (d) *Pruning Allowed.* Pruning of tree branches on the bottom 1/3 of the tree is allowed.
- (e) *Replanting Cleared Openings.* To maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, dead, or hazard trees results in the creation of cleared openings, these openings must be replanted with native tree species in accordance with subsection P, below, unless existing new tree growth is present.
- (f) To maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside of the shoreline buffer, must comply with the requirements of this subsection O.2.

3. **Volume and Cleared Opening Limits—Outside Shoreline Buffer.**
  - (a) Outside of the shoreline buffer, selective cutting of not more than 40% of the volume of trees four inches or more DBH, is allowed on any lot in any 10-year period. Tree removal in conjunction with the development of permitted uses must be included in the 40% calculation. For the purposes of these standards, volume is equivalent to basal area.
  - (b) In no event may cleared openings for any purpose, including principal and accessory structures, driveways, lawns, and subsurface wastewater disposal areas, exceed in the aggregate 25% of the lot area within the shoreland zone or 10,000 square feet, whichever is greater, including land previously cleared. This provision applies to the portion of a lot within the shoreland zone (including the buffer area), but it does not apply to the GD subdistrict.
4. **No Enlargement of Nonconforming Cleared Openings.** Legally existing nonconforming cleared openings may be maintained, but must not be enlarged, except as allowed by this Chapter IV (Shoreland Zoning).
5. **Reverted Cleared Openings.** Fields and other cleared openings that have reverted to primarily shrubs, trees, or other woody vegetation are regulated under the provisions of this subsection O.

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

1. **Hazard Trees.** Hazard trees may be removed without a permit after consultation with the Planning Board if the following requirements are met:
  - (a) *Within Shoreline Buffer.* Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than 250 square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two inches DBH. If new growth is not present, then replacement trees must consist of native species and be at least four feet in height and no less than two inches DBH. Stumps may not be removed.
  - (b) *Outside Shoreline Buffer.* Outside of the shoreline buffer, when the removal of hazard trees exceeds 40% of the volume of trees four inches or more DBH in any 10-year period or results in cleared openings exceeding 25% of the lot area within the shoreland zone or 10,000 square feet whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two inches DBH. If new growth is not present, then replacement trees must consist of native species and be at least two inches DBH.
  - (c) *Standing Dead Trees.* Standing dead trees resulting from natural causes may be removed without the need for replanting, as long as (i) the removal does not result in the creation of new lawn areas or other permanently cleared areas, and (ii) stumps are not removed. For the purposes of this provision, dead trees are those trees that contain no foliage during the growing season.

(d) *Evaluation.* The Planning Board may require the property owner to submit an evaluation from a forester or arborist before any hazard tree can be removed within the shoreland zone.

(e) *Replacement.* The Planning Board may require more than a one-for-one replacement for hazard trees removed that exceed eight inches DBH.

2. **Storm-Damaged Trees.** Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Planning Board if the following requirements are met:

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

- i. The area from which a storm-damaged tree is removed may not result in new lawn areas or other permanently cleared areas;
- ii. Stumps from the storm-damaged trees may not be removed;
- iii. Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third of the tree; and
- iv. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or tree saplings is required at a density of one tree seedling per every 80 square feet of lost canopy.

(b) *Outside Shoreline Buffer.* Outside of the shoreline buffer, if the removal of storm-damaged trees exceeds 40% of the volume of trees four inches or more DBH in any 10-year period or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or 10,000 square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or tree saplings must be replanted on a one-for-one basis.

Q. **Exemptions to Clearing and Vegetation Removal Requirements.** The following activities are exempt from the standards in subsection O (Clearing or Removal of Vegetation), as long as all other applicable requirements of this Chapter IV (Shoreland Zoning) are complied with, and the removal of vegetation is limited to that which is necessary:

1. The removal of vegetation that occurs at least once every two years for the maintenance of legally existing areas that do not comply with the vegetation standards in this Chapter IV (Shoreland Zoning), such as cleared openings in the canopy or fields. Such areas may not be enlarged, except as allowed by this subsection Q. If any of these areas, due to lack of removal of vegetation every two years, reverts back to primarily woody vegetation, the requirements of subsection O apply.
2. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreland setback requirements of Section III-3.A are not applicable.

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

**R. Revegetation Requirements.** When revegetation is required in response to violations of the vegetation standards in subsection O (Clearing or Removal of Vegetation), to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements:

1. **Revegetation Plan.** The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
2. **Revegetation in Same Area; Comparable Density.** Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case

revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed. If part of a permitted activity, revegetation must occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan must be submitted with any renewal or new permit application.

3. Trees and Tree Saplings. Revegetation activities must comply with the following requirements for trees and tree saplings:

- (a) All trees and tree saplings removed must be replaced with native non-invasive species.
- (b) Replacement vegetation must at a minimum consist of tree saplings.
- (c) If more than three trees or tree saplings are planted, then at least three different species must be used.
- (d) No one species may make up 50% or more of the number of trees and tree saplings planted.
- (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and tree saplings in the same area where trees or tree saplings were removed, then trees or tree sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures.
- (f) A survival rate of at least 80% of planted trees or tree saplings is required for a minimum five-year period.

4. Woody Vegetation; Vegetation Under Three Feet in Height. Revegetation activities must comply with the following requirements for woody vegetation and other vegetation under three feet in height:

- (a) All woody vegetation and vegetation under three feet in height must be replaced with native non-invasive species of woody vegetation and vegetation under three feet in height as applicable.
- (b) Woody vegetation and vegetation under three feet in height must be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater.
- (c) If more than three woody vegetation plants are to be planted, then at least three different species must be planted.
- (d) No one species may make up 50% or more of the number of planted woody vegetation plants.
- (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this Chapter IV (Shoreland Zoning) for a minimum of five years.

5. Ground Vegetation; Ground Cover. Revegetation activities must comply with the following requirements for ground vegetation and ground cover:

- (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater.
- (b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four-inch depth of leaf mulch or bark mulch to prevent erosion and provide for effective infiltration of stormwater.
- (c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this Chapter IV (Shoreland Zoning) for minimum of five years.

**S. Erosion and Sedimentation Control Standards.**

- 1. All activities involving filling, grading, excavation, or other similar activities which result in destabilized soil conditions and require a permit also require a soil erosion and sedimentation control plan. The plan must be submitted to the Planning Board for approval and must include, where applicable, provision for:
  - (a) Mulching and revegetation of disturbed soil.
  - (b) Temporary runoff control features such as hay bales, silt fencing, or diversion ditches.
  - (c) Permanent stabilization structures such as retaining walls or riprap.
- 2. To create the least potential for erosion, development must be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required must be avoided wherever possible, and natural contours must be followed as closely as possible.
- 3. Erosion and sedimentation control measures apply to all aspects of the proposed project involving land disturbance and must be in operation during all stages of the activity. The amount of exposed soil at every phase of construction must be minimized to reduce the potential for erosion.
- 4. Any exposed ground area must be temporarily or permanently stabilized within one week from the time it was last actively worked by use of riprap, sod, seed, mulch, or other effective measures. In all cases permanent stabilization must occur within nine months of the initial date of exposure. In addition:
  - (a) Where mulch is used, it must be applied at a rate of at least one bale per 500 square feet and must be maintained until a catch of vegetation is established.
  - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - (c) Additional measures must be taken where necessary to avoid siltation into the water. Such measures may include the use of staked hay bales/or silt fences.
- 5. Natural and man-made drainage ways and drainage outlets must be protected from erosion from water flowing through them. Drainage ways must be designed and

constructed to carry water from a 25-year storm or greater, and must be stabilized with vegetation or lined with riprap.

- T. **Soils.** All uses and structures must be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. For uses requiring subsurface wastewater disposal and for commercial or industrial development and other similar intensive land uses, a soils report prepared by a professional consultant with training and experience in the recognition and evaluation of soil properties must be submitted to the Planning Board. The soils report must be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum groundwater elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report must include recommendations for a proposed use to counteract soil limitations where they exist.
- U. **Water Quality.** No activity may deposit on or into the ground or discharge to the waters of the state any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body or wetland.
- V. **Archeological Sites.** Any application for a proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, must be submitted by the applicant to the MPHC, for review and comment, at least 20 days prior to action being taken by the Planning Board. The Planning Board must consider comments received from the Commission prior to rendering a decision on the application.
- W. **Photographic Record.** Any application for a proposed land use activity involving structural development or soil disturbance within the shoreland zone must provide to the Planning Board pre-construction photographs and, no later than 20 days after completion of construction, post-construction photographs of the shoreline vegetation and development site.
- X. **Accessory Solar Energy Facilities.** An accessory solar energy facility may be located partially or wholly within the minimum shoreland setback if it complies with the following standards:
  1. The area within the minimum shoreland setback in which the accessory solar energy facility is proposed must be a legally existing clearing or any vegetation clearing otherwise necessary must comply with the vegetation removal provisions in this Code including subsection O (Clearing or Removal of Vegetation—for Activities Other Than Timber Harvesting).
  2. The accessory solar energy facility must be located to comply with dimensional standards, including the minimum shoreland setback, to the greatest extent possible, as determined by the Planning Board. If it is practical to place the accessory solar energy facility outside the minimum shoreland setback, then no portion may be placed within the setback.
  3. The accessory solar energy facility must be limited by design to the energy needs of the existing use on the property, and sale of energy to the utility grid must be limited to incidental excess power generation. This provision does not apply to accessory solar energy facilities designed for commercial generation of power.

STATE LAW REFERENCE—38 M.R.S.A. § 435 *ET SEQ.* (MANDATORY SHORELAND ZONING); 06-096 C.M.R. CH. 1000 (GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES); 38 M.R.S.A. § 480-A *ET SEQ.* (NATURAL RESOURCES PROTECTION ACT); 10-144 C.M.R. CH. 241 (MAINE SUBSURFACE WASTEWATER DISPOSAL RULES).

### **Section IV-5. Special Exceptions**

The Planning Board may approve a permit for a single-family dwelling unit in the RP subdistrict by special exception if the applicant demonstrates that all of the following requirements are met:

- A. The proposal satisfies the general review criteria of Section IV-3 and, as applicable, the land use standards of Section IV-4.
- B. There is no location on the property, other than within the RP subdistrict, where the structure can be built.
- C. The lot on which the structure is proposed is undeveloped and was established and recorded in the Washington County Registry of Deeds before the adoption of the RP subdistrict.
- D. All proposed buildings, subsurface wastewater disposal systems, and other improvements are (i) located on natural ground slopes of less than 20%, and (ii) located outside of the floodplain or, in the case of principal buildings including basements, elevated at least one foot above the 100-year floodplain elevation.
- E. The total combined footprint (including cantilevered or similar overhanging extensions) of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation may not be altered by variance.
- F. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body or upland edge of a wetland to the greatest extent possible, but not less than 75 feet. In its determination of setback to the greatest extent possible, the Planning Board must base its decision on the considerations specified in the definition of “greatest extent possible,” as well as the proposed building site’s elevation in relation to the floodplain and its proximity to moderate value and high-value wetlands.

STATE LAW REFERENCE—38 M.R.S.A. § 435 *ET SEQ.* (MANDATORY SHORELAND ZONING); 06-096 C.M.R. CH. 1000 (GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES).

### **Section IV-6. Installation of Public Utility Service**

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

STATE LAW REFERENCE—38 M.R.S.A. § 435 *ET SEQ.* (MANDATORY SHORELAND ZONING); 06-096 C.M.R. CH. 1000 (GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES).

## CHAPTER V. SITE PLAN REVIEW

### Section V-1. Applicability

Site plan or conditional use review and approval under this Chapter V (Site Plan Review) is required for the following activities:

- A. Any use, or any structures associated with or devoted to such use, identified in the schedules of uses in Section III-2 or Section IV-2 as allowed with site plan or conditional use approval, including: (i) the construction, alteration, or enlargement of any existing structure associated with or devoted to a use requiring site plan or conditional use approval; and (ii) co-location on an existing communication tower.
- B. Expansion of a use conducted in one or more existing structures or on land when such expanded use would (i) employ new materials or processes or (ii) involve the sale of goods or services not normally or historically associated with the original use.

### Section V-2. Review Procedures

#### A. Pre-Application Meeting—Sketch Plan (Optional).

1. Before submitting a site plan or conditional use application, the applicant may (but is not required to) appear at a regular or special meeting of the Planning Board to informally discuss the proposal. The pre-application meeting is informal and informational in nature, and the purposes of the pre-application meeting are to (i) allow the Planning Board to understand the nature of the proposal, (ii) allow the applicant to understand the review process and required submissions, and (iii) identify issues that need to be addressed in future submissions.
2. The applicant must give notice of the pre-application meeting in accordance with Section I-9.
3. The applicant may present to the Planning Board at the pre-application meeting, for informal review and comment, a sketch plan of the proposed development. The sketch plan consists of a rough description of the proposed development, and may be a free-hand, penciled sketch of the subject property showing the proposed exterior and layout of structures, roads, and other existing and proposed features relevant to site plan or conditional use review. The applicant may identify and discuss any requests for waivers pursuant to Section I-14.
4. The Planning Board may request that the applicant arrange for a site visit with the Planning Board and the public. The applicant must give notice of the site visit in accordance with Section I-9.
5. No binding commitments may be made between the applicant and the Planning Board at this stage. No vested interests will attach or accrue as a result of any pre-application meeting, and such meeting will not cause an application to be deemed complete for review pursuant to Section I-8.B.

B. **Application Submission; Completeness Review.** The applicant must submit a site plan or conditional use application in accordance with Section V-5. The applicant must give notice of the application submission in accordance with Section I-9. The Planning Board must determine whether the application is complete for review pursuant to Section I-8.B.

- C. **Impact Statements.** At any time after receiving an application, the Planning Board may solicit impact statements from the Select Board or any municipal officials. The officers or officials must submit their impact statements to the Planning Board within five days of the solicitation.
- D. **Meeting or Hearing.** After finding an application complete for review, the Planning Board must hold a public hearing on any conditional use application and may decide, in its discretion, to schedule a public hearing on any site plan application in accordance with subsection D.2, below. In deciding whether to hold a public hearing on a site plan application, the Planning Board may consider, among other factors, whether the application presents matters or issues of substantial controversy or public importance, or whether a public hearing would likely unearth new information relevant to the Planning Board's review.
  - 1. If no public hearing is held, the site plan application will be placed on the agenda of the Planning Board's next regularly scheduled meeting for review. The applicant must attend the meeting of the Planning Board when the application is reviewed. If the Planning Board finds, during its review, that the application presents matters or issues of substantial controversy or public importance or a public hearing would likely unearth new relevant information, the Planning Board may, in its discretion, schedule a public hearing in accordance with subsection D.2, below.
  - 2. For any conditional use application or if the Planning Board decides to hold a public hearing on a site plan application, the Town must publish the time, date, and place of the hearing at least 12 days prior to the hearing in a newspaper of area-wide circulation, and the applicant must give notice of the hearing in accordance with Section I-9.
- E. **Site Visits.** At any time during its review of a site plan or conditional use application, the Planning Board may request that the applicant arrange for a site visit with the Planning Board and the public. The applicant must give notice of the site visit in accordance with Section I-9.
- F. **Supplemental Information; Proposed Modifications by Applicant.** At any time during its review of a site plan or conditional use application, the Planning Board may accept, in its discretion, supplemental information or proposed modifications to the application which the applicant requests to submit. Any such supplemental information or proposed modifications must be submitted to the Planning Board at least 12 days prior to the meeting or public hearing scheduled pursuant to subsection D, above.
- G. **Additional Information.** At any time during its review of a site plan or conditional use application, the Planning Board may request additional information from the applicant and establish the due date for submittal of such information. If the information is not submitted by the applicant by the due date, the application may be returned as incomplete.
- H. **Written Decision.** The Planning Board must issue a written decision in accordance with Section I-8.C.

### Section V-3. Application Submission Requirements

- A. **Copies.** The applicant must submit four paper copies and one electronic PDF of the application and any supporting documents or evidence.
- B. **Application Submission Requirements.** In addition to the application submission requirements in Section I-7, the applicant must submit the following materials unless waived by the Planning Board in accordance with Section I-14:
  - 1. A site plan or plans prepared at a scale of not less than one inch to 100 feet on paper size no smaller than 24 x 36 inches containing:
    - (a) The name and address of the applicant, the name of proposed development, and the name and address of the property owner, if different.
    - (b) The date the plan was prepared with the name, address, and contact information of the person who prepared the plan.
    - (c) Any land within 500 feet of the proposed development area in which the applicant has right, title, or interest.
    - (d) A soil survey (including a soils map, location of soil test pits, soil narrative report, and soil profile log description) of existing soil conditions, conducted by a professional consultant according to the *Guidelines for Maine Certified Soil Scientists for Soil Identification and Mapping* (Maine Association of Professional Soil Scientists, Mar. 2009). The intensity level of the soil survey within the buildable area must be:
      - i. Class A (high intensity) for proposed structures and uses on a lot less than two acres with on-site subsurface wastewater disposal.
      - ii. Class C (medium-high intensity) for structures and uses on a lot two acres or greater with on-site subsurface wastewater disposal.
      - iii. Class D (medium intensity) for all other proposals and for all areas outside of the buildable area.
    - (e) Topographic contours at elevation intervals of two, five, 10, or 20 feet, as specified by the Planning Board.
    - (f) Municipal tax map and lot numbers and names of property owners within 100 feet of the property lines of the proposed development area.
    - (g) A perimeter survey of the parcels encompassing the proposed development area and interior lot layout, giving complete descriptive data by bearings and distance, made and certified by a land surveyor relating to reference points, showing true north point, graphic scale, corners of parcels, date of survey, lot size, road frontage, lot coverage, any contiguous private open space, minimum setback lines, and total acreage.
    - (h) Existing and proposed locations and dimensions of any essential services, utility lines, sewer lines, water lines, easements, drainage ways (including all existing and proposed storm drainage facilities and dimensions of culverts and pipes), roads, and public or private rights-of-way.

- (i) An on-site soils investigation report by a licensed site evaluator or engineer. The report must contain the types of soil, location of test pits, and proposed location and design of the subsurface wastewater disposal system for the proposed development. If an engineered system is proposed to serve the development, the system must be designed by an engineer and approvals of such system design from the DHHS must be submitted.
- (j) The location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of entrances and exits of vehicles to and from the site onto public roads, and curb and sidewalk lines.
- (k) The location of all land use and shoreland zoning subdistrict boundaries.
- (l) The location of mapped aquifers and aquifer recharge areas.
- (m) The location of floodplains and floodplain elevations.

2. Drawings and descriptions showing:

- (a) The exterior of existing and proposed structures, including additions and expansions, identifying structure height, exterior materials, texture, and color.
- (b) A floor plan of existing and proposed structures showing location, footprint, floor area, ground coverage, and placement on site.
- (c) A landscaping plan showing approximate placement and types of existing and proposed vegetation, berms, hedges, tree lines, fencing, and screening.
- (d) The location, description, and placement of signs.
- (e) The location, description (including intensity, type, size, and direction), and placement of exterior lighting.

3. A written statement consisting of:

- (a) A description of the existing and proposed uses of the site, and any existing or proposed structures, including quantity and type of dwelling units, if any.
- (b) The floor area and footprint of each existing and proposed structure, and the lot coverage by each structure, each non-vegetated surface, and all structures and non-vegetated surfaces in the aggregate.
- (c) Information relating to projected numbers and types of clients, staff, and duties in sufficient detail to allow the Planning Board to evaluate the availability of municipal services.
- (d) A summary of existing and proposed easements, restrictions, and covenants placed or to be placed on the development area.
- (e) A description of the proposed method of solid waste disposal.
- (f) A soil erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sediment Control Best Management Practices (BMPs): Manual for Designers and Engineers* (DEP, Oct. 2016).

- (g) An evaluation of the availability and suitability of off-site public facilities that will serve the proposed development.
- (h) A proposed plan for fire protection services, including an evaluation of the availability and suitability of fire hydrants, fire ponds, and other fire protection services, consistent with the applicable provisions of NFPA.
- (i) A statement that any proposed road construction will comply with all applicable ordinances, rules, and regulations of the Town.
- (j) A construction schedule identifying all major stages of construction and including an estimate of the date when construction will start and be substantially completed.
- (k) A plan for protecting existing vegetation during construction and replacing vegetation that may become damaged by construction.
- (l) A long-term operations and maintenance plan providing for ongoing monitoring and inspections of all site infrastructure. The plan must provide a method for maintaining sufficient financial and technical resources for performing ongoing maintenance and repair of all proposed structures and uses.
- (m) A decommissioning plan prepared by an engineer containing, at minimum, a proposed decommissioning schedule and statements and plans addressing physical removal of all facilities and structures; disposal of all solid and hazardous waste in accordance with applicable laws and rules; stabilization or revegetation of the site to minimize erosion and return the site to substantially its pre-development state; and an estimate of costs for decommissioning (including methodology and data supporting the estimate).

#### **Section V-4. General Review Criteria**

For structures and uses that are allowed with site plan approval in the schedule of uses in Section III-2.B, the proposal must comply with the following review criteria:

**A. Allowed Use.**

1. The proposed uses, and any structures associated with or devoted to such uses, are allowed within the land use districts and shoreland zoning subdistrict in which they are proposed to be located.
2. The proposal complies with all applicable requirements of this Code and the Town's ordinances, rules, and regulations.
3. The proposal is consistent with the Comprehensive Plan.

**B. Adequate Technical and Financial Capacity.** The applicant must have adequate technical and financial capacity to develop, operate, and (as applicable) decommission the project in compliance with all applicable review standards, including the general review criteria in this Section V-4. Evidence of adequate technical capacity may include a written statement identifying the consultants and contractors involved in designing and constructing the project, as well as the long-term operators or managers of the project, and their respective expertise and experience with comparable projects. Evidence of adequate

financial capacity may include a written statement from the lender or financing partner identifying the estimated project cost and confirming that the developer has funds to cover the cost.

C. **Water Supply.** Sufficient water must be available for the reasonably foreseeable needs of the proposed development, and the proposal must not cause an unreasonable burden on any existing water supplies.

D. **Sewage Disposal.** The proposal must provide for adequate sewage disposal by demonstrating compliance with all applicable provisions of the state wastewater disposal rules. If an engineered subsurface wastewater disposal system is proposed to serve the development, or if individual subsurface wastewater disposal systems are proposed to be installed, approvals of such system designs must be secured from the LPI and, as applicable, the DHHS.

E. **Noise.**

1. The proposal must not, alone or in conjunction with existing activities, raise noise levels to the extent that abutting or nearby residents or properties are adversely affected. If it is likely that the proposal will result in noise in excess of that which is normal for the surrounding area, the proposal must be designed and landscaped to minimize noise interference to neighboring uses.
2. Excessive noise due to intermittence, beat frequency, or shrillness must be muffled so as not to be objectionable beyond any property lines.
3. Except as provided in subsection E.4, below, the maximum permissible sound pressure level of any continuous, regular, or frequent source of sound produced by any activity must not exceed the following sound pressure level limits:

7:00 a.m. – 8:00 p.m.	8:00 p.m. – 7:00 a.m.
70 dB(A)	55 dB(A)

Sound pressure levels must be measured on a sound level meter at all lot lines of the proposed development area, at a height of approximately four feet above the ground surface.

4. The following activities are exempt from the sound pressure level limits of subsection E.3, above:
  - (a) Noises created by construction and temporary maintenance activities between 5:30 a.m. and 8:00 p.m.
  - (b) Noises of safety signals, warning devices, and emergency pressure relief valves and any other emergency activity.
  - (c) Traffic noise on public roads.

F. **Exterior Lighting.** All exterior lighting, including lighted signs and other lighted advertising structures or features, must be shielded and non-flashing, and must be located and designed to (i) ensure safe movement of people and vehicles; (ii) avoid glare and reflection on adjacent properties and roads; and (iii) not impair the vision of the driver of any vehicle upon any road.

G. **Road Access.** The proposed development must adjoin a public or private road or have deeded access to a public or private road.

H. **Vehicular and Pedestrian Traffic.** The proposal must not cause vehicular and pedestrian traffic conditions to become unsafe or to exceed reasonable traffic limits of any affected roadways. In evaluating this standard, the Planning Board may consider the location, number and control of access points, adequacy of adjacent roads, traffic flow, traffic volume, sight distances, turning lanes, existing or proposed traffic signalization, and pedestrian-vehicular contacts. When practicable, applicants must incorporate shared driveways to provide common access to adjacent properties and reduce curb cuts on the main road.

I. **Internal Traffic Circulation and Road Design.**

1. The design of interior walkways, crosswalks, drives, and parking areas must promote safe, clearly delineated, and convenient traffic patterns for pedestrian, vehicular, and service use. The proposed layout must also provide adequate turning capacity for public safety vehicles.
2. All public and private roads in a development area and all new roads serving the proposed development must comply with the road design and construction standards in Section VIII-2.

J. **Parking.**

1. The proposal must provide adequate off-street parking to accommodate the projected needs of the proposal, including projected numbers of employees and customers. Unless the Planning Board finds that fewer parking spaces may adequately accommodate the projected needs of the proposal, the following minimum parking spaces are required:

Proposed Use	Minimum Number of Parking Spaces
<u>Residential structures and uses</u> (including affordable housing development, assisted living facility, multi-family dwelling, group home, mobile home park)	2 spaces per 3 units in an affordable housing development; otherwise, 2 spaces per dwelling unit
<u>Transient accommodations</u> (including bed and breakfast / small inn, boarding house, hospice facility, hotel / motel / large inn, resort / glampground)	1 space per guest room or accommodation
<u>Gathering spaces</u> (including auction / auction house, bar / tavern / cocktail lounge, brewery / distillery / winery, community center, farmers market, food truck park, function hall / lodge / clubhouse, funeral home, live theater / music / entertainment, midway / fairground, movie theater, outdoor flea market / open-air market, indoor recreation, outdoor recreation, religious assembly, restaurant)	1 space per 4 seats or per 4 projected daily patrons and staff

Proposed Use	Minimum Number of Parking Spaces
<u>Retail sales and services</u> (including animal shelter, auto / boat sales, service, and storage, auto washing facility, bank, boarding kennel, building materials yard, electric vehicle charging station, equipment rental service, fuel retail sales, garden materials yard, gas station, general contractor yard, health institution, hospice facility, laundromat, liquor store, marijuana small-scale caregiver operation, minimart, neighborhood convenience store, office building, pawn shop, retail business, self-storage facility, vehicle and small engine repair shop, veterinary service)	1 space per 300 sq. ft. floor area
<u>Industrial, utility, or resource extractive uses</u> (including piggery agriculture, poultry agriculture, industrial-scale agriculture product processing, aquaculture, communication tower, essential service, firewood processing and sales, manufacturing, mineral extraction, sawmill, solar energy facility, warehousing and distribution, water extraction)	As determined by the Planning Board
<u>Other</u> (including ambulance / fire station, boat launching facility, campground, children's summer camp, day care facility, education facility, equestrian facility, governmental use, marina, redemption / recycling / transfer facility, research facility)	As determined by the Planning Board

2. Applicants may satisfy the parking requirement in subsection J.1, above, by (i) demonstrating that existing public or private parking areas accommodate projected needs of the proposed development; (ii) entering into a written lease or other legally binding agreement, having a minimum duration of 10 years, with another property owner or with the Town to use, exclusively or on a shared basis, public or private parking lots that are proximate to the development site and allow overnight and winter parking; or (iii) proposing an alternative agreement or arrangement sufficient to address the parking needs of the proposed development.
3. Parking lots serving multiple establishments or providing general off-street parking are encouraged.

K. **Emergency Vehicle Access.** Provision must be made for convenient and safe emergency vehicle access to the proposed development site, including to all existing and proposed structures.

L. **Municipal and Public Services.** The proposal must not have an unreasonable adverse impact on municipal and other public services and facilities, including municipal road systems (including road maintenance and snow removal), public utilities, fire protection, police services, emergency medical unit services, solid waste disposal services, schools, public open spaces, recreational programs and facilities, on-site and off-site drainage facilities, and other municipal and public services and facilities.

M. **Surface Water Drainage.** Adequate provision must be made for surface water drainage so that removal of surface waters will not adversely affect neighboring properties, downstream water quality, soil erosion, or any public or private storm drainage systems.

Whenever practicable or necessary, on-site absorption must be utilized to minimize off-site discharge.

- N. **Erosion and Sedimentation Control.** The proposal must not, alone or in conjunction with existing activities, cause unreasonable soil erosion or a dangerous or unhealthy reduction in the capacity of the land to hold water. Any filling, grading, dredging, lagooning, earthmoving, or other land disturbance activities must be conducted in such a manner to prevent soil erosion and sedimentation into surface waters.
- O. **Water Quality and Quantity.** The proposal must not, alone or in conjunction with existing structures and uses, have an unreasonable adverse impact on surface water or groundwater quality or quantity. In making this determination, the Planning Board must consider:
  - 1. The nature of soils and subsoils, including their ability to adequately support subsurface wastewater disposal systems or any other approved or licensed discharge.
  - 2. The slope of the land and its effect on effluents.
  - 3. The impact of the proposed development on aquifers and aquifer recharge areas.
  - 4. The existence of streams and surface runoff characteristics.
  - 5. The cumulative impact of increased phosphorus export to water bodies.
  - 6. Any applicable federal, state, and local laws and rules, and approvals granted, pertaining to water quality and quantity.
- P. **Air Pollution.** The proposal must not, alone or in conjunction with existing activities, have an unreasonable adverse impact on air quality. The applicant must consult federal and state authorities, including DEP, to determine applicable air quality laws and regulations and must furnish evidence to the Planning Board of compliance with such laws and regulations.
- Q. **Preservation and Enhancement of the Landscape.** During construction, the landscape must be preserved in its natural state to the greatest extent possible by minimizing tree removal, minimizing disturbance of soil, and retaining natural vegetation to minimize the impacts of the proposal on neighboring land uses. A landscaping plan must be incorporated into the final site plan, and vegetation must be retained or landscaping must be designed and planted to (i) substantially screen from view activities and structures (including off-street parking areas) from public roads and abutting properties, and (ii) minimize adverse visual and noise impacts on neighboring land uses. Invasive plants may not be used in any landscaping plan.
- R. **Visual Impact.** The proposal must not, alone or in conjunction with existing structures and uses, have an unreasonable adverse effect on the scenic or natural beauty of the Town, including its aesthetics, historic sites, and rare and irreplaceable natural areas.
- S. **Historic and Archaeological Resources.** The proposed development must have no unreasonable adverse impact on historic and archaeological resources, including any historic district, site, or structure that is currently listed on or eligible for listing on the National Register of Historic Places.
- T. **Protected Natural Resources.** The proposed development must have no unreasonable adverse impact on protected natural resources. If required by the Planning Board, the applicant must consult with MDIFW to determine the existence of and impacts to any

protected natural resources by the proposed development. Comments submitted by MDIFW must be provided to the Planning Board. The Planning Board may, in its discretion, rely on approvals of the proposed development by state and federal governmental entities, including the DEP and U.S. Army Corps of Engineers, as *prima facie* evidence that the proposed development will have no unreasonable impact on protected natural resources.

- U. **Signs.** Signs or advertising features associated with the proposed development must comply with Section VII-2.G.
- V. **Design Guidelines in V District.** Proposed structures in the V district should be generally consistent with the design guidelines in Section VII-2.E.
- W. **No Nuisance.** Any non-residential use which is found by the Planning Board to constitute a public nuisance by reason of the emission of dust, fumes, gas, smoke, odor, noise, vibration, or other disturbance is prohibited.
- X. **Performance Guarantee.** If required by the Planning Board, in its discretion, the applicant must provide for a performance guarantee to the Town in accordance with any decommissioning plan and Section X-10.

## **Section V-5. Additional Procedures and Review Criteria for Certain Uses and Structures**

- A. **Communication Towers.**
  - 1. Applicability. The additional submission requirements and review standards in this subsection A apply to communication towers.
  - 2. Application Submission Requirements. In addition to the requirements in Section V-3, the applicant must submit the following materials unless waived by the Planning Board in accordance with Section I-14:
    - (a) A copy of the FCC license for the communication tower or a signed statement from the owner or operator of the facility attesting that the tower complies with all applicable FCC regulations.
    - (b) An FAA “determination of no hazard to air navigation” letter, and specifications for any FAA-required obstruction marking and lighting.
    - (c) Pre- and post-construction radiofrequency (rf) coverage area maps and analysis identifying existing and proposed coverage conditions and illustrating any significant gaps in the availability of wireless telecommunications services. The maps and analysis must identify all FCC-registered towers within a five-mile radius of the proposed tower location, their height, and their rf coverage capabilities.
    - (d) An alternatives analysis evaluating the feasibility of siting one or more towers on other towers or on other properties within the coverage area so as to close any significant coverage gaps, and discussing any legal or physical conditions that make such properties available or not available for tower development. The alternatives analysis must include the following evidence:

- i. Whether existing communication towers have sufficient height or can be increased in height, or have co-location capacity, to close any significant coverage gaps.
- ii. Whether existing communication towers have sufficient structural strength to support the proposed antenna and related equipment, including whether planned, necessary equipment would exceed the structural capacity of the existing tower, considering its existing and planned use, and whether the existing tower can be reinforced to accommodate proposed equipment; whether the proposed antenna would cause electromagnetic interference with the existing towers' antenna, or whether the exiting towers' antenna would cause electromagnetic interference with the proposed antenna; and whether existing or approved towers within a 5-mile radius of the proposed tower site have space on which proposed equipment can be placed so it can function effectively.
- iii. Whether fees or contractual provisions required by the owner of an existing tower to share or adapt an existing tower are unreasonable.
- iv. Whether the applicant has made diligent good faith efforts to negotiate co-location on an existing tower, building, or structure, and whether the applicant has been denied access.

(e) Elevation drawings indicating the type, design, materials, color, and height of the tower, antenna capacity, and antenna locations (including co-location spaces).

(f) MHPD concurrence letter pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended.

(g) A signed statement from the owner of the proposed tower that the owner and its successors and assigns agree to:

- i. Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant.
- ii. Negotiate in good faith for co-location of the tower by third parties.
- iii. Allow co-location of the tower.
- iv. Require no more than a reasonable charge for co-location based on customary commercial rates and generally accepted accounting principles.

(h) A landscaping plan specifying the locations, elevations, and height above finished grade of all vegetation, berms, and plantings and identifying the plant species and other materials that will be used to establish a vegetative buffer to substantially screen the tower from view from abutting properties.

(i) A visual impact assessment prepared by a landscape architect or other professional with expertise in evaluating visual impacts of communication

towers, which identifies the visual impacts of the proposed tower on any public vantage points within a five-mile radius of the tower site, and on abutting properties. At minimum, the assessment must include (i) a line-of-sight profile analysis that illustrates what is visible and what is obstructed along a straight line running from the tower and each public vantage point, and (ii) tree line elevation of vegetation within 100 feet of the tower that illustrates what portions of the tower will be visible from abutting properties. The Planning Board may require additional visual impact assessments, including digital viewshed maps and photosimulations, if it determines in its sole discretion that such assessments are necessary for the Planning Board to evaluate the facility's compliance with the visual impact standard in subsection 3(j), below.

3. Additional Review Criteria. In addition to the general review criteria in Section V-4, a communication tower must comply with the following review criteria:

- (a) Priority of Location. The communication tower must be located according to the following priority:
  - i. Co-location on an existing communication tower.
  - ii. A new communication tower on public or private property in the Town.

The applicant must demonstrate that a facility of a higher priority cannot reasonably accommodate the proposed tower.
- (b) Design for Co-Location. The communication tower must be designed and constructed to accommodate future co-location of at least four additional antennae or telecommunications providers, unless the Planning Board determines that height limitations effectively prevent such co-location.
- (c) Maximum Height. The maximum height of the communication tower is 190 feet.
- (d) Minimum Setback. Except as provided in subsections (i) and (ii) below, the communication tower must be set back a distance of 105% of its height from all property lines or the setback requirements in Section III-3.A, whichever is greater. The minimum setback may be met by including areas outside of the property boundaries if secured by an easement. In cases of leased property, the minimum setback is determined by the tower's setback from the boundaries of the parent lot and not the leased portion of the parent lot so long as a fall zone is secured by an easement or included in the lease.
  - i. If the tower is designed to collapse within the tower compound, the 105% minimum setback does not apply. The minimum setback requirements in Section III-3.A apply.
  - ii. An antenna is exempt from the minimum setback from any common lot line, including from private roads, if it extends no more than five feet from the edge of the structure to which it is attached and does not encroach upon abutting property.

- (e) **Security Fencing.** The tower must be enclosed by a security fence to discourage trespass on the tower and the tower site. All gates must be locked to prevent unauthorized entry.
- (f) **Operation and Maintenance.** The applicant must provide for the long-term operation of the solar energy facility and maintenance of the solar land area, including ensuring that vegetation is cut, roads are cleared and maintained, inspections are performed as needed, and the facility is accessible to police and fire in the event of an emergency.
- (g) **Lighting.** Tower lighting is prohibited except as required by the FAA. Security lighting on the premises may be used as long as it is shielded and lighting is retained within the boundaries of the site to the greatest extent possible.
- (h) **Color and Materials.** The tower must be constructed with materials and colors that match or blend with the surrounding natural or built environment to the greatest extent possible. Unless otherwise required by the FAA, FCC, or the Planning Board, muted colors, earth tones, and subdued hues must be used.
- (i) **Structural Standards.** The tower must comply with all current and applicable industry standards, including the Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision Standard, *Structural Standards for Steel Antenna Towers and Antenna Supporting Structures*.
- (j) **Visual Impact.** The tower must be located and designed to reasonably minimize its visual impact on any public vantage points within a five-mile radius of the proposed tower location. To meet this standard, during times of the year when deciduous vegetation retains its foliage:
  - i. The tower must not be substantially visible from any such public vantage point.
  - ii. No portion of the silhouetted outline of the tower may be visible as an unbroken line from any such public vantage point, except if
    - (i) vegetation substantially similar in density, size, and species to surrounding vegetation exists behind the tower and is visible above the silhouetted outline from the public vantage point, or
    - (ii) the distance of the tower from the public vantage point combined with the form, materials, and color of the tower, effectively makes the tower not noticeable to the average person.
- (k) **Performance Guarantee.** The owner or operator of the tower must provide a performance guarantee to the Town, in accordance with the decommissioning plan and Section X-10, for all costs associated with tower decommissioning required by Section V-7.D.

## B. Solar Energy Facilities.

- 1. **Applicability.** The additional submission requirements and review standards in this subsection B apply to solar energy facilities.

2. Application Submission Requirements. In addition to the requirements in Section V-3, an application for a solar energy facility must include the following unless waived by the Planning Board in accordance with Section I-14:
  - (a) A landscaping plan specifying the locations, elevations, and height above finished grade of all vegetation, berms, and plantings and identifying the plant species and other materials that will be used to establish a vegetative buffer to substantially screen the facility from view from abutting properties.
  - (b) A visual impact assessment prepared by a landscape architect or other professional with expertise in evaluating visual impacts, which identifies the visual impacts of the proposed solar energy facility on any public vantage points within a one-mile radius of the solar land area, and on abutting properties. At minimum, the assessment must include (i) a line-of-sight profile analysis that illustrates what is visible and what is obstructed along a straight line running from the solar energy facility and each public vantage point, and (ii) tree line elevation of vegetation within 100 feet of the facility that illustrates what portions of the facility will be visible from abutting properties. The Planning Board may require additional visual impact assessments, including digital viewshed maps and photosimulations, if it determines in its sole discretion that such assessments are necessary for the Planning Board to evaluate the facility's compliance with the visual impact standards in subsection 3(f), below.
  - (c) Pre-construction sound pressure levels measured at all major lot lines of the proposed development area, at a height of at least four feet above the ground surface.
3. Additional Review Criteria. In addition to the general review criteria in Section V-4, a solar energy facility must comply with the following review criteria:
  - (a) Maximum Solar Land Area. The solar land area of a solar energy facility must not exceed 20 acres.
  - (b) Maximum Height. The maximum height of a solar energy facility is 20 feet.
  - (c) Setbacks from Other Solar Energy Facilities. The minimum public road setback and the minimum setback from any common lot line, including from private roads, is 100 feet. A solar energy facility may not be located within 2,000 feet of another solar energy facility. This setback area must be measured from the solar land areas of the facilities at their closest points.
  - (d) Security Fencing. The solar land area of a solar energy facility must be enclosed by a security fence to discourage trespass. All gates must be locked to prevent unauthorized entry.
  - (e) Operation and Maintenance. The applicant must provide for the long-term operation of the solar energy facility and maintenance of the solar land area, including ensuring that vegetation is cut, roads are cleared and

maintained, inspections are performed as needed, and the facility is accessible to police and fire in the event of an emergency.

(f) Visual Impact. The solar energy facility must be located and designed to reasonably minimize its visual impacts on the public vantage points within a one-mile radius of the solar land area. To meet this standard, during times of the year when deciduous vegetation retains its foliage:

- i. The solar energy facility must not be substantially visible from any such public vantage point; and
- ii. No portion of the silhouetted outline of the solar energy facility may be visible as an unbroken line from any such public vantage point, except if (i) vegetation substantially similar in density, size, and species to surrounding vegetation exists behind the solar energy facility and is visible above the silhouetted outline from the public vantage point, or (ii) the distance of the solar energy facility from the public vantage point combined with the form, materials, and color of the solar energy facility, effectively makes the solar energy facility not noticeable to the average person.

(g) Performance Guarantee. The owner or operator of the solar energy facility must provide a performance guarantee to the Town, in accordance with the decommissioning plan and Section X-10, for all costs associated with solar energy facility decommissioning required by Section V-7.E.

### C. Affordable Housing Developments.

1. Applicability. The additional submission requirements and review standards in this subsection C apply to affordable housing developments.
2. Application Submission Requirements. In addition to the requirements in Section V-3, an application for affordable housing development must include the following unless waived by the Planning Board in accordance with Section I-14:
  - (a) Written statements, maps, and other documentation addressing each of the additional review criteria set forth in subsection C.3, below.
  - (b) An enforceable long-term plan providing for ongoing monitoring and inspections of all site infrastructure. The plan must provide, at minimum, a legally binding method for maintaining sufficient financial resources for performing ongoing maintenance, repair, and capital upgrades to all site infrastructure.
3. Additional Review Criteria. In addition to the general review criteria in Section V-4, an affordable housing development must comply with the following review criteria:
  - (a) Affordable Housing Density Bonus. For purposes of this subsection C, “base density” is the maximum number of dwelling units allowed on a lot not used for affordable housing development based on the applicable minimum lot size per dwelling unit in Section III-3.A. An affordable housing development that complies with this subsection C is eligible for a dwelling unit density bonus of up to 2½ times the base density that is otherwise allowed on the lot. If fractional results occur when calculating

the density bonus, the number of dwelling units is rounded down to the nearest whole number.

- (b) Location. An affordable housing development must be located in a land use district and, as applicable, a shoreland zoning subdistrict, that allows multi-family dwellings.
- (c) Water and Sewer. The affordable housing development must be served by a public, special district, or other centrally managed water system and a public, special district, or other comparable/engineered sewer system. Notwithstanding the foregoing requirement, the Town has no obligation to provide, install, or extend public sewer or water to any development.
- (d) Long-Term Affordability. More than half of the total dwelling units in the affordable housing development must be designated as affordable rental units or affordable homeownership units. The owner of the affordable housing development must execute a restrictive covenant, in form acceptable to the Planning Board and for the benefit of and enforceable by the Town or a third party acceptable to the Planning Board, recorded in the Washington County Registry of Deeds, to ensure that for at least 30 years after completion of construction, occupancy of all of the dwelling units designated affordable in the affordable housing development remains limited to households at or below 80% (for rental housing) or 120% (for owned housing) of the local area median income at the time of initial occupancy. The restrictive covenant must run with the land and encumber the affordable housing development, be binding upon the developer (for rental housing) or the unit owners (for owned housing) and their successors and assigns, and inure to the benefit of and be enforceable by the Town and a third party acceptable to the Planning Board.
- (e) Dimensional Standards Apply. Except for any minimum lot size adjustment authorized by subsection C.3.(a), above, the affordable housing development must comply with all dimensional standards in Section III-3.A, including minimum road frontage, minimum shore frontage, maximum lot coverage, and setback requirements.
- (f) Water and Wastewater Requirements.
  - i. The applicant must provide written verification that each proposed unit within the affordable housing development will be connected to adequate water and wastewater services, as required by Section VII-2.C.2.
  - ii. The applicant must make adequate provision for the long-term maintenance, repair, and improvement of any (i) individual private septic system, (ii) comparable/engineered sewer systems, (iii) individual private wells, and (iv) public water systems proposed to serve the units within the affordable housing development, including a process of collection and enforcement to obtain capital improvement funds from the developer (for rental housing) or the unit owners (for owned housing).

(g) **Additional Requirements.** An affordable housing development must comply with all applicable requirements in Chapter IV (Shoreland Zoning) and Chapter VI (Subdivision Regulations), and the state minimum lot size law.

STATE LAW REFERENCE—30-A M.R.S.A. § 4364 (AFFORDABLE HOUSING DENSITY).

## Section V-6. Conditional Uses

A structure or lot may be used for a conditional use only if the use is specifically allowed as a conditional use in Section III-2.B (Schedule of Uses) or Section IV-2.B (Schedule of Uses in the Shoreland Zone) and a conditional use approval is granted by the Planning Board in accordance with this Section V-6.

- A. **Review Procedures.** The review procedures in Section V-2 apply to any conditional use application.
- B. **Application Submission Requirements.** In addition to the requirements in Section V-3 and, as applicable Section V-5, the applicant must submit the following materials unless waived by the Planning Board in accordance with Section I-14:
  1. A written statement and supporting documentation demonstrating compliance with the conditional use criteria in subsection C, below.
- C. **Conditional Use Criteria.** In addition to the general review criteria in Section V-4 and any applicable additional review criteria in Section V-5, a conditional use approval may be granted by the Planning Board only after considering the characteristics and location of the proposed use (including any structures associated with the use) and of other properties in the surrounding neighborhood, and upon finding that the proposal complies with the following conditional use criteria:
  1. The proposed use complies with the definition of a conditional use.
  2. The proposed use will not depart from the general purpose and intent of this Code or the Comprehensive Plan.
  3. The proposed use will be compatible with the permitted uses, purposes, and description of the affected land use district.
  4. The proposed use will be compatible with the general character of the surrounding neighborhood with regard to location, design, size, scale, density of development, bulk of proposed structures, and intensity of use.
  5. The proposed use will not generate noise, vibrations, fumes, odors, dust, glare, or other nuisances detectable at the lot boundaries, and will not deny natural light and air to surrounding properties.
  6. The proposed use will not depreciate the economic value of surrounding properties.
  7. The proposed uses will be served adequately by, and will not overburden, public services and facilities, including (i) police, fire, and rescue services, as determined by response time, accessibility to the site of the proposed use, and numbers and types of emergency personnel and equipment presently serving the Town; and (ii) public works, public roads, and water and storm drainage systems.

**D. Approval.**

1. The Planning Board may impose such conditions as necessary to ensure that the conditional use complies with the criteria in subsection C, above.
2. A conditional use may only authorize the particular use for which it was issued.

**Section V-7. Post-Approval Requirements**

- A. **Incorporation of Approved Plan.** All construction activities must comply with the approved site plan or conditional use approval and any conditions of approval and incidental changes made pursuant to Section V-8.B.
- B. **Performance Guarantee.** The Planning Board may require the filing of a performance guarantee for any approved site plan or conditional use approval in accordance with Section X-10.
- C. **As-Built Drawings.** Any project involving the construction of more than 20,000 square feet of total floor area or 50,000 square feet of non-vegetated surface must submit to the Planning Board, within 30 days after occupancy or commercial operation, a set of construction plans showing the structures, facilities, and site infrastructure as actually constructed on the site.
- D. **Communication Tower Decommissioning.** Within six months of (i) the end of the manufacturer-identified useful life of a communication tower; (ii) the failure of the owner or operator of a communication tower to substantially start repair on the tower after a casualty loss or other significant damage within 12 months of the loss or damage, or (iii) a determination by the Select Board that the tower has been abandoned by virtue of its failure to have operated for a continuous period of at least 12 months, the owner or operator must, at its own expense, complete the decommissioning of the tower, in compliance with a decommissioning plan approved by the Planning Board. The owner or operator must notify the Planning Board of the date decommissioning is initiated and the date decommissioning is completed.
- E. **Solar Energy Facility Decommissioning.**
  1. Within six months of the occurrence of a solar energy facility decommissioning event, the owner or operator of a solar energy facility must provide for a Phase I environmental site assessment on the solar land area, in accordance with the ASTM E1527-13 standard. If contamination is encountered or suspected, the owner or operator of the solar energy facility must provide for a Phase II environmental site assessment on the solar land area, in accordance with the ASTM E1903-11 standard. All discovered and encountered hazardous materials must be removed from the solar land area and disposed of in accordance with applicable law.
  2. Within 12 months of the occurrence of a solar energy facility decommissioning event, the owner or operator of a solar energy facility must, at its own expense, complete the decommissioning, as that term is defined in 35-A M.R.S.A. § 3491(1), of the solar energy facility, in compliance with a decommissioning plan approved by the Planning Board. The owner or operator must notify the Planning Board of the date decommissioning is initiated and the date decommissioning is completed.

## **Section V-8. Amendments to Approved Site Plans or Conditional Use Approvals**

- A. Prior to making any change or revision to a site plan or conditional use approval that has been approved by the Planning Board, the applicant must submit a site plan or conditional use approval amendment application to the Planning Board. Except as provided in subsection B, below, the amendment application is subject to the same review procedures, application submission requirements, review standards, and other provisions of this Code as apply to a site plan or conditional use application.
- B. The following incidental changes or revisions to approved site plans or conditional uses may be approved by the Planning Board without conducting a public hearing pursuant to Section V-2.D, if in the judgment of the Planning Board such changes or revisions will not alter any of the Planning Board's prior determinations with respect to any applicable review criteria or alter the essential nature of the approved site plan or conditional use:
  1. Stripping, grading, grubbing, filling, or excavation of less than 1,000 square feet of land.
  2. Paving existing or approved parking areas.
  3. Immaterial corrections to locations of property boundary lines, setback lines, rights-of-way, easements, existing natural features, and existing or proposed structures.
  4. Typographical, clerical, or scrivener's errors.

Any such changes or revisions must be endorsed in writing on the approved plan by a majority of the Planning Board.

## **CHAPTER VI. SUBDIVISION REGULATIONS**

The subdivision regulations adopted, and amended from time to time, by the Planning Board pursuant to 30-A M.R.S.A. § 4403(2) are attached hereto and codified as Chapter VI (Subdivision Regulations). The Planning Board may, under the authority of and in accordance with 30-A M.R.S.A. § 4403(2), adopt, amend, or repeal additional reasonable regulations governing subdivisions, which control and which are automatically incorporated into this Chapter VI (Subdivision Regulations). Any such codification shall not be deemed an act of the legislative body of the Town to amend, repeal, or replace such regulations.

STATE LAW REFERENCE—30-A M.R.S.A. § 4403(2) (SUBDIVISIONS; MUNICIPAL REVIEW AND REGULATION); 30-A M.R.S.A. § 3004 (ORDINANCES; REVISION, CODIFICATION AND PUBLICATION).

### **SUBDIVISION REGULATIONS**

(as adopted, and amended from time to time, by the Planning Board)

#### **Section VI-1. Codification and Construction**

These subdivision regulations, adopted and amended by the Planning Board pursuant to 30-A M.R.S.A. § 4403(2) are codified as Chapter VI (Subdivision Regulations) of the Columbia Falls Code of Ordinances and must be construed with reference to the provisions of the Code including Chapter I (Administration), Chapter IX (Rules of Construction, Acronyms, and Definitions), and Chapter X (Legal).

#### **Section VI-2. Applicability**

This Chapter VI (Subdivision Regulations) governs the Planning Board's review of proposed subdivisions, except that it does not apply to:

- A. Subdivisions approved by the Planning Board or the Select Board before September 23, 1971, in accordance with laws then in effect.
- B. Subdivisions in actual existence on September 23, 1971, that did not require approval under prior law.
- C. A subdivision, a plan of which has been legally recorded in the Washington County Registry of Deeds before September 23, 1971.
- D. Any airport with an airport layout plan that has received final approval from the airport sponsor, DOT, and FAA.
- E. A subdivision in violation of this Chapter VI (Subdivision Regulations) or 30-A M.R.S.A. §§ 4401 *et seq.* that has been in existence for 20 years or more, except as provided in 30-A M.R.S.A. § 4402(5).
- F. Beginning July 1, 2018, a division of a new or existing structure into three or more dwelling units whether the division is accomplished by sale, lease, development, or otherwise where the development is subject to site plan or conditional use review pursuant to Chapter V (Site Plan Review). For purposes of this exemption, a multi-family dwelling or affordable housing development is subject to site plan review if all of the rental or ownership units are contained within a single structure. A multi-family dwelling or affordable housing development is subject to subdivision review pursuant to this Chapter VI (Subdivision Regulations) if the rental or ownership units are on separate lots or contained within two or more structures on a single lot.

STATE LAW REFERENCE—30-A M.R.S.A. § 4402 (SUBDIVISIONS; EXCEPTIONS).

## **Section VI-3. Review Procedures**

### **A. Pre-Application Meeting (Optional).**

1. Before submitting a subdivision application, the applicant may appear at a regular or special meeting of the Planning Board to informally discuss the proposed subdivision. The pre-application meeting is informal and informational in nature, and the purposes of the pre-application meeting are to (i) allow the Planning Board to understand the nature of the proposed subdivision, (ii) allow the applicant to understand the review process and required submissions, and (iii) identify issues that need to be addressed in future submissions.
2. The applicant must give notice of the pre-application meeting in accordance with Section I-9.
3. The applicant may present to the Planning Board at the pre-application meeting, for informal review and comment, a sketch plan and other data relevant to the proposed subdivision which may be of assistance to the Planning Board in discussing the proposal. The sketch plan consists of a rough description of the proposed subdivision and its general intent, a description of the site (including its area, shape and existing natural and man-made features), and a free-hand penciled sketch of the subject property showing the proposed layout of lots, roads, dwelling units, and other existing and proposed features relevant to subdivision review. The applicant may identify and discuss any requests for waivers pursuant to Section I-14.
4. The Planning Board may request that the applicant arrange for a site visit with the Planning Board and the public. The applicant must give notice of the site visit in accordance with Section I-9.
5. No binding commitments may be made between the applicant and the Planning Board at this stage. No vested interests will attach or accrue as a result of any pre-application meeting, and such meeting will not cause an application to be deemed complete for review pursuant to Section I-8.

### **B. Preliminary Subdivision Plan.**

1. Preliminary Subdivision Plan Submission; Completeness Review. The applicant must submit a preliminary subdivision plan application in accordance with Section VI-4. The Planning Board must determine whether the application is complete for review in accordance with Section I-8.B.
2. Impact Statements. At any time after receiving a preliminary subdivision plan application, the Planning Board may solicit impact statements from the Select Board or any municipal officials. The officers or officials must submit their initial impact statements to the Planning Board within five days of the solicitation.
3. Public Hearing. The Planning Board may hold a public hearing on the preliminary subdivision plan in accordance with subsection D, below.
4. Written Decision. The Planning Board must issue a written decision on the preliminary subdivision plan in accordance with Section I-8.C.

**C. Final Subdivision Plan.**

1. **Filing Deadline.** The applicant must, within six months after the approval of the preliminary subdivision plan, file with the Planning Board an application for approval of the final subdivision plan, except that the Planning Board may extend the six-month filing deadline upon written request and for good cause shown. If the final subdivision plan is not submitted to the Planning Board within the filing deadline, as may be extended, the Planning Board may, in its discretion, refuse to act and may require the applicant to resubmit the preliminary subdivision plan.
2. **DEP Approval.** DEP approval of the subdivision must be secured in writing before submission of the final subdivision plan if the proposed subdivision:
  - (a) Occupies more than 20 acres of land area and is not exempt from the Site Location of Developmental Act, 38 M.R.S.A. §§ 481 *et seq.*;
  - (b) Involves a structure or structures occupying a ground area in excess of three acres;
  - (c) Requires a DEP permit or license under some other applicable state law or rule, such as waste discharge or air quality; or
  - (d) In any way falls within the jurisdiction of and is subject to DEP review.
3. **Final Subdivision Plan Submission; Completeness Review.** The applicant must submit a final subdivision plan application in accordance with Section VI-5. The Planning Board must determine whether the application is complete for review in accordance with Section I-8.B.
4. **Public Hearing.** The Planning Board may hold a public hearing on the final subdivision plan in accordance with subsection D, below.
5. **Written Decision.** The Planning Board must issue a written decision on the preliminary subdivision plan in accordance with Section I-8.C.
6. **Recording.**
  - (a) After a final subdivision plan is approved, the Planning Board must return one signed Mylar (24 x 36 inches in size) to the permit holder, and one signed Mylar and one signed paper copy must be retained by the Town in the subdivision plan file.
  - (b) The permit holder must submit a reduced copy of the final subdivision plan that replicates the division of the parcel as it will be reflected on the Town's tax maps.
  - (c) The final subdivision plan must be recorded by the applicant in the Washington County Registry of Deeds. Any final subdivision plan not so recorded within 90 days of the date upon which the final subdivision plan is approved is null and void, unless the Planning Board finds upon written request of the applicant that there is good cause for an extension which may not exceed 120 days. The applicant must provide the Planning Board with a receipt from the Washington County Registry of Deeds within that time limit stating that the final subdivision plan has been recorded and giving the book and page numbers.

7. **Building Permits.** No building permits associated with an approved final subdivision plan will be issued until the final subdivision plan has been recorded in accordance with subsection C.7.(c), above, and the permit holder has filed a letter with the Town Clerk stating that all required permanent monuments have been installed.

D. **Meeting or Hearing.** After finding a preliminary subdivision plan or final subdivision plan application complete for review, the Planning Board may decide, in its discretion, to schedule a public hearing in accordance with subsection D.2, below. In deciding whether to hold a public hearing, the Planning Board may consider, among other factors, whether the application presents matters or issues of substantial controversy or public importance, or whether a public hearing would likely unearth new information relevant to the Planning Board's review.

1. If no public hearing is held, the application will be placed on the agenda of the Planning Board's next regularly scheduled meeting for review. The applicant must attend the meeting of the Planning Board when the application is reviewed. If the Planning Board finds, during its review, that the application presents matters or issues of substantial controversy or public importance or a public hearing would likely unearth new relevant information, the Planning Board may, in its discretion, schedule a public hearing in accordance with subsection D.2, below.
2. If the Planning Board decides to hold a public hearing, the Town must publish the time, date, and place of the hearing at least 12 days prior to the hearing in a newspaper of area-wide circulation, and the applicant must give notice of the hearing in accordance with Section I-9. Copies of the letter, sketch, and verification of the certified mailing must be made a part of the application.
3. If any portion of a subdivision crosses municipal boundaries, all meetings and hearings to review the application, or a revision or amendment to an approved subdivision, must be held jointly by the reviewing authorities from each municipality. The reviewing authorities in each municipality, upon written agreement, may waive the requirement for any joint meeting or hearing.

E. **Site Visits.** At any time during its review of a preliminary subdivision plan or final subdivision plan application, the Planning Board may request that the applicant arrange for a site visit with the Planning Board and the public. The applicant must give notice of the site visit in accordance with Section I-9.

F. **Supplemental Information; Proposed Modifications by Applicant.** At any time during its review of a preliminary subdivision plan or final subdivision plan application, the Planning Board may accept, in its discretion, supplemental information or proposed modifications to the application which the applicant may wish to present. Any such information or modifications must be submitted to the Planning Board at least 12 days prior to the meeting or public hearing scheduled pursuant to subsection D, above.

G. **Additional Information.** At any time during its review of a preliminary subdivision plan or final subdivision plan application, the Planning Board may request additional information from the applicant.

H. **Phasing of Development.** The Planning Board may, in its discretion, approve plans to develop a subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision road that is covered by a performance guarantee. When development is phased, road

construction must commence from an existing public way. Final approval of lots in subsequent phases will be given only upon satisfactory completion of the requirements applicable to the previous phases.

I. **Written Decision.** The Planning Board must issue a written decision in accordance with Section I-8.C. Approval of a final subdivision plan does not constitute and is not evidence of acceptance by the Town of any road or easement.

STATE LAW REFERENCE—30-A M.R.S.A. § 4403 (SUBDIVISIONS; MUNICIPAL REVIEW AND REGULATION), § 4408 (SUBDIVISIONS; RECORDING UPON APPROVAL).

#### **Section VI-4. Application Submission Requirements—Preliminary Subdivision Plan**

A. **Copies.** The applicant must submit two sets of reproducible, stable base transparent originals (one to be recorded and the other to be filed with the Town's permanent records), three sets of prints or copies for Planning Board use, and one electronic PDF of the preliminary subdivision plan application and any supporting documents or evidence.

B. **Application Submission Requirements.** In addition to the general application submission requirements in Section I-7, the applicant must submit the following materials unless waived by the Planning Board in accordance with Section I-14:

1. **Sketch Plan.** All information provided as part of the sketch plan or, if no sketch plan was submitted, a description of the general intent of the subdivision and the site including its area, shape, and proposed features.
2. **Temporary Markers.** The location of temporary markers adequate to enable the Planning Board to locate readily and apprise the basic layout in the field.
3. **Existing Conditions Map.** A location map drawn at a scale of 40 feet to the inch showing the relation of the proposed subdivision to the adjacent properties and to the general surrounding area, and including:
  - (a) An outline of the proposed subdivision and all lots, and any remaining portion of the applicant's property if the subdivision covers only a portion of the applicant's entire contiguous holdings.
  - (b) The date that the plan was prepared, a north point, and a graphic map scale.
  - (c) All land use district and shoreland zoning subdistrict boundaries.
  - (d) The locations, widths, and names of existing lots, roads, paper streets, easements, rights-of-way, sewers, water mains, culverts, drainage ways, open space, parks, public spaces, and structures within 1,000 feet of the property lines of the proposed subdivision.
  - (e) The location of all water bodies, wetlands, farmland, protected natural resources, vegetative cover types, any trees larger than eight inches DBH, and other essential physical features.
  - (f) If any portion of the subdivision is in a floodplain, the 100-year flood elevation and flood hazard boundaries.
  - (g) Topographic contours at elevation intervals of two or five feet, as specified by the Planning Board, showing elevations in relation to mean sea level.

4. Preliminary Subdivision Plan. A preliminary subdivision plan drawn at a scale of 40 feet to the inch showing the subdivision and the area within 1,000 feet of the property lines of the subdivision, and including:
  - (a) The proposed name or identifying title of the subdivision, municipal tax map and lot numbers, and the name of the Town.
  - (b) The date that the plan was prepared; a north point; a graphic map scale; names and addresses of the record owner, the subdivider, and the person who prepared the plan; and names of adjoining property owners.
  - (c) The number of acres within the proposed subdivision.
  - (d) Topographic contours at elevation intervals of two or five feet, as specified by the Planning Board.
  - (e) Field surveyed boundaries of the proposed subdivision and all lot lines, giving complete descriptive data by bearings and distances, made and certified by a land surveyor relating to reference points.
  - (f) Proposed lot dimensions, lot numbers, lot area (in square feet), buildable area, and minimum setback lines applicable to each proposed lot.
  - (g) The type of monument to be set or found at each corner lot.
  - (h) Locations of all proposed roads, easements, rights-of-way, sewers, water mains, culverts, drainage ways, open space, land proposed to be held in common or dedicated to public use, structures, and vegetative buffers.
  - (i) Space for insertion of conditions of approval that may be made by the Planning Board and for the Planning Board's endorsement.
5. Roads, Bridges, Culverts. Typical cross-sections of the proposed grading for roads and sidewalks including width, type of pavement, elevations and grades. Preliminary designs of any proposed bridges or culverts along with state approvals, if required.
6. Road System. A description of the road system proposed to serve the subdivision, and an indication of the future probable road system of the remaining portion of the tract if the preliminary subdivision plan submitted covers only part of the applicant's entire holding.
7. Water Supply. Connection with existing or proposed water supply or alternative means of providing water supply to the proposed subdivision. The applicant must estimate the amount of water required by the subdivision and demonstrate that such water in quality and amount can be obtained from wells or other groundwater sources within the subdivision, or that alternative provision for water supply will be made.
8. Sewer. Connection with existing or proposed sanitary sewerage system or alternative means of treatment and disposal proposed. If individual subsurface wastewater disposal systems are proposed, the locations and results of test pits to ascertain subsurface soil groundwater conditions and depths to maximum groundwater level. If an engineered system is proposed to serve the subdivision, designs prepared by an engineer and approved by the LPI and the DHHS.

9. **Soil Survey**. A soil survey (including a soils map, location of soil test pits, soil narrative report, and soil profile log description) of existing soil conditions, conducted by a professional consultant according to the *Guidelines for Maine Certified Soil Scientists for Soil Identification and Mapping* (Maine Association of Professional Soil Scientists, Mar. 2009). The intensity level of the soil survey within the buildable area must be:
  - (a) Class A (high intensity) for a lot less than two acres with on-site subsurface wastewater disposal.
  - (b) Class C (medium-high intensity) for a lot two acres or greater with on-site subsurface wastewater disposal.
  - (c) Class D (medium intensity) for all other proposals and for all areas outside of the buildable area.
10. **Erosion and Sedimentation Control Plan**. A soil erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sediment Control Best Management Practices (BMPs): Manual for Designers and Engineers* (DEP, Oct. 2016).
11. **Landscaping Plan**. A landscaping plan showing all graded contours and the approximate placement and types of existing and proposed vegetation, berms, hedges, tree lines, fencing, and screening. The plan must identify which existing trees and other vegetation will be preserved and what trees and other vegetation will be replaced.
12. **Community Services Impact Analysis**. An evaluation of the availability and suitability of off-site public facilities and services, including public road maintenance and snow removal, police and fire protection, solid waste disposal, recreational facilities, on-site and off-site drainage facilities, and public schools. The analysis must identify (i) the construction and infrastructure elements that will be completed by the applicant prior to the sale of lots, and (ii) the construction and infrastructure elements that are proposed to be borne by the public.
13. **Fire Protection Plan**. A proposed plan for fire protection services, including an evaluation of the availability and suitability of fire hydrants, fire ponds, and other fire protection services, consistent with applicable provisions of NFPA.
14. **Construction Schedule**. A construction schedule identifying all major stages of construction and including an estimate of the date when construction will start and be substantially completed.
15. **Long-Term Maintenance Plan**. A long-term maintenance plan providing for ongoing monitoring and inspections of all site infrastructure. The plan must provide a legally binding method for maintaining sufficient financial and technical resources for performing ongoing maintenance and repair of all site infrastructure.  
**Deeds and Restrictive Covenants**
  - (a) A copy of the deed upon which the field survey was based and all restrictive covenants, deed restrictions, and other encumbrances currently affecting the property.

- (b) All proposed restrictive covenants (including homeowners' association or road association covenants), deed restrictions, and easements intended to apply to any portion of the proposed subdivision.
- (c) If any land is proposed to be dedicated to public use, the proposed conditions of such dedication.

16. **Certification.** Certification by an engineer or a land surveyor that all surveys, deeds, restrictive covenants, and supporting information accurately reflect the true conditions existing within the proposed subdivision.

#### **Section VI-5. Application Submission Requirements—Final Subdivision Plan**

- A. **Copies.** The applicant must submit one paper copy and one electronic PDF of the final subdivision plan application and any supporting documents or evidence, except that 15 paper copies must be submitted of all documents (including the final subdivision plan) that are larger than 8 1/2 x 11 inches.
- B. **Application Submission Requirements.** In addition to the application submission requirements in Section I-7, the applicant must submit the following materials unless waived by the Planning Board in accordance with Section I-14:
  1. **Final Subdivision Plan.** A final subdivision plan drawn at a scale of 40 feet to the inch showing:
    - (a) All information presented on the existing conditions map and preliminary subdivision plan, as required by Section VI-4.B.(3) and (4), and any amendments and conditions required by the Planning Board.
    - (b) The name, registration number, signature, and seal of the professional consultant who prepared the final subdivision plan. The Planning Board may not accept or approve a final subdivision plan that is not sealed and signed by the professional consultant under whose responsible charge it was completed.
    - (c) Sufficient data to determine readily the location, bearing, and length of every road line, lot line, boundary line, and to reproduce such lines upon the ground. Parting lines of all lands adjoining the subdivision must be shown.
    - (d) The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves and central angles of all curves, tangent distances, and tangent bearing for each road.
    - (e) Lots within the subdivision, numbered as prescribed by the Planning Board.
    - (f) By proper designation, all public open space for which offers of cession are made by the applicant and those spaces to which title is reserved by the applicant.
    - (g) Permanent reference monuments shown as "X".

2. **Approvals.** Copies of all applicable state and federal approvals, including: (i) DEP approvals pursuant to the Site Location of Development Act (38 M.R.S.A. § 481 *et seq.*), NRPA, and 38 M.R.S.A. § 420-C (stormwater management); (ii) DOT approvals pursuant to the Access Management Law (23 M.R.S.A. § 704 *et seq.*); and (iii) DHHS approval for any proposed comparable/engineered sewer system and centrally managed water system.
3. **Water Quality Test.** The results of water quality tests to demonstrate compliance with the potable water standards in Section VII-2.C.2, upon the Planning Board's request.

STATE LAW REFERENCE—30-A M.R.S.A. § 4403(3) (SUBDIVISIONS; MUNICIPAL REVIEW AND REGULATION).

## **Section VI-6. General Review Criteria**

Any proposed preliminary subdivision plan application and final subdivision plan application must comply with the following review criteria:

### **A. Pollution.**

1. **Statutory Review Criteria.** The proposed subdivision will not result in undue water or air pollution. In making this determination, the Planning Board must at least consider:
  - (a) The elevation of the land above sea level and its relation to floodplains;
  - (b) The nature of soils and subsoils and their ability to adequately support waste disposal;
  - (c) The slope of the land and its effect on effluents;
  - (d) The availability of streams for disposal of effluents; and
  - (e) The applicable state and local health and water resource regulations.
2. **Additional Review Criteria.** The applicant must consult federal and state authorities, including DEP, to determine applicable air quality laws and regulations and must furnish evidence to the Planning Board of compliance with such laws and regulations.

### **B. Sufficient Water.**

1. **Statutory Review Criteria.** The proposed subdivision has sufficient water available for the reasonably foreseeable need of the subdivision.
2. **Additional Review Criteria.**
  - (a) The water supply system serving the proposed subdivision must be designed, approved, and installed in accordance with the state drinking water rules.
  - (b) Dwelling units within the subdivision may need to comply with the written verification requirements in Section VII-2.C.2. The Planning Board may condition any subdivision approval on such verification.

**C. Municipal Water Supply.**

1. Statutory Review Criteria. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used.
2. Additional Review Criteria. None.

**D. Erosion.**

1. Statutory Review Criteria. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
2. Additional Review Criteria.
  - (a) Any filling, grading, dredging, lagooning, earthmoving, or other land disturbance activities must be conducted in such a manner to prevent soil erosion and sedimentation into surface waters.
  - (b) Topsoil must be left in place except where its removal is necessary for excavation and road construction.
  - (c) The applicant must take measures to correct and prevent soil erosion in the proposed subdivision as detailed in an erosion and sedimentation control plan approved by the Planning Board.

**E. Traffic; Roads and Crossings.**

1. Statutory Review Criteria. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside of the urban compact area of an urban compact municipality as defined by 23 M.R.S.A. § 754, the DOT has provided documentation indicating that the driveways or entrances comply with the requirements of 23 M.R.S.A. § 704 and any rules adopted under that section.
2. Additional Review Criteria.
  - (a) *Vehicular and Pedestrian Traffic.* The proposed subdivision must not cause vehicular and pedestrian traffic conditions to become unsafe or to exceed reasonable traffic limits of any affected roadways. In making this determination, the Planning Board may require that a traffic study or a fiscal impact study be prepared for a proposed subdivision at the applicant's expense. In evaluating this standard, the Planning Board may consider the location, number and control of access points, adequacy of adjacent roads, traffic flow, traffic volume, sight distances, turning lanes, existing or proposed traffic signalization, and pedestrian-vehicular contacts. When practicable, applicants must incorporate shared driveways to provide common access to adjacent properties and reduce curb cuts on the main road.
  - (b) *Internal Traffic Circulation.* The design of interior walkways, crosswalks, drives, and parking areas must promote safe, clearly delineated, and convenient traffic patterns for pedestrian, vehicular, and service use. The

proposed layout must also provide adequate turning capacity for public safety vehicles.

- (c) *Road Design.* All subdivision roads must be designed and constructed to facilitate the safe and convenient movement of motor vehicles, emergency vehicles, and pedestrian traffic. All roads serving the proposed subdivision must comply with the road design and construction standards in Section VIII-2.
- (d) *Road Crossings.* Where road lengths exceed 1,000 feet between intersections with other roads, the Planning Board may require a utility/pedestrian easement, at least 20 feet in width, to provide for utility crossings or pedestrian pathways of at least five feet in width, constructed in accordance with the standards in Section VIII-2. Maintenance obligations of the easement must be included in the written description of the easement.
- (e) *Sidewalks.* The Planning Board may require the applicant to install sidewalks when a subdivision abuts or fronts a major road and at such other locations and the Planning Board may deem necessary or appropriate.
- (f) *Emergency Vehicle Access.* Provision must be made for convenient and safe emergency vehicle access to the proposed subdivision, including to all proposed lots.
- (g) *Parking.* Unless the Planning Board finds that fewer parking spaces may adequately accommodate projected needs, the proposed subdivision must provide adequate off-street parking in accordance with Section V-4.J.

**F. Sewage Disposal.**

- 1. Statutory Review Criteria. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.
- 2. Additional Review Criteria.
  - (a) The proposed subdivision must provide for adequate sewage disposal by demonstrating compliance with all applicable provisions of the state wastewater disposal rules.
  - (b) If an engineered wastewater disposal system is proposed to serve the subdivision, the system must be designed by an engineer and approved by the DHHS.
  - (c) If individual subsurface wastewater disposal systems are proposed, the Planning Board may condition any subdivision approval on the submission of subsurface wastewater disposal system applications (HHE-200 forms) approved by the LPI and, as applicable, the DHHS as part of any subsequent building permit application.

**G. Municipal Solid Waste Disposal; Community Services.**

1. Statutory Review Criteria. The proposed subdivision will not cause an unreasonable burden on the Town's ability to dispose of solid waste, if municipal services are to be utilized.
2. Additional Review Criteria. The proposed subdivision must not have an unreasonable adverse impact on municipal and other public services and facilities, including municipal road systems (including road maintenance and snow removal), public utilities, fire protection, police services, emergency medical unit services, solid waste disposal services, schools, public open spaces, recreational programs and facilities, on-site and off-site drainage facilities, and other municipal and public services and facilities.

**H. Scenic, Historic, and Protected Natural Resources.**

1. Statutory Review Criteria. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetic, historic sites, significant wildlife habitat identified by MDIFW or the Town, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
2. Additional Review Criteria.
  - (a) *Landscaping Plan.* The proposed subdivision must comply with a landscaping plan approved by the Planning Board. Extensive grading and filling must be avoided as far as possible and a buffer strip may be provided where the proposed subdivision abuts an existing road. Cutting of trees on the northerly borders of lots should be avoided to the greatest extent possible to retain a natural wind buffer.
  - (b) *Visual Impact.* The proposed subdivision must not, alone or in conjunction with existing structures and uses, have an unreasonable adverse effect on the scenic or natural beauty of the Town, including its aesthetics, historic sites, and rare and irreplaceable natural areas.
  - (c) *Historic and Archaeological Resources.* The proposed subdivision must have no unreasonable adverse impact on historic and archaeological resources, including any historic district, site, or structure that is currently listed on or eligible for listing on the National Register of Historic Places.
  - (d) *Protected Natural Resources.* The proposed subdivision must have no unreasonable adverse impact on protected natural resources. If required by the Planning Board, the applicant must consult with MDIFW to determine the existence of and impacts to any protected natural resources by the proposed subdivision. Comments submitted by MDIFW must be provided to the Planning Board. The Planning Board may, in its discretion, rely on approvals of the proposed subdivision by state and federal governmental entities, including the DEP, as *prima facie* evidence that the proposed subdivision will have no unreasonable impact on protected natural resources.

**I. Conformity with Local Ordinances and Plans.**

1. **Statutory Review Criteria.** The proposed subdivision complies with these duly adopted subdivision regulations and the Comprehensive Plan. In making this determination, the Planning Board may interpret these subdivision regulations and the Comprehensive Plan.
2. **Additional Review Criteria.**
  - (a) ***Signs.*** Signs or advertising features associated with the proposed subdivision must comply with Section VII-2.G.

**J. Financial and Technical Capacity.**

1. **Statutory Review Criteria.** The subdivider has adequate financial and technical capacity to comply with the statutory review criteria in this Section VI-6.
2. **Additional Review Criteria.** The applicant must have adequate technical and financial capacity to construct the subdivision and all required site infrastructure in compliance with the review criteria in this Section VI-6. Evidence of adequate technical capacity may include a written statement identifying the consultants and contractors involved in designing and constructing the subdivision and their respective expertise and experience with comparable projects. Evidence of adequate financial capacity may include a written statement from the lender or financing partner identifying the estimated costs of all required site infrastructure and confirming that the developer has funds to cover the costs.

**K. Surface Waters; Significant River Segments.**

1. **Statutory Review Criteria.** Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond, or river as defined in 38 M.R.S.A. § 436-A, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water. When lots in a subdivision have frontage on a significant river segment, the proposed subdivision plan must require principal structures to have a combined minimum shore frontage and setback from the normal high-water line of 500 feet.
  - (a) To avoid circumventing the intent of this subsection K, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision must be reviewed as if lot lines extended to the shore.
  - (b) The frontage and setback provisions of this subsection K do not apply either within the GD subdistrict, or within areas designated by this Code as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of 30-A M.R.S.A. § 4401(1) on September 23, 1983.
2. **Additional Review Criteria.** None.

**L. Groundwater.**

1. **Statutory Review Criteria.** The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.
2. **Additional Review Criteria.** In making this determination, the Planning Board must consider the impacts of the proposed subdivision on aquifers and aquifer recharge areas.

**M. Floodplains.**

1. **Statutory Review Criteria.** Based on the FEMA Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the applicant must determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The preliminary and final subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.
2. **Additional Review Criteria.** None.

**N. Freshwater Wetlands.**

1. **Statutory Review Criteria.** All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soils and water conservation district.
2. **Additional Review Criteria.** None.

**O. Farmland.**

1. **Statutory Review Criteria.** All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district.
2. **Additional Review Criteria.** None.

**P. River, Stream, or Brook.**

1. **Statutory Review Criteria.** Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this subsection P, “river, stream or brook” has the same meaning as in 38 M.R.S.A. § 480-B(9).
2. **Additional Review Criteria.** None.

**Q. Stormwater.**

1. **Statutory Review Criteria.** The proposed subdivision will provide for adequate stormwater management.

2. Additional Review Criteria.

- (a) *Surface Water Drainage.* Adequate provision must be made for disposal of all stormwater generated within the subdivision and any surface water drainage through a management system of swales, ditches, culverts, underdrains, stormwater drainage systems, or the like so that removal of surface waters will not adversely affect neighboring properties, downstream water quality, soil erosion, or any public or private storm drainage systems. The stormwater management system must be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and must include a surplus design capacity factor of at least 25% for potential increases in upstream runoff. Whenever practicable or necessary, on-site absorption must be used to minimize off-site discharge. The applicant is responsible for financing any improvements to existing drainage systems required to handle any increased stormwater flows. Provision must be made for natural water courses. The surface water drainage design must comply with the *DOT Best Management Practices for Erosion and Sedimentation Control* (DOT, Feb. 2008), as certified by an engineer.
- (b) *Stormwater Easement or Drainage Right-of-Way.* Where a subdivision is traversed by a watercourse, drainage way, or future sewer line, or where the Planning Board determines that surface water drainage created by the subdivision must be controlled for the protection of the subdivision and owners of property abutting it, there must be provided an easement or drainage right-of-way and culverts, catch basins, or other means of channeling surface water within such subdivision and over the property of owners abutting upon it, of such nature, width and locations as the Planning Board deems adequate. Such an easement or right-of-way must be not less than 30 feet in width.

R. **Lot Configuration; Lot Configuration; Spaghetti-lots Prohibited.**

- 1. Statutory Review Criteria. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than five to one.
- 2. Additional Review Criteria.
  - (a) Except for corner lots, no lots may have frontage on more than one road.
  - (b) To the greatest extent possible, lot lines must be perpendicular to the road.
  - (c) Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision must be designed to accommodate the extension of utilities.
  - (d) If a lot on one side of a road fails to meet the minimum lot size, it may not be combined with a lot on the other side of the road to meet the minimum lot size.
  - (e) Flag lots and other oddly shaped lots in which narrow strips are joined to other parcels to comply with minimum lot size requirements are

prohibited. The ratio of maximum lot length to minimum lot width is not more than five to one.

- (f) The road and lot layout must be adapted to the topography.

**S. Lake Phosphorus Concentration.**

1. Statutory Review Criteria. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.
2. Additional Review Criteria. None.

**T. Impact on Adjoining Municipality.**

1. Statutory Review Criteria. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public roads in an adjoining municipality in which part of the subdivision is located.
2. Additional Standards. Review Criteria.

**U. Lands Subject to Liquidation Harvesting.**

1. Statutory Review Criteria. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to 12 M.R.S.A. § 8869(14). If a violation of rules adopted by the DACF Bureau of Forestry to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that five years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from DACF Bureau of Forestry to determine whether a rule violation has occurred, or the Planning Board may accept a determination certified by a forester licensed pursuant to 32 M.R.S.A. Ch. 76. If the Planning Board requests technical assistance from the DACF Bureau of Forestry, the Bureau must respond within five working days regarding its ability to provide assistance. If the Bureau notifies the Planning Board that the Bureau will not provide assistance, the Planning Board may require the applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in 12 M.R.S.A. § 8868(6) and "parcel" means a contiguous area within one municipality, township, or plantation owned by one person or a group of persons in common or joint ownership.
2. Additional Review Criteria. None.

**V. Additional Review Criteria.**

1. Monuments.
  - (a) Permanent monuments must be set at all road intersections and points of curvature, but not farther than 750 feet apart along road lines without curves or intersections.
  - (b) Permanent monuments must be set at all corners and angle points of the subdivision lots and boundaries.

(c) All monuments must be constructed of a permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. Reinforced concrete or stone cairns may be used. The monument must clearly show the registration number or temporary certificate number of the land surveyor responsible for the survey. When the placement of a required monument at its proper location is impractical, it is permissible to set a reference monument as close as is practical to that point.

2. Retention of Open Space.

- (a) In any subdivision larger than 35 acres or containing more than 20 lots or dwelling units, the applicant must provide up to 10% of total area as open space. The applicant may make a negotiated payment into a Town land acquisition fund in lieu of such dedication.
- (b) Land reserved for open space must be of character, configuration, and location suitable for the particular uses intended. A site intended to be used for active recreation purposes, such as a playground or play field, should be relatively level and dry, have a total frontage on one or more roads of at least 200 feet, and have no major dimensions of less than 200 feet. Sites selected primarily for scenic or passive recreation purposes must have such access as the Planning Board may deem suitable and no less than 25 feet of road frontage. The configuration of such sites must be deemed adequate by the Planning Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, and the like where necessary and appropriate.

3. Exterior Lighting. All exterior lighting, including lighted signs and other lighted advertising structures or features, must be shielded and non-flashing, and must be located and designed to (i) ensure safe movement of people and vehicles; (ii) avoid glare and reflection on adjacent properties and roads; and (iii) not impair the vision of the driver of any vehicle upon any road.

4. Utilities.

- (a) The size, type, and location of public utilities, such as road lights, electricity, telephones, fire hydrants, other fire protection mechanisms, must be installed in accordance with the requirements of this Code and applicable state law.
- (b) All public utilities and facilities, including sewer, gas, electrical and water systems must be located and constructed to minimize or avoid flood damage.

5. Re-division. When a tract is subdivided into lots larger than the minimum lot size required in the district in which a subdivision is located, the Planning Board may require that roads and lots be laid out so as to permit re-subdivision in accordance with the requirements of this Code, unless restrictive covenants are placed at the time of the original subdivision.

6. Shoreland Zoning. Wherever situated, in whole or in part, within the shoreland zone, the proposed subdivision must comply with the requirements of Chapter IV (Shoreland Zoning).

7. **Long-Term Maintenance Plan.** All subdivision site infrastructure, including roads, must be maintained by a road or a homeowners' association. The applicant must submit a plan, including a declaration of covenants or an alternative legally binding instrument, for accomplishing the long-term maintenance of all site infrastructure and other maintenance necessary to protect environmental quality and the general welfare of the Town as required by the Planning Board. The long-term maintenance plan must provide for (i) the intended ownership of the site infrastructure; (ii) ongoing monitoring and inspections of all required site infrastructure; (iii) how the costs associated with site infrastructure construction, maintenance, and repair will be apportioned among the lot owners; (iv) a process for maintaining sufficient financial resources for performing ongoing maintenance and repair of site infrastructure; and (v) a process that authorizes the Town to take any enforcement action deemed necessary by the Planning Board. The Planning Board-approved declaration of covenants or alternative instrument must be recorded and become part of each lot deed. Each lot deed must refer to the instrument and must require the lot owner to be a member of the association.

STATE LAW REFERENCE—30-A M.R.S.A. § 4404 (SUBDIVISIONS; REVIEW CRITERIA); 10-144 C.M.R. CH. 241 (MAINE SUBSURFACE WASTEWATER DISPOSAL RULES).

## **Section VI-7. Additional Review Criteria for Mobile Home Parks**

Except as specified below, mobile home parks must comply with all requirements for a residential subdivision and all applicable state laws and local ordinances or regulations. Where the provisions of this Section VI-7 conflict with specific provisions contained elsewhere in this Code, including in Chapter VI (Subdivision Regulations), the provisions of this Section VI-7 control.

- A. **Minimum Lot Size and Road Frontage.** Notwithstanding the dimensional standards in Section III-3.A, lots in a mobile home park must comply with the following minimum lot size and road frontage standards:
  1. Lots served by individual subsurface wastewater disposal systems:
    - (a) Minimum lot size: 20,000 square feet
    - (b) Minimum road frontage: 100 feet
  2. Lots served by an engineered wastewater disposal system approved by the DHHS:
    - (a) Minimum lot size: 12,000 square feet
    - (b) Minimum road frontage: 75 feet
  3. The overall density of a mobile home park served by a subsurface wastewater disposal system must not exceed one dwelling unit per 20,000 square feet of total park area.
  4. Notwithstanding subsections A.1 to A.3, above, lots in a mobile home park in the shoreland zone must comply with the dimensional standards of Section III-3.A.
- B. **Change of Use.** No approved mobile home park subdivision may be converted to another use without the prior approval of the Planning Board, and any such subdivision must comply with the applicable dimensional standards and setback requirements for subdivisions. The final subdivision plan must include the following restrictions, as well as any other notes or conditions of approval:

1. The land within the mobile home park must remain in unified ownership and the fee to lots or portions of lots must not be transferred.
2. No dwelling unit other than a manufactured home, as that term is defined in 30-A M.R.S.A. § 4358, must be located within the mobile home park.

STATE LAW REFERENCE—30-A M.R.S.A. § 4358 (REGULATION OF MANUFACTURED HOUSING).

## **Section VI-8. Post-Approval Requirements; Amendments to Approved Subdivision Plans**

### **A. Subdivision Plan Amendments.**

1. Except as provided in subsection A.2, below, no changes, erasures, modifications, or other such revisions may be made to any final subdivision plan that has been approved by the Planning Board and endorsed in writing on the plan unless the changes, erasures, modifications, or other such revisions are approved by the Planning Board. Any proposal to change, erase, modify, or otherwise revise a final subdivision plan that has been approved by the Planning Board and endorsed in writing on the plan must comply with Section VI-4 for preliminary subdivision plan applications. Revisions or modifications to existing subdivision plans must satisfy the requirements of 30-A M.R.S.A. § 4407, and the Planning Board must make findings of fact establishing that the proposed revisions or modifications do or do not meet the general review criteria in Section VI-6 and, as applicable, the additional review criteria in Section VI-7.
2. The following incidental revisions or modifications to a final subdivision plan that has been approved by the Planning Board and endorsed in writing on the plan may be approved by the Planning Board without conducting a public hearing pursuant to Section VI-3.D, if in the judgment of the Planning Board such revisions or modifications will not alter any of the Planning Board's determinations with respect to any applicable review criteria or alter the essential nature of the approved subdivision plan:
  - (a) Immateral corrections to locations of property boundary lines, setback lines, rights-of-way, easements, existing natural features, and existing or proposed structures.
  - (b) Typographical, clerical, or scrivener's errors.

Any such revision or modification must be endorsed in writing on the approved plan by a majority of the Planning Board.

- B. **Public Acceptance of Roads, Recreational Areas.** The Planning Board's approval of a subdivision plan does not constitute or evidence any acceptance by the Town of any road, easement, or other open space shown on such Plan. When a park, playground, or other recreation area is shown on a final subdivision plan, approval of the plan does not constitute an acceptance by the Town of such areas. The final subdivision plan must be endorsed with the appropriate notes to this effect.
- C. **Compliance with Road Standards.** Any modification to a subdivision which will increase the number of lots, whether accomplished one at a time or concurrently, must provide for access to the lots in compliance with the road design and construction standards in Section VIII-2.

D. **Performance Guarantees.** The applicant must provide a performance guarantee in accordance with the requirements of Section X-10 prior to final approval of any subdivision involving more than 10,000 square feet of ground disturbance or if the Planning Board otherwise determines in its discretion that a performance guarantee is necessary or appropriate to protect the interests of the Town.

STATE LAW REFERENCE—30-A M.R.S.A. § 4407 (SUBDIVISIONS; REVISIONS TO EXISTING PLAT OR PLAN).

#### **Section VI-9. Effective Date**

A. **Effective Date.** The subdivision regulations contained in this Chapter VI (Subdivision Regulations) are effective upon their adoption by the Planning Board, or on such date that the Planning Board may designate, in accordance with 30-A M.R.S.A. §§ 4403(2).

B. **Effective Dates, Historical Notes.** Enacted September 16, 1988. Amended March 19, 2024.

STATE LAW REFERENCE—30-A M.R.S.A. § 4403(2) (SUBDIVISIONS; MUNICIPAL REVIEW AND REGULATION).

## CHAPTER VII. BUILDING REGULATIONS

### Section VII-1. Applicability: Building Permit Required

- A. **Building Permit Required.** Except as provided in subsection B, below, prior to starting any construction, replacement, remodeling, relocating, expansion, or plumbing (such as internal, external, or subsurface wastewater disposal) of any building, structure, or parts of a building or structure, the property owner must obtain a building permit from the Planning Board.
- B. **Exception.** No building permit is required for the construction or placement of any new structure for which site plan or conditional use approval has been granted pursuant to Chapter V (Site Plan Review). The replacement, relocation, or expansion of any such previously approved structure requires site plan or conditional use amendment approval.

### Section VII-2. Review Standards

Before issuing a building permit, the Planning Board must find that:

- A. **Allowed; Legally Existing Use, Structure, and Lot.**
  - 1. The proposal is an allowed use, or is a structure associated with an allowed use, in the applicable land use district.
  - 2. The proposal, if located in the shoreland zone, is an allowed use, or is a structure associated with an allowed use, in the applicable shoreland zoning district, and complies with all applicable requirements of Chapter IV (Shoreland Zoning).
  - 3. The proposal, if it concerns a nonconforming use, structure, or lot, complies with all applicable requirements of Chapter II (Nonconforming Uses, Structures, and Lots).
  - 4. The lot on which the proposed structure or use is to be located is a legally existing lot.
- B. **Dimensional Standards; Minimum Lot Size.**
  - 1. The proposal complies with all applicable dimensional standards, including those set forth in Section III-3.B.
  - 2. The proposal complies with the state minimum lot size law.
- C. **Wastewater Disposal; Potable Water.**
  - 1. The proposal complies with the state wastewater disposal rules, as applicable.
  - 2. For any dwelling unit, unit within an affordable housing development, or accessory dwelling unit, the owner of such unit must provide written verification to the Planning Board that the unit is connected to adequate water and wastewater services, as follows:
    - (a) If the unit is connected to a public, special district, or other comparable/engineered sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for connection to the sewer system.

- (b) If the unit is connected to a subsurface wastewater disposal system, proof of adequate sewage disposal for subsurface wastewater. The system must be verified as adequate by the LPI pursuant to 30-A M.R.S.A. § 4221. Plans for subsurface wastewater disposal must be prepared by a site evaluator in accordance with 22 M.R.S.A. § 42.
- (c) If the unit is connected to a public, special district, or other centrally managed water system, proof of adequate service to support any additional flow created by the structure, proof of payment for the connection and the volume and supply of water required for the structure.
- (d) If the structure is connected to a well, proof of access to potable water, including proof of compliance with the following standards:
  - i. The well must be sited and constructed to prevent infiltration of surface water and contamination from subsurface wastewater disposal systems and other known sources of potential contamination.
  - ii. Site design must allow for placement of wells, subsurface wastewater disposal areas, and reserve sites for subsurface wastewater disposal in compliance with the state wastewater disposal rules.
  - iii. Proposed activities involving sources of potential contamination, including junkyards, automobile graveyards, gas stations, and bulk storage of petroleum products, must be located at least 300 feet from existing private and public water supplies.
  - iv. For subdivisions and commercial, industrial and other non-residential development, the applicant must demonstrate that there is sufficient healthful water supply to serve the needs of the project.
  - v. When a project is to be served by a public water system, the location and protection of the source, the design, construction, and operation of the system must conform to the state drinking water rules.
  - vi. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

The written verification required by this subsection C.2 shall apply only to the extent such written verification is required by 30-A M.R.S.A. §§ 4364(5), 4364-A(4), or 4364-B(7). The Planning Board may condition approval of a building permit on such written verification.

- D. **Visual Screening.** The lot on which the proposed structure or use is to be located must be permanently landscaped with grass, trees, shrubs, and fencing where necessary in order to present an attractive setting and screen proposed structures and uses from view from adjoining properties.
- E. **Design Guidelines for Structures in the V District.** In the V district, newly constructed or reconstructed buildings, as well as existing buildings and appurtenant structures, which have been altered, repaired, or moved should be visually compatible with the buildings,

squares, and places to which they are visually related and specifically with nearby and/or adjacent buildings. All buildings in the V district are encouraged to be in keeping with the traditional surrounding architecture surrounding in order to help preserve and protect the character of this district by adhering to the following design guidelines:

1. **Scale of the Building.** The scale of a building should be visually compatible with its site and with its neighborhood.
2. **Exterior.** The exterior walls should be finished with a covering that is visually compatible with the surrounding neighborhood and be of clapboards, exterior plywood, wood or metal siding, asphalt or vinyl siding or with masonry, brick, or stone. Such covering should be completed within two years after the start of the foundation construction. The Planning Board may exempt certain utility buildings, such as small tool sheds, workshops, animal shelters, etc., and special use camps for housing, fishing, etc. not used for normal living purposes, provided they do not adversely affect the general health and welfare of the area.
3. **Roof Covering.** The roof should be covered with noncombustible or fire-resistant material, except that a dwelling or other structure, which is separated by at least 12 feet from other buildings, may be roofed with wooden shingles.
4. **Chimneys.** Every dwelling should have a chimney constructed of brick, masonry units of reinforced concrete and lined with approved fire clay or tile flue. Quality prefabricated chimneys will be approved when they meet heat output standards. When all heating equipment is electrical, chimneys are not necessary.

F. **Campsites.** Individual, private campsites not associated with a campground are allowed if the following standards are met:

1. Only one recreational vehicle is allowed on a campsite. The recreational vehicle must not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy may be attached to the recreational vehicle.
2. The clearing of vegetation for the siting of a recreational vehicle, tent, or similar shelter in the RP district is limited to 1,000 square feet.
3. A written subsurface wastewater disposal plan describing the proposed method and location of sewage disposal is required for each campsite and must be approved by the LPI. If disposal is proposed to be off-site, written authorization from the receiving facility or property owner is required.
4. When a recreational vehicle, tent, or similar shelter is placed on-site for more 120 days per year, all dimensional standards and other requirements for a single-family dwelling must be met, including the installation of a subsurface wastewater disposal system in compliance with the state wastewater disposal rules.

G. **Signs.** Signs must comply with the following standards:

1. **Billboards, Off-Premises Signs Prohibited.** Signs relating to goods or services not sold or rendered on the premises are prohibited.
2. **Size Limitations.** Signs relating to goods and services sold or rendered on the premises must not exceed the following area:

LR or GD Subdistrict	RP, SP, or LC Subdistrict	All Other Districts and Subdistricts
16 sq. ft.	6 sq. ft.	32 sq. ft.

3. **Sign Height.** Within the shoreland zone, no sign may be placed higher than 10 feet above the ground. Outside the shoreland zone, no sign may be placed higher than 20 feet above the ground or the height of surrounding vegetation, whichever is greater.
4. **Lighting.** Signs may be illuminated only by shielded, non-flashing lights.
5. **Animation.** Signs must not flash, move, have any animated or moving parts, or have the appearance of movement, except as provided by 23 M.R.S.A. § 1914(11-A).
6. **Exceptions.**
  - (a) Signs relating to trespassing and hunting are allowed without restriction as to number. Each such sign must not exceed two square feet in area.
  - (b) Signs relating to public safety are allowed without restriction as to number, size, height, or lighting.
7. **Additional Sign Standards—in the Shoreland Zone.** Signs located in the shoreland zone must comply with the following additional standards:
  - (a) No more than two signs per premises may be installed.
  - (b) Name signs must not exceed two signs per premises or 12 square feet in the aggregate.

A single sign relating to the sale, rental, or lease of the premises, no larger than three square feet in area, may be displayed on residential premises.

H. **Accessory Dwelling Units.** An accessory dwelling unit (ADU) that complies with the standards in this subsection H is not a dwelling unit for purposes of (i) applying the minimum lot size and minimum road frontage requirements in Section III-3.A or (ii) counting the number of dwelling units when applying the subdivision definition in Section IX-3. An ADU that does not comply with the standards in this subsection H is a dwelling unit and must comply with all applicable standards for a dwelling unit.

1. No more than one ADU is allowed on any lot containing one or more single-family dwelling units.
2. The ADU may be constructed within or attached to a single-family dwelling or accessory structure, or as a separate structure on the lot.
3. The ADU must contain (i) a minimum of 190 square feet of floor area, unless the Technical Building Code and Standards Board adopts a different minimum standard pursuant to 10 M.R.S.A. § 9722, in which case that standard applies; and (ii) no more than 40% of the floor area of the largest single-family dwelling located on the same lot as the ADU or 1,000 square feet, whichever is less.
4. The ADU must comply with the wastewater disposal and potable water standards of subsection C, above.

5. Nothing in this subsection H exempts an ADU from any other requirements of this Code, including the requirements of Chapter IV (Shoreland Zoning).

STATE LAW REFERENCE—12 M.R.S.A. § 4807 *ET SEQ.* (MINIMUM LOT SIZE); 10-144 C.M.R. CH. 241 (MAINE SUBSURFACE WASTEWATER DISPOSAL RULES); 38 M.R.S.A. § 435 *ET SEQ.* (MANDATORY SHORELAND ZONING); 06-096 C.M.R. CH. 1000 (GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES); 30-A M.R.S.A. § 4364, 4364-A, 4364-B (HOUSING LAW); 23 M.R.S.A. § 1913 *ET SEQ.* (MAINE TRAVELER INFORMATION SERVICES ACT).

## CHAPTER VIII. SPECIAL PURPOSE REGULATIONS

### Section VIII-1. Board of Appeals

#### A. Establishment, Organization.

1. Establishment. The Town hereby establishes a Board of Appeals.
2. Appointment. Members of the Board of Appeals must be appointed by the Select Board and sworn by the municipal clerk or other person authorized to administer oaths or affirmations. The Select Board determines the compensation of the Board of Appeals members.
3. Composition; Qualifications; Term. The Board of Appeals must consist of three regular members and one alternate member. Each member must be at least 18 years old or older, a resident of Maine, and a citizen of the United States. The term of each regular member and alternate member is three years. The terms for regular members must be staggered such that no more than two terms end in any given year.
4. Vacancy. A vacancy on the Board of Appeals occurs (i) upon the resignation or death of a member; (ii) when a member fails to attend four consecutive regular meetings without a reasonable excuse and the Select Board removes said member by majority vote, after providing notice and an opportunity for a hearing; or (iii) when a member is dismissed for cause pursuant to subparagraph 5, below. When there is a vacancy, the Select Board must appoint a person to serve for the unexpired term.
5. Dismissal for Cause. The Select Board may dismiss a member of the Board of Appeals for cause before the member's term expires, after providing notice and an opportunity for a hearing.
6. Incompatibility of Office. A member of the Board of Appeals may not hold an incompatible appointed or elected position with the Town government. Two offices are incompatible if the duties of each are so conflicting that one person holding both offices would not be able to perform the duties of each with undivided loyalty. Without limiting the foregoing sentence, neither a municipal officer nor a spouse of a municipal officer may be a member or associate member of the Board of Appeals.
7. Conflicts of Interest.
  - (a) A member of the Board of Appeals must make full disclosure of any interest that may have a bearing on matters before the board, whether or not such interest is a direct or indirect pecuniary interest as defined in 30-A M.R.S.A. § 2605(4).
  - (b) Every member of the Board of Appeals must attempt to avoid the appearance of a conflict of interest by disclosure or by abstention.
  - (c) Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member of the Board of Appeals from voting on that issue must be decided by a majority vote of the Board of Appeals, excluding the member who is being challenged.

**B. Procedure.**

1. Officers. The Board of Appeals must elect by majority vote a chairperson and a secretary from among its regular members. The term of all offices is one year, with eligibility for re-election without term limits. Vacancies in any office may be filled at any time by a majority vote of the Board of Appeals.
2. Quorum. A quorum of the Board of Appeals consists of two members. A quorum is necessary to conduct an official meeting of the Board of Appeals and to render a decision. The Board of Appeals acts by majority vote of the members present and voting.
3. Bylaws; Rules of Procedure. The Board of Appeals may adopt bylaws and rules of procedure for the conduct of meetings and public hearings, and for the transaction of other business. The Board of Appeals must file all bylaws and rules of procedure with the municipal clerk.
4. Permanent Record. The secretary is responsible for maintaining a permanent record of all meetings and all correspondence of the Board of Appeals. The secretary is responsible for maintaining those records which are required as part of the various proceedings which may be brought before the Board of Appeals. All records to be maintained or prepared by the secretary are public records. They must be filed in the municipal clerk's office and may be inspected at reasonable times.
5. Alternate Members. When a regular member is unable to act because of interest, physical incapacity, absence, or any other reason satisfactory to the chairperson, the chairperson must designate an alternate member to sit in the regular member's place. An alternate member may attend all meetings of the Board of Appeals, may ask questions or offer comments only when members of the public are allowed to do so, and may make and second motions and vote only when designated by the chairperson to sit in for a regular member.
6. Meetings. The chairperson is responsible for calling meetings of the Board of Appeals and setting the agenda. The chairperson must also call meetings of the Board of Appeals when requested to do so by a majority of the members or by the Select Board. The chairperson presides at all meetings and is the official spokesperson of the Board of Appeals. In the absence of the chairperson, the secretary will preside over meetings of the Board of Appeals. Notice of meetings must be given in accordance with the Maine Freedom of Access Act. All meetings must be open to the public, except executive sessions as provided under state law.
7. Meeting Minutes. The Board of Appeals must keep minutes of all meetings. Copies of the meeting minutes must be distributed to all members and made available for public inspection.
8. Public Record. The transcript or tape recording of testimony, if such a transcript or tape recording has been prepared by the Board of Appeals, and the exhibits, together with all papers and requests filed in the proceeding, constitute the public record. All Board of Appeals decisions become a part of the record and must include a statement of findings and conclusions, as well as the reasons or basis for the findings and conclusions, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial of relief. Notice of any decision must be mailed or hand delivered to the petitioner, the petitioner's representative

or agent, the planning board, agency or office, and the Select Board within seven days of the board's decision.

9. **Reconsideration.** The Board of Appeals may reconsider any decision in accordance with the provisions of 30-A M.R.S.A. § 2691(3).
10. **Appeals.** An appeal of a Board of Appeals decision may be taken to the Superior Court in accordance with the provisions of 30-A M.R.S.A. § 2691(3).

**C. Duties and Powers.**

1. The Board of Appeals must perform such duties and may exercise such powers as are provided by this Code and the laws of the state.
2. The Board of Appeals may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose by the legislative body of the municipality. All funds appropriated for the Board of Appeals must be expended under the supervision of the Select Board.

STATE LAW REFERENCE—30-A M.R.S.A. § 2691 (BOARD OF APPEALS)

**Section VIII-2. Road Design and Construction Standards**

**A. Applicability.** This Section VIII-2 applies to the construction, reconstruction, and maintenance of all public and private roads within the Town. The Planning Board may not approve any subdivision, site plan, or conditional application unless the road serving the project is designed in accordance with this Section VIII-2. No road will be accepted by the Select Board as a Town road unless it has been constructed or reconstructed to comply with the requirements of this Section VIII-2, but nothing in this Section VIII-2 compels the Town to accept a road as a Town road, even if it has been constructed or reconstructed to comply with these requirements.

**B. Engineered Drawings.** Prior to approving a subdivision, site plan, or conditional use application involving a proposed road, the applicant must provide to the Planning Board detailed design and construction drawings showing a plan view, profile, and typical cross-section of the proposed road and any existing roads within 200 feet of any proposed intersections, prepared by an engineer. The drawings must include:

1. Date, scale, and magnetic or true north point.
2. Intersection of the proposed road with existing roads.
3. Road and right-of-way limits, including edge of travel way, edge of shoulder, sidewalks, and curbs.
4. Kind, size, location, material, profile, and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
5. Complete curb data for all horizontal and vertical curves.
6. Turning radii at all intersections.
7. Centerline gradients.

8. Locations of all existing and proposed overhead and underground utilities, including water, sewer, electricity, telephone, lighting, and cable television.

The Planning Board must forward one copy of the design and construction drawings to the Road Commissioner for review and comment. When improvements are proposed within existing public roads, the proposed design and construction detail must be approved in writing by the Road Commissioner or the DOT, as appropriate.

C. **Classification.** For purposes of this Section VIII-2, roads are classified by function, as follows.

1. **Arterial Roads:** Major thoroughfares serving primarily as major traffic ways for travel within and through the Town.
2. **Collector Roads:** Roads serving at least 15 lots or dwelling units, and feeder roads to arterial roads and collectors of traffic from minor roads.
3. **Industrial/Commercial Roads:** Roads serving industrial and commercial uses requiring frequent tractor trailer and delivery truck usage.
4. **Minor Roads:** Local roads serving less than 15 lots or dwelling units.

Road classification is determined by the Planning Board as part of any subdivision, site plan, or conditional use review, or by the Select Board upon the petition of any person to accept a private road as a Town road, based on trip generations.

D. **Road Design Standards.** Except as provided in subsection E, below, all proposed roads must, to the greatest extent possible, comply with the following design standards:

1. Roads must be designed to provide safe vehicular travel while discouraging movement of through traffic on minor roads.
2. Reserve strips controlling access to roads are prohibited except where their control is definitely placed with the Town.
3. The arrangement, character, extent, width, grade and location of roads must be considered in their relation to existing or planned roads, to topographical conditions, to public convenience and safety, and their appropriate relation to the proposed use of land to be served by such roads. Grades of roads must conform as closely as possible to the original topography within the limits of these standards.
4. Road entrances leading onto existing or proposed arterial or collector roads must not be located within 400 feet of one another.
5. Entrances, whether proposed driveways or roads, onto existing state-aid or state highways must be approved by the DOT. Copies of such approval must be submitted to the Planning Board prior to site plan review, conditional use review, or review of the final subdivision plan.

6. The following design standards apply according to road classification:

	ARTERIAL	COLLECTOR	INDUSTRIAL / COMMERCIAL	MINOR	PUBLIC ROAD OR EASEMENT
Minimum right-of-way (ft.)	66	50	66	50	50
Minimum travel way width <sup>36</sup> (ft.)	24	22	24	20	18
Sidewalk width <sup>37</sup> (ft.)	5	5	5	5	N/A
Minimum grade (%)	0.50	0.50	0.50	0.50	0.50
Maximum grade (%) <sup>38</sup>	6	8	6	8	10
Minimum centerline radius (ft.)	500	230	400	150	150
Minimum tangent between curves of reverse alignment (ft.)	200	100	400	50	50
Roadway crown (in.)	$\frac{1}{4}$	$\frac{1}{4}$	$\frac{1}{4}$	$\frac{1}{4}$	$\frac{1}{4}$
Paved gravel (in.)	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{2}$
Minimum angle of street intersections <sup>39</sup>	90	90	90	75	75
Maximum grade within 75 feet of intersection (%)	2	2	2	2	5
Minimum curb (ft.)	30	20	30 <sup>40</sup>	20	5
Minimum right-of-way radii at intersections (ft.)	20	10	20	10	10
Minimum width of shoulders (ft.)	5	3	5	3	3

7. The centerline of the road must be the centerline of the right-of-way.

8. Any dead-end road more than 300 feet in length must have a cul-de-sac at its terminus having no less than 120 feet outside diameter of the traveled way. Where the cul-de-sac is in a wooded area prior to the road construction, a stand of trees must be maintained within the center of the cul-de-sac.

<sup>36</sup> The minimum travel way width must be measured between curbs.

<sup>37</sup> Required in urban compact area-curbs and gutters.

<sup>38</sup> Maximum grade may be exceeded for a road length of 100 feet or less.

<sup>39</sup> Street intersection angles must be as close to 90 degrees as feasible, but no less than 30 feet.

<sup>40</sup> Minimum curb must be based on turning radii of expected commercial vehicles, but no less than 30 feet.

9. The Planning Board may require the reservation of a 20-foot easement in line with the road to provide continuation of pedestrian traffic or utilities to any nearby road. The Planning Board may also require the reservation of a 50-foot easement in line with the road to provide continuation of the road where future subdivision development is possible.

10. Grades, Intersections, and Sight Distances.

- (a) Road grades must conform in general to the terrain so that cutting and filling is minimized while maintaining the grade standards in subsection D.6, above.
- (b) All changes in grade must be connected by vertical curve to provide the following minimum stopping sight distances based on the road design speed:

Design Speed (mph)	20	25	30	35
Stopping sight distance (ft.)	125	150	200	250

Stopping sight distance is calculated with a height of eye at 3.5 feet and the height of object at 0.5 feet.

- (c) Where new road intersections or driveway curb cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, must be based on the posted speed limit and conform to the following standards:

Design Speed (mph)	25	30	35	40	45	50	55
Stopping sight distance (ft.)	250	300	350	400	450	500	550

Sight distance must be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curb line or edge of shoulder, with the height of the eye 3.5 feet to the top of an object 4.5 feet above the travel way.

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

- (d) Cross (four-cornered) road intersections must be avoided to the greatest extent possible, except as allowed in the Comprehensive Plan. A minimum distance of 200 feet must be maintained between centerlines of side roads.

11. **Sidewalks.** Where installed, sidewalks must meet the following requirements:
  - (a) *Bituminous Sidewalks.*
    - i. The crushed aggregate base course must be no less than eight inches thick.
    - ii. The hot bituminous travel way surface course must be no less than two inches after compaction.
  - (b) *Concrete Sidewalks.*
    - i. The sand base must be no less than six inches thick.
    - ii. The concrete must be reinforced with six-inch square, number 10 wire mesh and must be no less than four inches thick.
12. Granite curbing must be installed on a thoroughly compacted gravel base of six inches minimum thickness. Bituminous curbing must be installed on the base course of the travel way.

E. **Reconstruction of Existing Town Roads.** Public roads reconstructed by the Town must comply with the design standards in subsection D, above, except as follows:

1. The Planning Board may waive any design standard in this Section VIII-2 if (i) the existing right-of-way is insufficient to reconstruct the public road to the design standard; (ii) physical limitations, such as the placement of existing buildings or steep grades, make construction in compliance with the design standard impractical; or (iii) traffic volumes are less than 300 trips per day. Sidewalks within the urban compact area may be waived only when the conditions of subsections (i) or (ii), above, are met. The decision of the Planning Board to waive any design standard must be based on the particular set of circumstances presented and will not set precedent for future public road reconstructions. The Planning Board may not waive any design standard if such waiver would have a more adverse impact on public safety than the existing conditions. The Planning Board must state the reasons for any approved waiver in a written decision, which must be recorded on the final road reconstruction plans.
2. The minimum right-of-way width must be that determined to exist at the time of reconstruction.
3. The minimum travel way width must not be less than 20 feet edge of asphalt to edge of asphalt for rural public roads and 20 feet curb to curb (including gutters) for public roads constructed within an urban compact area.
4. The shoulder width may be reduced to two feet for existing rural collector and minor public roads.
5. Maximum grade may be exceeded to allow the reconstruction of the public road within the existing right-of-way.
6. The pavement requirement may be waived for unpaved rural public roads if (i) traffic counts are less than 300 trips per day and (ii) the proposed road grade would not result in loss of road base or erosion.

F. **Road Construction Standards.** All new public roads must, to the greatest extent possible, comply with any DOT-recommended guidelines and the following road construction standards:

1. Minimum thickness of material after compaction:

	ARTERIAL	COLLECTOR	INDUSTRIAL / COMMERCIAL	MINOR	PUBLIC ROAD OR EASEMENT
<b>Street Materials</b>					
Aggregate sub-base course (in.) (max. sized stone 6 in.) <sup>41</sup>	18	18	24	18	18
Crushed aggregate base course <sup>42</sup>	4	3	4	3	3
<b>Hot Bituminous Pavement</b>					
Total thickness (in.)	3	3	3	3	4
Surface course (in.)	1	1	1	1	1
Base course (in.)	2	2	2	2	2

2. Preparation.

- (a) Before any clearing has started on the right-of-way, the centerline and sidelines of the new road must be staked or flagged at 50-foot intervals.
- (b) Before grading is started, the entire right-of-way must be cleared of all stumps, roots, branches, ledge, large boulders, and other objectionable material.
- (c) All organic material, rocks, and boulders must be removed to a depth of two feet below the subgrade of the road. On soils that have been identified as not suitable for roads, the subsoil must be removed from the site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base in subsection F.4, below.
- (d) Except in a ledge cut, side slopes must be no steeper than a slope of three feet horizontal to one foot vertical, and must be graded, loamed, limed, fertilized, and seeded according to the specifications in an erosion and sedimentation control plan prepared by a professional consultant. Where a cut results in exposed ledge, a side slope of no steeper than four feet vertical to one foot horizontal is permitted.

<sup>41</sup> Recommended it be placed in 2-9 in. lifts and compacted.

<sup>42</sup> Minimum 6 in. if road is to remain gravel.

- (e) Any proposed underground utilities must be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections must be installed to the edge of the right-of-way prior to paving.

3. Bases and Pavement.

- (a) *Bases.* The aggregate sub-base course must be sand or gravel of hard durable particles free from vegetative matter, lumps, or balls of clay and other deleterious substances. The graduation of the part that passes a three-inch square mesh sieve must meet the following grading requirements:

Sieve Designation	% By Weight Passing Square Mesh Sieves
½ in.	45-70%
¼ in.	30-55%
#40	0-20%
#200	0-5%

Aggregate for the base must contain no particles of rock exceeding two inches in any dimension.

- (b) *Pavement Joints.* Where pavement joins an existing pavement, the existing pavement must be cut along a smooth line and form a neat, even vertical joint.
- (c) *Curbs and Gutters.* Curbs and gutters must be installed within the urban compact area, or within any areas designed in the Town's capital improvement plan or Comprehensive Plan as an area of compact development.
- (d) *Pavements.*
  - i. The base layer of pavement must comply with the DOT specifications for plan mix grades B with an aggregate size of no more than one inch maximum.
  - ii. The surface layer of pavement must comply with the DOT specifications for plan mix grade C with an aggregate size of no more than ¾-inch maximum.

G. **Stormwater Management Design Standards.** All proposed roads must, to the greatest extent possible, comply with the following stormwater management design standards:

- 1. Adequate provision must be made for disposal of all generated stormwater and any drained groundwater through a management system of swales, culverts, under-drains, and storm drains. The stormwater management system must be designed to direct stormwater flows to existing watercourses or storm drains.
- 2. Where a road is traversed by a stream, river, or surface water drainage way, or where the surface water runoff must otherwise be controlled, swales, culverts, catch basins, or other means of channeling surface water must be designed by an

engineer and must be installed, and easements or drainage rights-of-way for such elements must be provided.

3. Drainage easements for existing water courses or proposed drainage ways must be at least 30 feet wide and conform substantially with the lines of existing natural drainage.
4. All components of the stormwater management system must be designed to limit peak discharge to predevelopment levels for every storm between the 2-year and the 25-year, 24-hour duration, frequencies based on rainfall data for Bangor, Maine. When the discharge is directed to a major water body, peak discharge may not be increased from predevelopment levels unless downstream drainage structures are suitably sized.
5. The minimum pipe size for any storm drainage pipe is 15 inches. The maximum trench width at the pipe crown is the outside diameter of the pipe plus two feet. The pipe must be bedded in a fine granular material, containing no stones larger than three inches, lumps of clay, or other organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.
6. The stormwater management system must be designed to accommodate upstream drainage, accounting for existing conditions and planned developments not yet built and must include a surplus design capacity factor of 25% for potential increases in upstream runoff.
7. The storm drainage system must not overload existing or future planned storm drainage systems downstream.
8. Catch basins must be installed where necessary and located at the curb line.
9. Outlets must be stabilized against soil erosion by stone riprap or other suitable materials to reduce stormwater velocity. Wherever the stormwater drainage system is not within the right-of-way of a public road, perpetual easements must be provided to the Town allowing for maintenance and improvement of the system.
10. Where soils require a subsurface drainage system, the drains must be installed and maintained separately from the stormwater drainage system.

## H. **Storm Drainage Construction Standards.**

1. Materials.
  - (a) Reinforced Concrete Pipe. Reinforced concrete pipe must meet the requirements of ASTM Designation C-76 (AASHTO M 170). Pipe classes must be required to meet the soil and traffic loads with a safety factor of 1.2 on the 0.1-inch crack strength with a Class B bedding. Joints must be the rubber gasket type meeting ASTM Designation C 443-70, or an approved performed plastic joint material such as "Rannek." Perforated concrete pipe must conform to the requirements of AASHTO M 175 for the appropriate diameter.
  - (b) Asbestos Cement Pipe. Asbestos cement pipe must meet the requirements of ASTM Designation C-428 (AASHTO M 189). Pipe classes must be required to meet the soil and traffic loads with a safety factor of 1.5 of the

crushing strength. Joints must be of the rubber gasket type meeting ASTM designation D-1869-63, or of an approved performed plastic sleeve type.

- (c) Corrugated Metal Pipe. Corrugated metal pipe must be bituminous coated meeting the requirements of AASHTO Designation M 190 Type C for iron or steel pipe or AASHTO Designation M 1996 for aluminum alloy pipe for sectional dimensions and type of bituminous coating. Pipe gauge must meet the soil and traffic loads with a deflection of not more than 5%.
- (d) ABS Pipe. ABS (Acrylonitrile-butadiene-styrene) composite pipe and fittings must conform to the requirements of AASHTO M 265. Perforated pipe must conform to the requirements of AASHTO M 36, Type III.
- (e) Corrugated Plastic Pipe. Corrugated plastic pipe must conform to the requirements of AASHTO M-252.
- (f) Manholes. Manholes must be a precast concrete truncated cone section construction meeting the requirements of ASTM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type. Bases may be cast in place 3,000 psi 28-day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and traps must be set in a full mortar bed and with tops that conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings, or AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel.
- (g) Catch Basins. Catch basins must be of precast concrete truncated cone section construction meeting the requirements of ASTM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type. Castings must be square cast iron sized for the particular inlet condition with the gratings perpendicular to the curb line. Bases may be cast in place 3,000 psi 28-day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and traps must be set in a full mortar bed and with tops that conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel.

2. Drain inlet alignment must be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Planning Board, after consultation with the Road Commissioner.
3. Manholes must be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes must be placed at a maximum of 400-foot intervals.
4. Upon completion each catch basin or manhole must be cleaned of all accumulation of silt, debris, or foreign matter and must be kept clean until final acceptance.

**I. Additional Requirements.**

1. **Erosion Control.** The procedures set forth in an erosion and sedimentation control plan must be implemented during the site preparation, construction, and cleanup stages.
2. **Clean-up.** Following road construction, a thorough cleanup of stumps and other debris from the entire road right-of-way must be made. If on-site disposal of stumps and debris is proposed, the disposal site must be indicated on the road plan and must be suitably covered with fill and topsoil, limed, fertilized, and seeded.
3. **Names, Signs, Lighting.** Roads that join and are in alignment with roads of abutting or neighboring properties must bear the same name. Names of new roads must comply with the *Town of Columbia Falls 911 Addressing Ordinance* and are subject to approval by the Select Board. The developer must reimburse the Town for the costs of installing road name, traffic safety, and control signs. Street lighting must be installed as approved by the Select Board.
4. **Private Road Access.** If access to a public road is via a private or association road, the private or association road must conform to the requirements of this Section VIII-2.

**J. Inspection.** The Select Board must cause inspections to be made upon completion of the following phases of road construction or reconstruction:

1. Preparation – clearing of right-of-way.
2. Sub-base course.
3. Aggregate base course.
4. Stormwater provisions.
5. Completed project.

**K. Certification of Construction.** Upon completion of the road construction and prior to any vote by the Select Board to accept a proposed Town road, a written certification signed by an engineer must be submitted to the Select Board certifying that the proposed road meets or exceeds the standards in this Section VIII-2.

**A. As-Built Drawings.** Detailed “as-built” construction drawings prepared by an engineer showing a plan view, profile, and typical cross-section of the newly constructed road and any existing roads within 200 feet of any proposed intersections must be submitted within 14 days of completion of construction and prior to (i) the sale of any lots within a subdivision, (ii) the initiation of commercial operation of an approved site plan or conditional use, or (iii) any vote by the Select Board to accept a proposed Town road. The drawings must include:

1. Date, scale, and magnetic or true north point.
2. Intersection of the new road with existing roads.
3. Road and right-of-way limits, including edge of travel way, edge of shoulder, sidewalks, and curbs.

4. Kind, size, location, material, profile, and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
5. Complete curb data for all horizontal and vertical curves.
6. Turning radii at all intersections.
7. Centerline gradients.
8. Locations of all existing and new overhead and underground utilities, including water, sewer, electricity, telephone, lighting, and cable television.

### **Section VIII-3. Local Food and Community Self-Governance**

- A. **License and Inspection Exemption.** Notwithstanding any other provision of this Code or any other ordinances or regulations of the Town to the contrary, and except as set forth in subsection A.1, below, direct producer-to-consumer transactions involving local food are exempt from state and local licensing and inspection requirements.
  1. Exception. In accordance with 7 M.R.S.A. § 285, manufacturers of meat, meat products, poultry, or poultry products (as those terms are defined in 22 M.R.S.A. § 2511) are not exempt from those state inspection and licensing requirements necessary to ensure that the requirements of the state's meat and poultry products inspection, registration and licensing program are at least equal to the applicable requirements specified under applicable federal acts.
- B. **Definitions.** For purposes of this Section VIII-3, the following terms have the following meanings:
  1. “Direct producer-to-consumer transaction” means an exchange of food or food products directly between a food producer and a consumer by barter, trade, or purchase on the property or premises owned, leased, or rented by the food producer; at roadside stands, fundraisers, farmers’ markets, and community social events; or through buying clubs, deliveries, or community-supported agriculture programs, herd-share agreements, and other private arrangements.
  2. “Local food” means any food or food products (including vegetables, fruit, milk or milk products, meat or meat products, poultry or poultry products, fish or fish products, seafood or seafood products, fresh produce, cider or juice, acidified foods, or canned fruits or vegetables) that are grown, produced, processed, or prepared for human consumption within the Town.
  3. “Producer” means any person who cultivates or harvests food from the land; husbands livestock on the land; catches or harvests food from the water; makes food from one or more ingredients (including by baking, boiling, bottling, canning, cooking, cutting, distilling, evaporating, extracting, freezing, grinding, mixing, pasteurizing, rendering, packaging, trimming, washing, or waxing); or plates, serves, or otherwise provides food to a consumer.

C. **Right to Food.** The citizens and residents of the Town possess the right to save and exchange seed and the right to grow, raise, harvest, produce, and consume the food of their own choosing for their own nourishment, sustenance, bodily health, and well-being as long as they do not commit trespass, theft, poaching or other abuses of private property rights, public lands, or natural resources in the harvesting, production, or acquisition of food.

STATE LAW REFERENCE—7 M.R.S.A. §§ 281-286 (MAINE FOOD SOVEREIGNTY ACT); ME. CONST. ART. 25 (RIGHT TO FOOD).

#### **Section VIII-4. Mass Gatherings**

A. **Applicability.** This Section VIII-4 applies to the sponsorship and operation of any mass gathering within the Town, except mass gatherings that are sponsored or operated by the Town.

B. **Permit Required.** No person may sponsor, promote, operate, or hold a mass gathering within the Town without first securing a mass gathering license from the Select Board in accordance with this Section VIII-4. Each mass gathering requires a separate license.

C. **Review Procedures.**

1. **Application Submission; Completeness Review.** The applicant must submit a mass gathering license application in accordance with subsection D, below. The applicant must give notice of the application submission in accordance with Section I-9 or by alternative means as approved by the Select Board. The Select Board must determine whether the application is complete for review pursuant to Section I-8.B.
2. **Meeting or Hearing.** After finding an application complete for review, the Select Board may, in its discretion, schedule a public hearing on the application in accordance with subsection C.3.(a), below. In deciding whether to hold a public hearing, the Select Board may consider, among other factors, whether the application presents matters or issues of substantial controversy or public importance, or whether a public hearing would likely unearth new information relevant to the Select Board's review.
  - (a) If no public hearing is held, the application will be placed on the agenda of the Select Board's next regularly scheduled meeting for review. The applicant must attend the meeting of the Select Board when the application is reviewed. If the Select Board finds, during its review, that the application presents matters or issues of substantial controversy or public importance or a public hearing would likely unearth new relevant information, the Select Board may, in its discretion, schedule a public hearing in accordance with subsection C.3.(b), below.
  - (b) If the Select Board decides to hold a public hearing, the Town must publish the time, date, and place of the hearing at least 12 days prior to the hearing in a newspaper of area-wide circulation, and the applicant must give notice of the hearing in accordance with Section I-9.
3. **Site Visits.** At any time during its review, the Select Board may request that the applicant arrange for a site visit with the Select Board and the public. The applicant must give notice of the site visit in accordance with Section I-9.

4. Supplemental Information; Proposed Modifications by Applicant. At any time during its review of an application, the Select Board may accept, in its discretion, supplemental information or proposed modifications to the application which the applicant requests to submit. Any such supplemental information or proposed modifications must be submitted to the Select Board at least 12 days prior to the meeting or public hearing scheduled pursuant to subsection C.3, above.
5. Additional Information. At any time during its review, the Select Board may request additional information from the applicant and establish the due date for submittal of such additional information. If the information is not submitted by the applicant by the due date, the application may be returned as incomplete.
6. Written Decision. The Select Board must issue a written decision in accordance with Section I-8.C.

**D. Submission Requirements.**

1. Timing. The applicant must submit a mass gathering application at least 60 days prior to the proposed mass gathering event.
2. Copies. The applicant must submit four paper copies and one electronic PDF of the mass gathering application and any supporting documents or evidence.
3. Application Submission Requirements. In addition to the application submission requirements in Section I-7, the applicant must submit the following materials unless waived by the Select Board in accordance with Section I-14:
  - (a) A written statement describing the purpose and scope of the mass gathering, including anticipated and proposed maximum number of participants, and the dates and hours on which the mass gathering will be held.
  - (b) On the site plan required by Section I-7.G:
    - i. The specific locations of all temporary structures, equipment, and facilities, including: toilet and sanitation facilities, water supply sources, trash disposal and collection facilities, lighting sources, areas of assembly, stages, vendor booths, exhibition halls, demonstration areas, show rings, vehicular and bicycle parking areas, camping areas, food service or food truck areas, communication equipment, and areas of ingress and egress for pedestrian and vehicular traffic (including vendor, contractor, and employee traffic).
    - ii. All watercourses, wetlands, water bodies, wooded areas, and sensitive natural resources on the affected property.
  - (c) A written statement consisting of a detailed explanation of the applicant's plans for ensuring that each of the review criteria in subsection E are met, and demonstrating that adequate services and facilities will be provided to protect the health and safety of attendees and the general public.
  - (d) A copy of any state permits required by 22 M.R.S.A. § 1601.

E. **Review Criteria.** A proposal for a mass gathering must comply with the following review criteria:

1. **Site Arrangement.** The mass gathering site must be arranged (i) to ensure that all areas are well drained; (ii) to provide convenient and safe space for persons assembled, vehicles, equipment, facilities, and appurtenances; (iii) to provide for convenient and safe emergency vehicle access; and (iv) to prevent unreasonable soil erosion.
2. **Convenient and Safe Access.** The proposal must provide for convenient and safe access for ingress and egress of pedestrian, bicycle, and vehicular traffic, including by adequate traffic control. Traffic safety must be maintained on public or private roads serving the mass gathering.
3. **Parking.** The proposal must provide adequate off-street parking to accommodate the projected needs of the mass gathering. At least one parking space per four attendees must be provided on site, unless the applicant proposes an alternative arrangement sufficient to address the projected parking needs.
4. **Sewage Disposal.** The proposal must provide for adequate sewage disposal, including by demonstrating compliance with all applicable provisions of the state wastewater disposal rules and 22 M.R.S.A. § 1601 *et seq.*
5. **Water Supply.** Sufficient water must be available for the reasonably foreseeable needs of the proposed mass gathering. When water under pressure is not available and temporary toilets are used, at least three gallons of water per person per day must be provided for drinking and sanitation purposes.
6. **Trash Disposal.** The affected property must be free from accumulation of trash during and after the mass gathering. Trash must be collected, transported, and stored so as to protect from odor, infestation, and other nuisance conditions.
1. **Noise.** The proposal must not, alone or in conjunction with existing activities, raise noise levels to the extent that abutting or nearby residents or properties are adversely affected. The maximum permissible sound pressure level of any continuous, regular, or frequent source of sound produced by the mass gathering must not exceed the following sound pressure level limits:

7:00 a.m. – 8:00 p.m.	8:00 p.m. – 7:00 a.m.
70 dB(A)	55 dB(A)

Sound pressure levels must be measured on a sound level meter at all lot lines of the proposed mass gathering area, at a height of approximately four feet above the ground surface.

7. **Exterior Lighting.** All exterior lighting must be located and designed to (i) ensure safe movement of people and vehicles; (ii) avoid glare and reflection on adjacent properties and roads; and (iii) not impair the vision of the driver of any vehicle upon any road.
8. **Vegetation.** The affected property must be preserved in its natural state to the greatest extent possible by minimizing tree removal, minimizing disturbance of soil, and retaining natural vegetation in order to minimize the impacts of the proposal on neighboring land uses, facilitate drainage, and prevent erosion.

9. Safety and Security. The applicant must ensure event security and the protection of public health and property before, during, and after the mass gathering by demonstrating that:
  - (a) adequate law enforcement or private security will be available and deployed before, during, and after the mass gathering;
  - (b) adequate medical supplies and personnel (including emergency medical services) will be available and deployed during the mass gathering;
  - (c) adequate fire protection equipment and fire rescue services will be available and deployed during the mass gathering; and
  - (d) adequate radio communications will be available at the mass gathering site for emergency purposes.
10. Hours of Operation. The hours of operation for a mass gathering must not cause unreasonable disruption to the normal pattern of activities in the neighborhood.
11. Food Service. Adequate provision must be made to provide wholesome and sanitary food for any mass gathering exceeding six hours in length.
12. Overnight Accommodations. If the mass gathering exceeds 24 hours, adequate provision must be made to provide safe and sanitary overnight accommodations for persons assembled.

**F. Post-Approval Requirements.**

1. Performance Guarantee. The Select Board may require the filing of a performance guarantee for any licensed mass gathering in accordance with Section X-10.
2. Insurance. At least 14 days before the scheduled date of any licensed mass gathering, the license holder must provide to the Select Board a certificate of insurance issued by an insurer licensed to do business in the State of Maine, demonstrating that the license holder carries special event or general liability insurance covering death, bodily injury, and property damage written on an occurrence form and in a sum no less than \$1,000,000 general aggregate and \$1,000,000 each occurrence.
3. Inspections. The license holder must admit any Town officer, official, employee, or agent to make inspections of the mass gathering site for compliance with this Section VIII-4 and any license conditions.

STATE LAW REFERENCE—22 M.R.S.A. § 1602(3) (MASS GATHERINGS, MUNICIPAL ORDINANCES AND REGULATIONS).

## CHAPTER IX. RULES OF CONSTRUCTION, ACRONYMS, AND DEFINITIONS

### Section IX-1. Rules of Construction

It is the legislative intent of the voters of the Town, in adopting this Code, that all provisions of this Code be liberally construed to protect and preserve the health, safety, and welfare of the inhabitants of the Town. In the construction of this Code, the following rules apply, unless (i) such construction is inconsistent with the plain meaning of the affected provision of the Code and the context clearly otherwise requires, or (ii) a definition is otherwise provided in this Code:

- A. **Code.** The word “Code” means the Columbia Falls Code of Ordinances and any amendments thereto.
- B. **Computation of Time.** Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding, the day on which such notice is given or such act is done is not counted in computing the time, but the day on which such proceeding is to be held is counted.
- C. **Delegation of Authority.** Whenever a provision of this Code requires an officer of the Town to do some act or perform some duty, reference to such officer authorizes the officer to designate, delegate, and authorize subordinates to perform the required act or duty, unless the provision specifies otherwise.
- D. **District, Subdistrict.** The word “district” or “subdistrict” refers to the land use districts established in Chapter III or the shoreland zoning subdistricts established in Chapter IV, as the context may dictate.
- E. **Including.** The word “including” means “including, but not limited to.”
- F. **Measuring Distances.** All widths and distances, including minimum lot width, minimum road frontage, minimum setback, minimum setback area, minimum setback from any common lot line, minimum setback line, minimum shore frontage, minimum shoreland setback, or the like, must be measured as horizontal distances.
- G. **Or, And.** The word “or” may be read “and,” the word “and” may be read “or,” and either word may be read “and/or,” as the context dictates.
- H. **Owner, Property Owner.** The word “owner” or “property owner,” applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, or joint tenant of the whole or of a part of such building or land.
- I. **Person.** The word “person” means any individual, firm, partnership, corporation, company, association, club, joint venture, estate, trust, governmental agency, municipality, other legal entity, or any group or combination acting as a unit and the individuals constituting such group or unit.
- J. **Professional Consultants.** All references to professional consultants, including arborists, engineers, foresters, geologists, hydrogeologists, land surveyors, and soil scientists mean professionals that are licensed or registered by the Maine Office of Professional and Occupation Regulation and its licensing boards and programs or otherwise licensed or registered in accordance with applicable Maine laws and rules.
- K. **References to Chapters or Sections.** All references to chapters or sections are to the chapters and sections of this Code, unless otherwise specified.

- L. **References to State Statutes and Rules.** References to Maine statutes and Maine state department or agency rules include any amendments and successor provisions thereto.
- M. **Shall, Must, Will, May Not, May, Should.** The words “shall,” “must,” “will,” and “may not” are mandatory and not discretionary. The words “may” and “should” are permissive.
- N. **State.** The words “the state” mean the State of Maine.
- O. **State Law References and Historical Notes.** The state law references and historical notes scattered throughout the Code are for the benefit of the user of the Code and have no legal effect.
- P. **Technical Words.** Unless specifically defined in this Code, words and phrases must be construed according to their customary dictionary meanings, except that technical words and phrases that have acquired a peculiar meaning in law must be construed according to such meaning.
- Q. **Tense.** Words used in the present or past tense include the future tense, as well as the present and past tense.
- R. **Town.** The word “Town,” “Columbia Falls,” “the Town of Columbia Falls,” and to any board, official, or officer means the Town of Columbia Falls, Maine, an incorporated municipality in the County of Washington, State of Maine, and its municipal boards, officials, and officers.

STATE LAW REFERENCE—FOR SIMILAR PROVISIONS, SEE 1 M.R.S.A. § 72.

## Section IX-2. Acronyms

<b>CEO</b>	Code Enforcement Officer
<b>DACF</b>	Maine Department of Agriculture, Conservation and Forestry, and any successor state department or agency
<b>DECD</b>	Maine Department of Economic and Community Development, and any successor state department or agency
<b>DEP</b>	Maine Department of Environmental Protection, and any successor state department or agency
<b>DHHS</b>	Maine Department of Health and Human Services, and any successor state department or agency
<b>DOT</b>	Maine Department of Transportation, and any successor state department or agency
<b>FAA</b>	Federal Aviation Administration, and any successor federal department or agency
<b>FCC</b>	Federal Communications Commission, and any successor federal department or agency
<b>FEMA</b>	Federal Emergency Management Agency, and any successor federal department or agency
<b>LPI</b>	Local Plumbing Inspector

<b>MDIFW</b>	Maine Department of Inland Fisheries and Wildlife, and any successor state department or agency
<b>MHPC</b>	Maine Historic Preservation Commission, and any successor state department or agency
<b>M.R.S.A.</b>	The latest edition of the Maine Revised Statutes Annotated
<b>NFPA</b>	National Fire Protection Association
<b>NRPA</b>	The Natural Resources Protection Act, codified at 38 M.R.S.A. § 480-A <i>et seq.</i>

### **Section IX-3. Definitions**

**Accessory Dwelling Unit** — Refer to “dwelling unit, accessory.”

**Accessory Structure or Accessory Use** — A structure or use that is incidental and subordinate to the principal structure or principal use on the same lot. Accessory uses, when aggregated, must 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 common wall is considered part of the principal structure.

**Addition** — An extension or increase in floor area or height of a building or structure.

**Affordable Housing Development** — A development composed of single-family dwellings, two-family dwellings, or multi-family dwellings and, (1) for rental housing, in which a household whose income does not exceed 80% of the area median income can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs; and, (2) for owned housing, in which a household whose income does not exceed 120% of the area median income can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs. For purposes of this definition, “housing costs” means: (a) for a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and (b) for an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner's insurance, condominium fees, and homeowners' association fees.

**Aggrieved Party or Aggrieved Person** — A person who participated in a public hearing, if one is held under this Code, and (i) whose property is directly or indirectly affected by the grant or denial of a permit, approval, or variance under this Code; (ii) whose land abuts land for which a permit, approval, or variance has been granted under this Code; or (iii) who suffers a particularized injury as a result of the grant or denial of a permit, approval, or variance under this Code.

**Agriculture** — The commercial production of plants and animals and their products to supply humans with food, feed, fiber, or fur, including forages and sod crops; grains and feed crops; dairy and dairy products; bees and bees' products; poultry and poultry products; livestock and livestock products; manure and compost; and fruits, berries, vegetables, flowers seeds, grasses and other similar products. This definition includes agricultural composting operations, agricultural support services, and farm operations, as those terms are defined in 7 M.R.S.A. § 152; the construction, alteration, or maintenance of farm or livestock ponds which are not fed or drained by a flowing water; the operation of machinery and the construction of buildings to store equipment, products, and materials for maintaining roads; other structures used primarily for agricultural purposes; and agritourism. This definition does not include agriculture primarily for household or personal use, sawmills, piggery agriculture, poultry agriculture, or product processing agriculture.

**Agriculture, Piggery** — The commercial production of pigs and pig products to supply humans with food or feed, including the premises, area, fenced enclosure, building, or structure, or portion thereof, used or

designed for the production, keeping, or breeding of pigs. This definition does not include piggery agriculture operations keeping or designed to keep two or fewer sows or 20 or fewer head, which are considered “Agriculture,” or operations keeping or designed to keep more than 200 head, which are prohibited.

**Agriculture, Poultry** — The commercial production of poultry or poultry products to supply humans with food or feed, including the premises, area, fenced enclosure, building, or structure, or portion thereof, used or designed for the production, keeping, or breeding of poultry or fowl or production of eggs. This definition does not include poultry agriculture operations keeping or designed to keep 50 or fewer birds, which are considered “agriculture,” or operations keeping or designed to keep more than 200 birds, which are prohibited.

**Agriculture, Product Processing** — The processing of agricultural products or making of food for human consumption and sale from one or more ingredients by synthesizing, preparing, treating, modifying, or manipulating food or food products. Examples of product processing activities include baking, boiling, bottling, canning, cooking, cutting, distilling, evaporating, extracting, freezing, grinding, mixing, pasteurizing, rendering, packaging, trimming, washing, or waxing. This definition includes slaughterhouses, butcheries, commercial kitchen operations, catering establishments, home kitchens, roadside stands, farmers’ markets, and community social events, but does not include piggery agriculture or poultry agriculture.

- “Community-scale” means agriculture product processing occurring at a local, cottage-industry scale at a farm, homestead, home kitchen, farm-based kitchen, home bakery, or similar facility owned, leased, or rented by a food producer who exchanges the agricultural products or processed foods directly with consumers by barter, trade, or purchase at that facility; at roadside stands, fundraisers, farmers’ markets, or community social events; or through buying clubs, deliveries, or community-supported agriculture programs, herd-share agreements, or other private arrangements.
- “Industrial-scale” means agriculture product processing occurring at an industrial scale and intended for retail or wholesale distribution to a regional, national, or international market.

**Agritourism** — Activities incidental and subordinate to agriculture or the operation of a farm that brings members of the public to the farm for educational or recreational purposes to view or enjoy agricultural activities, including farming, educational workshops, harvest-your-own activities, or nature viewing.

**Alley** — A public or private right-of-way less than 22 feet wide that is primarily designed to serve as a secondary access to the rear or side of those properties whose principal road frontage is on another road.

**Alteration** — A change or modification requiring movement in the location of major structural members of a building, including bearing walls, columns, beams, girders, or substantial remodeling, but not including cosmetic, decorative, or appliance/fixture upgrades or routine maintenance or repair of a building.

**Ambulance / Fire Station** — A facility for emergency ambulance or paramedic services that treats illnesses and injuries that require an urgent medical response and provides out-of-hospital treatment and transport to definitive care, or emergency fire response services, such as a fire station or fire house.

**Animal Shelter** — A facility used to house or contain stray, homeless, abandoned, or unwanted animals that is owned, operated, or maintained by a public body, a humane society, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

**Antenna** — Any system of poles, panels, rods, reflecting discs, or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

**Applicant** — A person with sufficient right, title, or interest to submit an application for a permit or approval or a variance request to a reviewing authority pursuant to this Code. This definition may include any duly authorized designee or agent of the applicant if the context so dictates.

**Aquaculture** — The commercial growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species. “Community-scale aquaculture” occupies a land or water area of 20 acres or less; “industrial-scale aquaculture” occupies a land or water area greater than 20 acres.

**Aquifer** — A saturated permeable geologic unit consisting of unconsolidated sediment or bedrock that can yield economically valuable quantities of water. This definition includes all areas specifically mapped as aquifers by the Maine Geological Survey or a geologist.

**Area Median Income** — The midpoint of a region’s income distribution calculated on an annual basis by the U.S. Department of Housing and Urban Development (“HUD”). For purposes of this definition, “region” is the HUD-designated metropolitan area that includes the Town.

**Assisted Living Facility** — A residence for the elderly that provides housing, limited care, meals, personal care, and supervision, and which may provide other services such as recreational activities, financial services, and transportation.

**Auction / Auction House** — A facility or place used for a public sale in which goods or property are sold to the highest bidder.

**Automobile Graveyard** — An “automobile graveyard” as that term is defined in 30-A M.R.S.A. § 3752(1).

**Automobile Recycling Business** — An “automobile recycling business” as that term is defined in 30-A M.R.S.A. § 3752(1-A).

**Auto / Boat Sales, Service, and Storage** — The commercial use of any building, land, or other premises principally for the display, sale, rental, or lease of new or used watercraft, automobiles, light trucks, vans, trailers, or recreational vehicles, and the incidental and subordinate repair or storage of such watercraft or vehicles. This definition includes any vehicle preparation, warranty, or repair work conducted as an accessory use.

**Auto Washing Facility** — A facility used to clean the exterior and, in some cases, the interior of motor vehicles.

**Bank** — A financial institution open to the public that is engaged in deposit banking or performs closely related functions such as making loans and investments, and conducting fiduciary activities.

**Bar / Tavern / Cocktail Lounge** — A facility or structure primarily devoted to the serving of alcoholic beverages, with the service of food incidental to the consumption of such beverages. This definition includes meeting places or other facilities of nonprofit organizations that are licensed to serve alcoholic beverages.

**Basal Area** — The area of cross-section of a tree stem at 4½ feet above ground level and inclusive of bark.

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

**Bed and Breakfast / Small Inn** — A facility that offers sleeping accommodations to lodgers in eight or fewer rooms for rent with no provision for cooking in any individual guest room, which may, but is not required to, include a private residence that is the innkeeper’s principal residence. A lodger is a person who rents a room in a bed and breakfast / small inn for less than 30 days.

**Boarding House** — A residential structure in which six or fewer rooms, or rooms and meals, are provided to occupants for at least one week, with meals available only to the occupants. The structure must be occupied by a resident owner or manager. There may be no provision for cooking in any individual guest room. Housekeeping services may be included.

**Boarding Kennel** — A place where domestic pets are housed temporarily for a fee.

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

**Brewery / Distillery / Winery** — An establishment or place where beer, liquor, or wine is made commercially, which may also be licensed to sell on the premises as a bar / tavern / cocktail lounge.

**Buffer or Buffer Strip** — A defined and described lot, or portion of a lot, that (i) must remain unaltered, vegetated, revegetated, unscarified, undisturbed, and/or in its natural state, or (ii) serves to minimize environmental impacts to natural resources or audiovisual impacts to surrounding properties, as the context may dictate.

**Buildable Area** — The surface area of a lot, minus the area of all required minimum setback areas and open space requirements.

**Building** — Any structure arranged, designed, intended, or used for the shelter, housing, or enclosure of persons, animals, processes, equipment, or property.

**Building Materials Yard** — An outside storage area for materials used in building and construction, such as roofing, fill material, wood, equipment, vehicles, machinery, paints, pipes, or electrical components.

**Campground** — An area of land devoted to overnight recreational or educational use on a short-term basis, where the area is divided into more than four but fewer than 100 campsites. This definition does not include resorts / glampgrounds.

**Campsite** — An area of land that is devoted to overnight recreational or educational use on a short-term basis by up to 10 individuals, and which contains primitive site improvements such as a gravel pad, parking area, fire pit, and tent platform. A campsite not associated with a campground is limited to one such site within the shoreland zone and four or fewer such sites outside the shoreland zone. This definition does not include resorts / glampgrounds.

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

**Cemetery** — An area devoted to the burial of the dead, including mausoleums, and related sales and maintenance facilities. This definition includes mortuaries when operated within the boundary of a cemetery.

**Centrally Managed Water System** — A “centrally managed water system” as that term is defined the DECD Municipal Land Use and Zoning Ordinance Rule, codified at 19-100 C.M.R. ch. 5, § 1(B).

**Children’s Summer Camp** — A seasonal camp that may include seasonal buildings providing room, board, and recreation for children during all or part of a vacation period, normally the summer, for a fee.

**Clay** — A fine grained material consisting mainly of hydrated aluminum silicates that occurs naturally in soil and sedimentary rock and is used in making bricks, ceramics, and cement.

**Co-Location** — The use of a wireless telecommunications facility, including a communication tower, by more than one wireless telecommunications provider.

**Commercial Use** — The use of land, buildings, or structures to buy and sell goods or services, which use is intended for and results in the production of income. This definition does not include a home occupation or the rental of residential buildings or dwelling units.

**Common Lot Line** — Refer to “minimum setback from any common lot line.”

**Common Scheme of Solar Development** — A plan or process of solar energy facility development that takes place on contiguous lots or non-contiguous lots located within 2,000 feet of each other and exhibits characteristics of a unified approach, method, or effect (including unified ownership, management, or supervision; sharing of common equipment or labor; or common financing).

**Communication Tower** — Any structure, whether free-standing or in association with a permanent building or permanent structure, that is designed and constructed primarily for the purposes of supporting one or more antennas or other devices to provide radio or television transmission, mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange pone services, personal communications services (PCS), pager services, internet services, or the like, including any self-supporting lattice tower, guy tower, or monopole tower. This definition includes radio and television transmission towers, microwave towers, common carrier towers, cellular phone towers, wireless telecommunications facilities, and similar tower structures.

**Community Center** — A place or building used by the public for meetings for social, educational, or recreational activities, or similar uses, none of which are operated for profit.

**Community Garden** — A piece of public or private land gardened collectively by a group of people utilizing either individual or shared plots.

**Comparable/Engineered Sewer System** — A “comparable sewer system” as that term is defined the DECD Municipal Land Use and Zoning Ordinance Rule, codified at 19-100 C.M.R. ch. 5, § 1(B).

**Comprehensive Plan** — (i) Any part or element of the overall plan and policy for development of the Town, as defined in 30-A M.R.S.A. §§ 4301-4357; or (ii) the *Town of Columbia Falls Comprehensive Plan*, as amended, as the context dictates.

**Conditional Use** — Any use, or structure associated with such use, that is generally inappropriate in a land use district *unless* controlled as to location, design, size, scale, bulk, hours of operation, and other characteristics so as to have no undue adverse impact on neighboring uses or the public health, safety, or welfare.

**Complete for Review** — A determination by the reviewing authority that an application is accepted and ready for substantive review by the reviewing authority based on whether the application is accompanied by the proper application fee; contains sufficient documentation of right, title, or interest; and contains sufficient information for the reviewing authority to begin its review.

**Corner Lot** — A lot abutting and at the intersection of two or more roads.

**Curb Cut** — The connection to a road, or opening along the curb line, at which point vehicles may enter or leave the road.

**Day Care Facility** — A Maine-licensed facility operated for the purpose of providing care and protection during part of a 24-hour day to children or adults. This definition does not include the provision of day care services in a dwelling unit where the property owner is the proprietor of the business and the use otherwise satisfies the requirements of a home occupation.

**DBH** — The diameter of a standing tree measured 4½ feet from ground level.

**Development** — A change in land use involving alteration of the land, water, or vegetation; or the addition or alteration of structure; or other construction not naturally occurring.

**Dimensional Standards** — The minimum lot size, minimum road frontage, minimum shore frontage, maximum lot coverage, minimum public road setback, minimum setback from any common lot line including from private roads, minimum shoreland setback, minimum lot width, and maximum height.

**Disability** — A “physical or mental disability,” as that term is defined in 5 M.R.S.A. § 4553-A.

**Driveway** — A vehicular access route or right-of-way less than 500 feet in length serving or intended to serve any structure, use, or vacant lot, except if such a driveway is proposed as part of a subdivision, site plan review, or conditional use application in which case it is a road.

**Dwelling, Multi-Family** — A building consisting of three or more attached dwelling units.

**Dwelling, Single-Family** — A building designed or intended to be used exclusively for residential occupancy by one family, and containing one dwelling unit.

**Dwelling, Two-Family** — A building consisting of two attached dwelling units.

**Dwelling Unit** — A structure or portion of a structure containing one or more rooms or group of rooms designed, built, and used for permanent or seasonal human habitation, with each such unit containing cooking, sleeping, and toilet facilities. “Dwelling unit” includes manufactured homes (including mobile homes and modular homes), as defined in 30-A M.R.S.A. § 4358, but does not include motel units, hotel units, boarding houses, agricultural labor housing facilities as defined in 26 M.R.S.A. § 585, recreational vehicles, or other residential units intended primarily for transient occupancy. The long-term rental of a dwelling unit is considered a usual and normal use associated with a dwelling unit.

**Dwelling Unit, Accessory or ADU** — A self-contained dwelling unit that is located within, attached to, or detached from a single-family dwelling.

**Easement** — The authorization of a property owner for the use by another, and for a specified purpose, of any designated part of the owner’s property.

**Education Facility** — A building or facility used for academic instruction of enrolled students, including a nursery school, public or private school, college, university, medical school, law school, or career and technical education school.

**Electric Vehicle Charging Station** — A facility containing a parking area and equipment that supplies electrical power for recharging plug-in electric vehicles and plug-in hybrid vehicles, and which is open for public use for free or for a fee.

**Emergency Operations** — Operations conducted for the public health, safety, or general welfare, including 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.

**Equestrian Facility** — A facility for the purpose of accommodating, breeding, training, or competing equids, especially horses. An equestrian facility may be known as a barn, stables, or riding hall and may include commercial operations described by terms such as a boarding stable, livery yard, or livery stable. A “small equestrian facility” occupies a land area of three acres or less and may accommodate seating for no more than 75 spectators; a “large equestrian facility” occupies a land area greater than three acres and may accommodate seating for no more than 500 spectators. For purposes of this definition, “land area” means the footprint of all non-vegetated surfaces, including indoor and outdoor arenas and stables but not grazing fields.

**Equipment Rental Service** — A retail service providing machinery, equipment, and tools of various kinds and sizes (for a limited period of time to customers, which are stored in an enclosed indoor or outdoor space. An equipment rental service may be part of a larger retail building or facility such as a hardware store.

**Essential Services** — Gas, electrical, or communication facilities; steam, fuel, electric power, or water transmission or distribution lines; towers and related equipment; telephone cables or lines, poles, and related equipment; gas, oil, water, slurry, or other similar pipelines; municipal sewage lines; collection or supply towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants, and similar accessories. This definition does not include service drops or buildings that are necessary for the furnishing of essential services, solar energy systems, or communication towers.

**Expansion of a Structure** — An increase in the footprint, floor area, or height of a structure, including all extensions such as decks, garages, porches, and greenhouses.

**Expansion of a Use** — An enlargement of the footprint, floor area, or ground area devoted to a use; a change in the location of a use; the addition of one or more months to a use's operating season; or a change in character, amount, or intensity of a use. A change in use from one land use category to another land use category in the schedules of uses in Chapter III (Land Use Districts) or Chapter IV (Shoreland Zoning) is *prima facie* evidence of a change in character of a use.

**Family** — One or more persons occupying a dwelling unit, whether or not related to each other by birth, adoption, or marriage.

**Farm Stand** — A structure such as a table, stall, or tent whose footprint is 100 square feet or less, which is operated by a sole vendor for the sale of agricultural products on or near the premises of the agricultural operation.

**Farmers Market** — The seasonal selling or offering for sale at retail of home-grown vegetables or produce, food products, or value-added products from such vegetables or produce, occurring in pre-designated areas where the vendors are generally individuals or registered farms who have raised the vegetables or produce or have taken the same on consignment for retail sale.

**Firewood Processing and Sales** — Cutting and splitting logs to produce firewood with machinery or manual handling for commercial sale to retail customers. This definition does not include timber harvesting.

**Floodplain** — A flood-prone area along rivers and adjacent to tidal waters, defined by the 100-year floodplain as designated on FEMA Flood Insurance Rate Maps or Flood Hazard Boundary Maps or by the flood of record, or in the absence of these, by soil types identified as recent floodplain soils by the National Cooperative Soil Survey. For purposes of this definition, "recent floodplain soils" are 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, and Winooski.

**Floor Area** — The sum of the horizontal areas of the floors of a building (excluding basement and attics), measured from the exterior faces of exterior walls or, in the case of a common wall separating two buildings, from the center line of the common wall.

**Food Truck** — A self-contained food production and service facility within a mobile vehicle or movable stand on wheels, which is designed and constructed to transport, prepare, sell, or serve food, generally for individual portion service, at multiple sites and is capable of being moved from its serving site at any time.

**Food Truck Park** — An area of land that accommodates, on either a seasonal or a year-round basis, more than two but fewer than 10 food trucks and provides an area for eating amenities such as tables, tents, trash receptacles, and bathroom facilities.

**Footprint** — The entire area of ground covered by a building or structure on a lot, including cantilevered or similar overhanging extensions, as well as unenclosed structures such as patios and decks.

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

**Fuel Retail Sales** — A commercial facility used to store propane, heating oil, and other energy fuels for the purpose of delivering such fuels to residences and businesses. The quantity of fuel stored at a fuel retail sales facility must not exceed the lesser of (i) 75,000 gasoline gallon equivalents of fossil fuels or (ii) the NFPA maximum allowable quantity standards, as determined by the State Fire Marshal. The facility must not exceed a land area of three acres. For purposes of this definition, “land area” means the footprint of all structures and non-vegetated surfaces.

**Fuel Storage Depot, Bulk** — A stand-alone facility for the bulk storage of more than 75,000 gasoline gallon equivalents of fossil fuels, including gasoline, diesel, kerosene, propane, or natural gas, primarily for distribution by motor vehicle, rail, or marine vessel to other locations. This definition does not include underground storage tanks at gas stations or fuel retail sales.

**Function Hall / Lodge / Clubhouse** — A building or portion of a building for the purpose of hosting a party, banquet, wedding or other reception, or other social event, such as functions halls, lodges, or club houses, or a wilderness lodge or sporting camp.

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

**Funeral Home** — A facility or building for the preparation of the deceased for burial or cremation, the display of the deceased, and rituals connected with burial or cremation, which may include a crematory.

**Garden Materials Yard** — An open space for the storage of plants, trees, and shrubs, and associated materials and tools used for their cultivation for sale to a retail user.

**Gas Station** — A facility, building, land area, or other premises used for the retail dispensing or sales of vehicular fuels, including electric vehicle (EV) charging stations, or as an accessory use to the sale of lubricants, tires, batteries, and similar vehicle accessories. This definition does not include fuel retail sales or bulk fuel storage depots.

**General Contractor Yard** — An open area that a construction contractor uses for the storage of materials and equipment used for construction projects, which may include the contractor’s office.

**Governmental Use** — A use, and any structures associated with such use, exclusively for public purposes by any department or branch of government, such as post office, public safety, public works, town hall, and public utilities and services.

**Gravel** — Small stones and pebbles, or a mixture of small stones and pebbles with sand.

**Gravel Pit** — An excavation for removal, processing, or storage of borrow, topsoil, loam, gravel, rock, sand, clay, silt, or other similar non-metallic earth materials, whether alone or in combination, and which does not involve rock crushing or require the use of blasting or explosives.

**Greatest Extent Possible** — Feasible or capable of being done or carried out considering 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 subsurface wastewater disposal systems and on-site soils suitable for such systems, and the type and amount of vegetation to be removed to accomplish the intended activity.

**Groundwater** — Underground water located in unconsolidated sediment or bedrock below the water table and includes ground water emanating to the surface in the form of springs.

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

**Group Home, Large** — A home where more than six unrelated people in need of care, support, or supervision can live together, such as elderly persons or persons with a disability.

**Group Home, Small** — A home where six or fewer unrelated people in need of care, support, or supervision can live together, such as elderly persons or persons with a disability.

**Health Institution** — A hospital, clinic, nursing or rehabilitation facility, or any other place for the care, treatment, or diagnosis of human ailments. This definition does not include office buildings or hospice facilities.

**Height** — The vertical distance of a structure, as measured from the mean original grade (prior to construction) of the ground at the downhill side of the structure to the highest point of the structure , but excluding the vertical distance of any chimney, steeple, heating or cooling appurtenance, ventilator, antenna, transmission tower, communication tower, wind turbine, skylight, tank, bulkhead, roof-mounted solar panel, or similar structure having no floor area. For ground-mounted solar energy facilities and accessory solar energy systems, the vertical distance between the mean original grade (prior to construction) at the point where a solar panel is fixed to the ground and the highest point of the solar panel when oriented at maximum tilt.

**Home Occupation** — An occupation or profession that is conducted on residential property or in a dwelling unit, and (i) is clearly incidental to, subordinate to, and compatible with the residential use of the property and any surrounding residential uses; (ii) employs no more than two persons other than residents of the dwelling unit; (iii) uses no more than 10,000 square feet of outdoor area of the residential property; and (iv) uses no more than 30% of the floor area of the dwelling unit in which the occupation is carried out.

**Hospice Facility** — A facility that provides support and care for persons in the last stages of an incurable disease or condition, and which may include related in-patient and out-patient services and associated offices, pharmacy services, and storage.

**Hotel / Motel / Large Inn** — A facility, building, or group of attached or detached buildings that provides or is designed to provide more than eight but no more than 150 guest rooms offering transient lodging accommodations to the general public, typically for a fee, which may provide incidental and subordinate amenities such as meals, a pool, or a gym on site to guests and invitees, but which does not include extensive amenities, facilities, and services associated with a resort. This definition includes agricultural labor housing facilities as defined in 26 M.R.S.A. § 585. This definition does not include a resort / glampground.

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

**Infrastructure** — All public and private roads; drainage structures; ditches; erosion, sedimentation and stormwater control measures; utilities; landscaping; fire protection systems; recreation structures; centrally managed water systems; comparable/engineered sewer systems; and any additional common property or basic facilities associated with a development or subdivision.

**Institutional Use** — A use serving a public or charitable need by a governmental, nonprofit, or quasi-public institution, such as a municipality, church, library, museum, or hospital.

**Junkyard** — A “junkyard” as that term is defined in 30-A M.R.S.A. § 3752(4).

**Laundromat** — A facility that provides services that wash, dry, dry clean, iron, and press customers’ clothes for a fee, or provides customers with a self-service option for washing and drying clothes.

**Liquor Store** — A retail shop that predominantly sells pre-packaged alcoholic beverages, typically in bottles intended to be consumed off-premises, and which may be a part of a larger retail store.

**Live Theater / Music / Entertainment** — A facility or venue which provides a form of entertainment that uses live performers before a live audience in a specific place, whether indoors or outdoors. A “small-scale” facility occupies a land area of three acres or less and may accommodate seating for no more than 75 spectators; a “large-scale” facility occupies a land area greater than three acres and may accommodate seating for no more than 500 spectators. For purposes of this definition, “land area” means the footprint of all non-vegetated surfaces.

**Livestock, Personal Use** — Animals kept for personal enjoyment or for the production of animal products for personal use. This definition does not include piggery agriculture or poultry agriculture.

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

**Lot Coverage** — Refer to “maximum lot coverage.”

**Lot Width** — Refer to “maximum lot width.”

**Manufacturing Use** — A use involving the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as oils, plastics, resins, or liquors, except those associated with metallic mineral mining.

**Manufacturing, Heavy** — A manufacturing use to make, produce, build, construct, assemble, put together, create, fabricate, turn out, process, or engineer with large, heavy, and capital-intensive machinery and equipment such as automobile manufacturing, aerospace manufacturing, steel production, and chemical production.

**Manufacturing, Light** — A manufacturing use to make, produce, build, construct, assemble, put together, create, fabricate, turn out, process, or engineer wholly within an enclosed building with small machinery and equipment such as food processing, textiles, and consumer goods.

**Marijuana Establishment** — Any one or more of the following uses, and any structures associated with such uses:

- Adult Use Establishments: An adult use marijuana establishment, including a “cultivation facility,” “products manufacturing facility,” “marijuana store,” or “testing facility,” as those terms are defined in 28-B M.R.S.A. § 102.
- Medical Marijuana Retail Store: A location, structure, or facility operated by a medical marijuana registered caregiver that is used to sell medical marijuana to qualifying patients and that has attributes

generally associated with retail stores, including a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer.

- **Medical Marijuana Inherently Hazardous Substances Operation:** “Marijuana extraction” using “inherently hazardous substances” by a “qualifying patient,” the “caregiver” of a qualified patient, or any other person authorized under 22 M.R.S.A. § 2423-F(3) to engage in “marijuana extraction” using “inherently hazardous substances,” as those terms are defined in 22 M.R.S.A. § 2422.
- **Medical Marijuana Manufacturing Facility:** A registered tier 1 or tier 2 manufacturing facility, as defined in 22 M.R.S.A. § 242.
- **Multiple Medical Marijuana Caregiver Facility:** A building or facility housing more than one medical marijuana registered caregiver.
- **Medical Marijuana Registered Dispensary:** A building or facility operated by a person or entity registered under 22 M.R.S.A. § 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, or dispenses medical marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients as defined in 22 M.R.S.A. § 2422(6).
- **Medical Marijuana Testing Facility:** A public or private laboratory that is authorized by 22 M.R.S.A. § 2423-A(10) to analyze contaminants in the potency and cannabinoid profile of samples is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a third-party accrediting body or is certified, registered or accredited by an organization approved by the DHSS.
- **Other Caregiver Operation:** Any other commercial or noncommercial use by a medical marijuana registered caregiver other than a medical marijuana small-scale caregiver operation or marijuana home cultivation.

Unless a general definition (including agriculture, commercial, manufacturing, retail business, home occupation or accessory use) expressly includes a marijuana establishment, the general definition does not include a marijuana establishment. This definition does not include “marijuana home cultivation” or “medical marijuana small-scale caregiver operation.”

**Marijuana Home Cultivation** — The cultivation of (i) marijuana for personal adult use by persons 21 years of age or older in accordance with the provisions of 28-B M.R.S.A. § 1502; or (ii) medical Marijuana by an exempt caregiver or a qualifying patient where any indoor facility or outdoor space used for cultivation of marijuana does not exceed 200 square feet. For purposes of this definition, “exempt caregiver” means a natural person who is a medical marijuana registered caregiver for no more than two family members or members of the caregiver’s household, is exempt from registration pursuant to 22 M.R.S.A. § 2423-A(3)(C), and may not possess more than eight pounds of marijuana; and “qualifying patient” means a person who has been a resident of Maine for at least 30 days and who possesses a valid written certification regarding medical use of marijuana in accordance with 22 M.R.S.A. § 2423-B.

**Marijuana Small-Scale Caregiver Operation** — A commercial or noncommercial use by a medical marijuana registered caregiver licensed pursuant to 22 M.R.S.A. § 2425-A, who sells or dispenses marijuana solely out of the caregiver’s dwelling unit or accessory structure to no more than five individual registered patients in any 24-hour period; does not process or manufacture marijuana using chemicals or solvents or inherently hazardous substances; cultivates no more than 30 mature marijuana plants; and whose indoor facility or outdoor space used for cultivation of marijuana does not exceed 400 square feet.

**Marina** — An 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 and rentals, boat repair and construction, indoor and outdoor storage of boats and marine equipment, and tackle shops and marine fuel service facilities.

**Market Value** — The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

**Mass Gathering** — An outdoor event or gathering that attracts, or is intended to attract, 500 or more people for a period of time greater than two consecutive hours in an assembly area that is not otherwise operating pursuant to site plan or conditional use approval. “Mass gatherings” include festivals, exhibitions, amusements, shows, fairs, theatrical performances, musical performances, weddings, road race or athletic events, or other similar activities.

**Maximum Lot Coverage** — The maximum percentage of area covered by non-vegetated surfaces on a lot.

**Midway / Fairground** — A permanent, year-round or seasonal event where there are displays of goods, animals, amusements, games of chance or skill, and competitions.

**Mineral** — A naturally occurring solid chemical substance that is formed through geological processes and that has a characteristic chemical composition, a highly ordered atomic structure, and specific physical properties. By comparison, a rock is an aggregate of minerals or mineraloids and does not have a specific chemical composition. Minerals range in composition from pure elements and simple salts to very complex silicates with thousands of known forms.

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

**Mineral Extraction** — Any operation, other than metallic mineral mining, that removes within any 12-month period more than 100 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and transports the product removed away from the extraction site. A “small mineral extraction” has a total mineral extraction area of five acres or less; a “medium mineral extraction” operation has a total mineral extraction area of more than five acres but less than 30 acres; and a “large mineral extraction” operation has a total mineral extraction area of more than 30 acres. This definition does not include mineral extraction handling or processing. “Mineral extraction” does not include the mixing of concrete products on the site of a bona fide construction project, or the mixing, washing, and screening of soil, gravel, or crushed rock by a landscaper on a customer’s property.

**Mineral Extraction Area** — All of the land area used, disturbed, reclaimed, or developed as part of mineral extraction operation, including any access roads and cleared areas adjacent to a pit or excavation area.

**Mineral Extraction Handling or Processing** — Any commercial or industrial washing, screening, crushing, mixing, or storage of sand, gravel, aggregates, borrow, stone, rock, clay, or topsoil, including washing or screening operations; concrete mix or asphalt batching plants; or the storage of material; disposal, placing, or storing of any material that will not be used in conjunction with the mineral extraction, but excluding (i) the mixing of concrete products on the site of a bona fide residential or commercial construction project; and (ii) the mixing, washing, screening of soil, gravel, or rock by a landscaper on a customer’s property. This definition does not include blasting, or any handling or processing associated with metallic mineral mining.

**Mineral Mining, Metallic** — The exploration for or extraction of metallic minerals, by a person or persons acting in concert, which occupies or disturbs a mineral extraction area of one acre or more, regardless of the number of exploration or extraction sources or sites used. Metallic mineral mining includes any structures, facilities, or processes associated with the exploration for or extraction of metallic minerals, including bulk sampling; preparation, washing, cleaning, processing, beneficiation, or other treatment of metallic minerals; the storage or stockpiling of bulk sampling materials or mine waste, whether or not the exploration or extraction occurs within the geographic boundaries of the Town; and reclamation activities.

Metallic mineral mining does not include (i) non-commercial mineral exploration by means of test boring, test drilling, hand sampling, or digging of test pits which disturbs a mineral extraction area of less than one acre; or (ii) the excavation, processing, or quarrying of sand, fill, gravel, clay, topsoil, peat, silt, or rock not associated with metallic mineral mining. For purposes of this definition, “bulk sampling” means the removal of samples of earth materials to test the feasibility, method, or manner of extraction or processing of metallic minerals by drilling and boring, digging of shafts and tunnels, or digging of pits and trenches; and “mine waste” means all overburden, rock, ore, tailings, and other mining-related materials that are exposed or removed from the earth as part of any metallic mineral mining exploration or extraction operation.

**Minimart** — A convenience store that is located on the same lot and is accessory to a gas station.

**Minimum Lot Size** — The minimum acreage of a lot for each principal building located on the lot.

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

**Minimum Public Road Setback** — The minimum setback from a public road along the full length of the road right-of-way.

**Minimum Road Frontage** — The minimum length of the lot line bordering on a road (or, in the case of a corner lot, the longer lot line bordering a road), measured in a straight line between the intersections of the lot lines with the road.

**Minimum Setback** — The horizontal distance from the nearest part of a structure, parking area, or other regulated object or area to a lot line, road, the normal high-water line of a water body, or the upland edge of a wetland, as the context may dictate.

**Minimum Setback Area** — The portion of a lot that is located between the minimum setback line and the lot line which it parallels.

**Minimum Setback From Any Common Lot Line** — The minimum setback from a lot line shared between properties other than a property line that abuts a public road.

**Minimum Setback Line** — A line paralleling a lot line which indicates the closest horizontal distance a structure or parking area can be from any given lot line.

**Minimum Shore Frontage** — The minimum length of the lot line bordering on a water body or wetland, measured in a straight line between the intersections of the lot lines with the shoreline.

**Minimum Shoreland Setback** — The horizontal distance from the nearest part of a structure, road, parking area, or other regulated object or area to the normal high-water line of a water body or the upland edge of a wetland, as the context may dictate. As applicable, within the shoreland zone, the minimum shoreland setback is measured from the top of a coastal bluff that has been identified as “highly unstable” or “unstable” pursuant to the MGS “Classification of Coastal Bluffs” and published on the most recent MGS Coastal Bluff Map.

**Mobile Home or Modular Home** — Refer to “dwelling unit.”

**Mobile Home Park** — A lot under unified ownership used or intended to be used for the placement of three or more manufactured homes (including mobile homes and modular homes), as that term is defined in 30-A M.R.S.A. § 4358.

**Movie Theater** — An establishment where movies are shown for public entertainment.

**Native Species or Native Tree or Native Vegetation** — Vegetation that is indigenous to Maine ecosystems.

**Neighborhood Convenience Store** — A retail establishment of up to 1,500 square feet in aggregate floor area with extended operating hours and located in a convenient location within a district, which sells primarily food products, household items, newspapers and magazines, candy, and beverages, and a limited amount of freshly prepared foods such as sandwiches, pizzas, and salads.

**Nonconforming Lot, Structure, or Use or Nonconforming Condition** — A lot, structure, or use that lawfully existed immediately prior to the enactment of this Code, or an amendment to this Code, and which, as a result of the enactment or amendment of this Code, presently fails to comply with any one or more of the requirements of this Code, including the dimensional standards or other standards applicable in the land use district or shoreland zoning subdistrict in which the lot, structure, or use is located.

**Non-Native Invasive Vegetation** — Species of vegetation listed by DACF as being invasive in Maine ecosystems and not native to Maine ecosystems.

**Non-Vegetated Surface** — Any low-permeability material that is highly resistant to infiltration by water (such as asphalt, concrete, or rooftop) and any area that will be compacted through design or use to reduce its permeability (such as a gravel road or unpaved parking area). Common non-vegetated surfaces include structures, rooftops, walkways, patios, driveways, parking lots, storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, macadam or other surfaces that impede the natural infiltration of stormwater, and other areas from which vegetation has been removed. Pervious pavement, pervious pavers, pervious concrete, and underdrained artificial turf fields are all considered non-vegetated surfaces. Naturally occurring ledge and rock outcroppings are not non-vegetated surfaces.

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

**Office Building** — A building, or portion of a building, within and from which a person conducts a business providing a trade or professional service to clients or customers or conducts bureaucratic work, including offices for plumbing, electrical, and other construction trades; offices for architectural firms or construction contractors (including headquarters); offices for lawn care services and building cleaning companies; and offices for lawyers, doctors, accountants, engineers, and other professional consultants.

**Office Building, Large** — An office building having a floor area of more than 2,500 square feet.

**Office Building, Small** — An office building having a floor area of 2,500 square feet or less.

**Outdoor Flea Market / Open-Air Market** — The outdoor display, sale, exchange or barter of merchandise for profit, which may include accessory structures such as restrooms or buildings for storage of goods when not in business. This definition does not include garage sales or yard sales on the premises of a residential property. This definition does not include occasional sales and promotional activities at retail buildings that place merchandise outside of their building or farmers markets.

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

**Parking Garage** — A structure used for the limited term parking of vehicles but excluding automotive services or commercial storage of vehicles.

**Pawn Shop** — A business or facility designed to loan out money for items, with the intention that the customer comes back and repays the loan for the items pawned.

**Potable** — “Potable” as that term is defined the DECD Municipal Land Use and Zoning Ordinance Rule, codified at 19-100 C.M.R. ch. 5, § 1(B).

**Principal Building or Principal Structure** — A building or structure where the principal use of the lot is conducted.

**Principal Use** — A use other than one that is wholly incidental or accessory to another use on the same lot.

**Protected Natural Resources** — Water bodies; wetlands; public drinking water sources, as defined in 38 M.R.S.A. § 490-A; and the following areas to the extent that they have been identified by MDIFW: habitat for species appearing on the official state or federal lists of endangered or threatened animal species, deer wintering areas and travel corridors, high and moderate value waterfowl and wading bird habitats (including nesting and feeding areas), critical spawning and nursery areas for Atlantic sea run salmon, shorebird nesting, feeding, and staging areas and seabird nesting islands; and significant vernal pools.

**Public Facility** — Any facility, including buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated or funded by a governmental body or public entity.

**Public Road** — An area or strip of land designated and held by a governmental entity for the passage and use of the general public by motor vehicle or foot.

**Public Road Lot Line** — Any property line that directly abuts a public road.

**Public Open Space** — Land set aside for active or passive recreation by the public and either owned by a public entity or protected as open space in perpetuity through a conservation easement or other legally binding deed restriction.

**Public Vantage Point** — Any great pond, river, navigable stream, public roadway, publicly accessible land protected by a conservation easement, or public property used by the general public for outdoor recreation.

**Recreation, Indoor** — A nonresidential use conducted totally within a structure designed and equipped for play, amusement, relaxation, sports or other similar diversions, such as a bowling alley, skating rink, fitness center, gymnasium, squash or tennis facility, or indoor swimming pool.

**Recreation, Low-intensity** — A use conducted outdoors in a public or private place designed and equipped for low-intensity recreational activities that involve minimal structural development (such as benches, picnic tables, trail kiosks, and boardwalks), including a park, nature preserve, open space area, greenway, and hiking trail system. This definition does not include boat launching facilities, indoor recreation, or outdoor recreation.

**Recreation, Outdoor** — A nonresidential use conducted primarily outdoors but involving structural development designed and equipped for play, amusement, relaxation, sports or other similar diversions, such as a playground, sports field, golf driving range, miniature golf course, water slide, outdoor swimming pool, and outdoor tennis court. This definition does not include resorts / glampgrounds.

**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, including a pick-up camper, travel trailer, tent trailer, camp trailer, or motor home. To be considered as a vehicle and not as a structure, the recreational vehicle must remain with its tires on the ground and must be registered with a state division of motor vehicles.

**Redemption / Recycling / Transfer Facility** — A facility where a redeemer can deposit empty beverage containers in exchange for their refund value, or any facility that contracts with one or more dealers or

distributors to collect, sort, and obtain the refund value and handling fee of empty beverage containers for, or on behalf of them; or a specialized plant that receives, separates, and prepares recyclable materials for transfer or marketing to end-user manufacturers.

**Religious Assembly** — A church, synagogue, temple, mosque, or other facility that is used for worship or prayer by persons of similar beliefs; or a special purpose building that is architecturally designed and particularly adapted for the primary use of conducting formal religious services on a regular basis.

**Relocate** — To move a building to another position or location on the same or a different lot.

**Repair** — To restore a building to sound condition.

**Replace** — To put back in place, or to substitute something which is not structurally sound for something which is structurally sound.

**Replacement System** — A subsurface wastewater disposal system intended to replace (i) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of a structure, or (ii) any existing overboard wastewater discharge.

**Research Facility** — An institution involved in the intellectual or physical study and analysis of materials, plants or organisms.

**Resort / Glampground** — A facility, building, or group of attached or detached buildings that provides or is designed to provide transient lodging accommodations to the general public, typically for a fee, and extensive amenities including food, drink, recreation, and entertainment on the premises to guests and invitees. This definition includes a facility or area that provides or is designed to provide outdoor camping with amenities and resort-style services not commonly associated with campgrounds, such as yurts, cabins, beds, electricity, and access to indoor plumbing. A “small resort / glampground” occupies a land area of five acres or less and may contain no more than 150 guest rooms or 100 campsites. A “large resort / glampground” occupies a land area of more than five acres. For purposes of this definition “land area” means the footprint of all non-vegetated surfaces.

**Restaurant** — An establishment where food is sold for consumption on or off the premises, which may serve alcoholic beverages with food and may contain event or function space. This definition does not include drive-through restaurants or snack bars / refreshment stands at a public or private indoor or outdoor recreation establishment.

**Restaurant, Drive-Through** — A restaurant that includes a facility to order and pick up food from an automobile.

**Re-subdivision** — The division of a previously subdivided lot at any future point in time.

**Retail** — Connected with the sale of goods for direct use by the consumer, and not for trade or resale.

**Retail Business, Large** — A structure containing more than 1,500 square feet of floor area that is designed and used for the provision of goods or services for a fee directly to the consumer for primarily personal or household use, and not for trade or resale.

**Retail Business, Small** — A structure containing less than 1,500 square feet of floor area that is designed and used for the provision of goods or services for a fee directly to the consumer for primarily personal or household use, and not for trade or resale.

**Reviewing Authority** — The Town’s Select Board, Planning Board, or Board of Appeals, as the context may dictate.

**Riprap** — Rocks, irregularly shaped, and at least six inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two units horizontal to one unit vertical or less.

**River** — A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of 25 square miles to its mouth. This definition does not include any portion of a river that is subject to tidal action (see Wetland, Coastal).

**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. This definition does not include driveways.

**Road Frontage** — Refer to “minimum road frontage.”

**Rock** — A naturally occurring solid aggregate of minerals or mineraloids. In general rocks are of three types: igneous, sedimentary, and metamorphic.

**Rock Crushing** — A process of reducing large rocks into small rocks, gravel or rock dust, or changing the form of waste materials so they can be more easily disposed of or recycled, or to reduce the size of a solid mix of raw materials so that pieces of different composition can be differentiated.

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

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

**Sawmill** — A permanent facility in which logs are cut into boards or timber by a mill or machine.

**Self-Storage Facility** — A building or group of buildings consisting of individual, self-contained units that are leased for self-service storage of personal property, with no commercial transactions permitted other than the rental of storage units.

**Service Drop** — A utility line extension that does not cross or run beneath any portion of a water body.

- In the case of electric service: (i) the placement of wires or the installation of utility poles must be located entirely upon the premises of the customer requesting service or upon a road right-of-way, and (ii) the total length of the extension must be less than 1,000 feet.
- In the case of telephone service: (i) the extension, regardless of length, must be made by the installation of telephone wires to existing utility poles; or (ii) if the extension requires installation of new utility poles or placement underground, the total length of the extension must be less than 1,000 feet.

**Setback Area** — Refer to “minimum setback area.”

**Setback Line** — Refer to “minimum setback line.”

**Shore Frontage** — Refer to “minimum shore frontage.”

**Shoreland Setback** — Refer to “minimum shoreland setback.”

**Shoreland Zone** — The shoreland zone is composed of:

1. All land areas within 250 feet of (i) the normal high-water line of any river, (ii) the upland edge of a coastal wetland, including all areas affected by tidal action, and (iii) the upland edge of a freshwater wetland;
2. All land areas within 75 feet of the normal high-water line of a stream; and
3. Any structures built on, over, or abutting a dock, wharf, or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

**Shoreline** — The normal high-water line of a water body or the upland edge of a freshwater or coastal wetland.

**Shoreline Buffer** — A strip of land extending 75 feet from a water body or the upland edge of a wetland; 125 feet from the normal high-water line of a significant river segment; or, in the RP subdistrict, 250 feet from the normal high-water line of a water body.

**Shrub** — A woody plant, deciduous or evergreen, hardy for Plant Zones 4 or 5, which may have a single trunk or multiple trunks and normally achieves a height at maturity of no more than 15 feet and no less than three feet.

**Sidewalk** — A way for pedestrian traffic located parallel to a road, which is constructed with pavement, pavers, bricks, and other similar surfaces but not gravel.

**Sign** — Any structure, display, logo, device, or representation that is designed or used to advertise or call attention to any activity, business, event, person, place, or thing. This definition does not include (i) the flag, pennant, or insignia of any nation, state or town, or (ii) any temporary sign posted for 6 weeks or less from January 1 to June 30 or for 6 weeks or less from July 1 to December 31. Whenever dimensions of a sign are specified, they include frames.

**Silt** — A granular material of a grain size between sand and clay derived from soil or rock. Silt may occur as a soil or as suspended sediment in a surface water body. It may also exist as soil deposited at the bottom of a water body.

**Solar Energy Facility** — A ground-mounted solar energy system with a nameplate capacity greater than 125 kW (DC), which occupies a solar land area greater than 400 square feet and 20 acres or less. This definition includes a solar microgrid. This definition does not include an accessory solar energy facility.

**Solar Energy Facility, Accessory** — A solar energy system, other than a solar microgrid, that is located on a lot that is developed with a principal structure and whose nameplate capacity is 125 kW (DC) or less and is either (i) roof-mounted, or (ii) ground-mounted, does not exceed a height of 20 feet, occupies a solar land area 400 square feet or less, and is located no closer to the public road lot line than the principal structure on the lot.

**Solar Energy Facility Decommissioning Event** — (i) The end of the manufacturer-identified useful life of the solar photovoltaic (PV) technology used in a solar energy facility; (ii) the failure of the owner or operator of a solar energy facility to substantially start repair on the facility after a casualty loss or other significant damage within 12 months of the loss or damage; or (iii) six months after the receipt of a notice to the owner or operator of a solar energy facility of a determination by the CEO or Planning Board that the solar energy facility has been abandoned. A solar energy facility is considered abandoned if it ceases to generate electricity on a commercial basis for a consecutive period of 12 months.

**Solar Energy System** — A complete assembly of solar collectors and associated mounting hardware, electricity storage equipment, transmission and distribution lines, and related infrastructure that uses solar photovoltaic (PV) technology (including solar panels) to collect, convert, store, and deliver electricity for on-site or remote consumption. A solar energy system may be roof-mounted or ground-mounted.

**Solar Land Area** — The aggregate area of land occupied by a ground-mounted solar energy system, including (i) solar panels and associated mounting hardware and equipment; (ii) all inter-panel space; and (iii) all impervious surfaces other than parking lots, driveways, or roadways used to access the solar energy system. Solar land area does not include any areas adjacent the perimeter of the solar energy system that are vegetated by grasses and must, by virtue of a legal instrument, be kept free of structures, trees, or shrubs in order for the system to capture sunlight. Solar land area includes any land that is part of a common scheme of solar development.

**Solar Microgrid** — A solar energy system that operates independently of the electric grid to generate, store, and deliver electricity primarily for on-site consumption by two or more principal uses or principal structures located on one or more parcels of land within a geographically defined area that does not extend beyond the geographic boundaries of the Town.

**State Drinking Water Rules** — The Maine Rules Relating to Drinking Water, codified at 10-144 C.M.R. ch. 231.

**State Minimum Lot Size Law** — The Maine Minimum Lot Size Law, codified at 12 M.R.S.A. Ch. 423-A.

**State Wastewater Disposal Rules** — The Maine Subsurface Wastewater Disposal Rules, codified at 10-144 C.M.R. ch. 241.

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

**Street Wall** — A fence, wall, or strip of vegetation that maintains a continuous visual definition along a lot line.

**Structure** —

- Outside of the shoreland zone: Anything constructed, erected, or placed on the ground that is permanent, temporary or mobile, including buildings, mobile homes, recreational vehicles, piers and pads, parking lots, and storage and processing facilities. This definition does not include boundary walls, fences, walkways, patios, flagpoles light poles, and signs.
- Within the shoreland zone: Anything temporarily or permanently located, built, constructed, or erected for the support, shelter, or enclosure of persons, animals, goods, or property of any kind or anything constructed or erected on or in the ground. “Structure” includes structures temporarily or permanently located, such as parking lots, decks, patios, and satellite dishes. This definition does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface wastewater disposal systems as defined in 30-A M.R.S.A. § 4201(5); geothermal heat exchange wells as defined in 32 M.R.S.A. § 4700-E(3-C); or wells or water wells as defined in 32 M.R.S.A. § 4700-E(8).

**Subdivision** — “subdivision” as that term is defined in 30-A M.R.S.A. § 4401(4).

**Subdivision Plan, Final** — The final drawings on which a subdivision plan is presented to the Planning Board for its consideration and which, if approved, must be filed with the Town and recorded in the Washington County Registry of Deeds.

**Subdivision Plan, Preliminary** — The preliminary drawing indicating the proposed layout of a subdivisions presented to the Planning Board for its consideration.

**Substantial Completion** — Completion of 70% of a project, measured as a percentage of the total project amount.

**Substantial Start** — Completion of 30% of a permitted structure or use measured as a percentage of estimated total cost.

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

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

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

**Topsoil** — The upper, outermost layer of soil, usually the top two inches to eight inches, which has the highest concentration of organic matter and microorganisms and is where most biological soil activity occurs.

**Tree** — A woody perennial plant with a well-defined trunk at least two inches DBH, with a more or less definite crown, and reaching a height of at least 10 feet at maturity.

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

**Tree Sapling** — A tree species that is less than two inches DBH.

**Tree Seedling** — A young tree species that is less than 4½ feet in height above ground level.

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

**Tributary Stream** — A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material, or bedrock; and which is connected hydrologically with other water bodies. This definition does not include (i) rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity, or (ii) streams. This definition only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

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

**Use** — The purpose or activity for which land or structures are designed, arranged, or intended or for which land or structures are occupied or maintained.

**Variance** — A relaxation of the provisions of this Code as permitted by state law and Section I-13.

**Vegetation** — All live trees, shrubs, and other plants including trees both over and under four inches DBH.

**Vehicle and Small Engine Repair Shop** — An indoor facility where automobile and low-power internal combustion engines or electric motors are repaired and maintained by mechanics and technicians, including auto body shops. This definition does not include the sale of gasoline.

**Veterinary Service** — An establishment where animals and pets are given medical or surgical treatment and are cared for during the time of such treatment, including the incidental, short-term use of such an establishment as a kennel.

**Warehousing and Distribution** — A facility for storage and distribution of manufactured products, supplies, and equipment, including the wholesaling of goods not manufactured on the premises.

**Water Body** — A river, tributary stream, or stream.

**Water Crossing** — A structure or feature extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the river, stream, tributary stream, or wetland, including roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on such water crossings. This definition includes crossings for timber harvesting equipment and related activities.

**Water Extraction, Large-Scale** — The commercial extraction of water from groundwater sources, aquifers, springs or wells of more than 50,000 gallons on any given day or more than 1,000,000 gallons annually, as extracted by a person or a consortium or association of persons, regardless of the number of extraction facilities utilized.

**Water Extraction, Small-Scale** — The commercial extraction of water from groundwater sources, aquifers, springs or wells of 50,000 gallons or less on any given day or 1,000,000 gallons or less annually, as extracted by a person or consortium or association of persons, regardless of the number of extraction facilities utilized. This definition does not include extraction of water which is accessory to agricultural or residential uses or dwelling units.

**Water Table** — The underground water surface at which the pressure is equal to that of the atmosphere. The water table elevation changes throughout the year in response to precipitation recharge and the level of nearby surface water.

**Wetland** — A freshwater wetland or coastal wetland.

**Wetland, Coastal** — All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat, or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes. Without limiting the foregoing definition, all areas below the

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

**Wetland, Freshwater**— A freshwater swamp, marsh, bog, or similar area, other than a forested wetland, that: (i) covers 10 or more contiguous acres, or less than 10 contiguous acres and is 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 (ii) is inundated or saturated by surface water or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances does support, a prevalence of wetland vegetation typically adapted for life in saturated soils. A freshwater wetland may contain small stream channels or inclusions of land that do not comply with the criteria of this definition.

**Wetland, Forested** — A freshwater wetland dominated by woody vegetation that is six meters tall (approximately 20 feet) or taller.

**Wind Farm, Industrial-Scale** — A commercial facility that uses equipment that converts, stores, and transfers energy from wind into usable forms of energy including any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, and other component of the system. This definition does not include accessory wind turbines.

**Wind Turbine, Accessory** — A single wind turbine, no more than 100 feet in height, that is installed on a lot to support the electricity needs of the principal use on that lot.

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

## CHAPTER X. LEGAL

### Section X-1. Authority; Availability of Code

This Code is adopted pursuant to Article VIII, Part Second, of the Maine Constitution; 30-A M.R.S.A. §§ 2101-2109, 2691, 3001-3014, 4311-4331, 4351-4362, and 4401-4408; 38 M.R.S.A. §§ 435-449; 22 M.R.S.A. § 2429-D; 28-B M.R.S.A. § 401; 7 M.R.S.A. § 284 and Article I, Section 25 (Right to food); and any other enabling statutes.

A certified copy of this Code must be on file with the Town Clerk and be accessible to the public. Copies must be made available to the public, at reasonable cost, at the expense of the person making the request. Notice that this Code is available must be posted.

STATE LAW REFERENCE—30-A M.R.S.A. § 3005 (ORDINANCES AVAILABLE).

### Section X-2. Contents; Certain Ordinances Not Affected by Code

This Code codifies, reorganizes, and repeals and replaces the following previously separate Town ordinances in order to simplify and clarify their provisions, and to reduce or eliminate conflicting, inconsistent, or redundant provisions among them. The ordinances that are repealed and replaced by this Code are:

- A. *Town of Columbia Falls Application Building Permit Ordinance*, adopted March 15, 2022.
- B. *Town of Columbia Falls Demolition of Property Ordinance*, adopted March 16, 1999.
- C. *Town of Columbia Falls Land Use Regulations*, adopted June 9, 2020.
- D. *Shoreland Zoning Ordinance for the Municipality of Columbia Falls*, adopted March 25, 2013.
- E. *An Ordinance for the Regulation and Control of Land Subdivision in the Town of Columbia Falls, Maine*, adopted September 27, 1988.
- F. *Town of Columbia Falls Zoning Ordinance*, adopted March 16, 1999.
- G. *Town of Columbia Falls Historic District Ordinance*, adopted June 9, 2020.
- H. *Town of Columbia Falls Street and Storm Water Management Design and Construction Standards*, adopted March 17, 2008.
- I. *Wireless Telecommunications and Wind Tower Facilities Siting Ordinance of the Town of Columbia Falls*, adopted March 25, 2013.
- J. *Ordinance Establishing a Moratorium on Large-Scale Commercial and High-Density Residential Development*, adopted March 21, 2023.

Nothing in this Code affects any other ordinances, regulations, or rules of the Town that are not inconsistent with this Code and all such other ordinances, regulations, and rules are recognized as continuing in full force and effect. Such other ordinances, regulations, and rules are on file in the Town Clerk's office.

### Section X-3. How This Code Is Designated and Cited

The ordinances and regulations contained in the chapters and sections herein constitute the "Town of Columbia Falls Code of Ordinances" and may be so cited. This Code may also be cited as the "Columbia Falls Code of Ordinances" or the "Columbia Falls Code."

#### Section X-4. Effective Date

A. **General.** The effective date of this Code is immediately upon its adoption by a majority vote of the legislative body of the Town except as follows:

1. Shoreland Zoning. The shoreland zoning provisions of this Code, composed of the provisions listed in subsection A.1.(a), below, do not become effective unless approved by the DEP Commissioner. A certified copy of this Code, or Code amendment, attested and signed by the Town Clerk, must be submitted by the Town to the DEP Commissioner following adoption by the legislative body of the Town for approval. If the Commissioner fails to act on the shoreland zoning provisions of this Code, or any amendment thereto, within 45 days of the DEP Commissioner's receipt of the shoreland zoning provisions, the provisions are automatically approved. Any application for a permit or approval submitted to the Town within such 45-day period is governed by this Code as if Commissioner approval of the provisions has been granted. If amendments are made to the shoreland zoning subdistrict boundaries or any other shoreland zoning feature portrayed on the Official Land Use District Map, such changes must be made on the Official Land Use District Map within 30 days after the provisions have been approved by the DEP Commissioner.
  - (a) For purposes of subsection A.1, above, the following provisions constitute the shoreland zoning provisions of this Code:
    - i. All provisions within Chapter IV (Shoreland Zoning).
    - ii. Any provisions within Chapter II (Nonconforming Uses, Structures, and Lots) that concern uses, structures, and lots located in the shoreland zone.
    - iii. Any provisions in Section I-13 (What is the Process for Seeking a Variance?) that affect uses, structures, and lots located in the shoreland zone.
    - iv. Any provisions in Section III-3 (Dimensional Standards) that concern uses, structures, and lots located in the shoreland zone.
    - v. Any provisions in Section IX-3 (Definitions) that concern uses, structures, and lots located in the shoreland zone.
    - vi. The shoreland zoning subdistrict boundaries and any other shoreland zoning feature portrayed on the Official Land Use District Map.
2. Subdivision Regulations. Refer to Section VI-9.

**B. Effective Dates, Historical Notes.**

1. An Ordinance for the Regulation and Control of Land Subdivision in the Town of Columbia Falls, Maine. Enacted September 27, 1988. Repealed on March 19, 2024.
2. Town of Columbia Falls Demolition of Property Ordinance. Enacted March 16, 1999. Repealed on March 19, 2024.
3. Town of Columbia Falls Zoning Ordinance. Enacted March 16, 1999. Repealed on March 19, 2024.
4. Town of Columbia Falls Town Road Ordinance. Enacted March 17, 2008. Repealed on March 19, 2024.
5. Shoreland Zoning Ordinance for the Municipality of Columbia Falls. Enacted March 25, 2013. Repealed on March 19, 2024.
6. Wireless Telecommunications and Wind Tower Facilities Siting Ordinance of the Town of Columbia Falls. Enacted March 25, 2013. Repealed on March 19, 2024.
7. Town of Columbia Falls Historic District Ordinance. Enacted June 9, 2020. Repealed on March 19, 2024.
8. Town of Columbia Falls Land Use Regulations. Enacted June 9, 2020. Repealed on March 19, 2024.
9. Town of Columbia Falls Application Building Permit Ordinance. Enacted March 15, 2022. Repealed on March 19, 2024.
10. This Code. Enacted March 19, 2024.

**Section X-5. Date of Applicability**

Notwithstanding 1 M.R.S.A. § 302 or any other law or provision to the contrary:

- A. This Code, as enacted at a Town Meeting held on March 19, 2024, shall apply to all proceedings and applications that were or are pending before any reviewing authority on or any time after March 15, 2024 (the “Date of Applicability”).
- B. This Code applies to an action or proceeding, including a petition or application for permits or licenses required by law at the time of their filing, when the reviewing authority has deemed the petition or application complete for review.

STATE LAW REFERENCE—1 M.R.S.A. § 302 (CONSTRUCTION AND EFFECT OF REPEALING AND AMENDING ACTS).

**Section X-6. Conflicts with Other Ordinances or Code Provisions**

Whenever a section, paragraph, sentence, clause, or phrase of this Code conflicts with or is inconsistent with another section, paragraph, sentence, clause, or phrase of this Code or another ordinance, regulation, or rule administered by the Town, the more restrictive section, paragraph, sentence, clause, or phrase controls.

## **Section X-7. Amendments**

Except for the provisions in Chapter VI (Subdivision Regulations), which may be amended by a vote of the Planning Board under the authority of and in accordance with 30-A M.R.S.A. § 4403(2), the remaining chapters of this Code and the Official Land Use District Map may be amended as follows. For purposes of this Section X-7, use of the term “Code” excludes Chapter VI (Subdivision Regulations).

- A. This Code and the Official Land Use District Map may be amended by the legislative body of the Town in accordance with applicable state law.
- B. Amendments to the text of this Code or the Official Land Use District Map may be proposed by the Select Board, by the Planning Board, or upon the written petition of registered voters of the Town pursuant to 30-A M.R.S.A. §§ 2522 or 2528 (as applicable). In addition, amendments to the Official Land Use District Map may be proposed by any property owner within the Town by making a written petition to the Planning Board, which must contain, at minimum:
  - i. A map showing the properties to be affected by the proposed amendment and properties located within 500 feet of such properties;
  - ii. A map showing the existing land uses at the time of application of the above-identified properties;
  - iii. A narrative and other evidence demonstrating that the proposed amendments are consistent with the Comprehensive Plan; and
  - iv. A narrative and other evidence demonstrating the need for the proposed amendments.
- C. A public hearing on any proposed amendments to the Code or the Official Land Use District Map must be conducted by the Planning Board, serving as the municipal reviewing authority, pursuant to 30-A M.R.S.A. § 4352 and, if property is being considered for placement in the RP subdistrict, pursuant to 38 M.R.S.A. § 438-A(1-B).
- D. Following the public hearing, the Planning Board may recommend to the Select Board whether or not an article to amend the Code or the Official Land Use District Map should be included in the warrant for a regular or special Town meeting. In making its recommendation, the Planning Board may recommend amendments to the text of the Code or the Official Land Use District Map that deviate from the original proposed amendments. The Planning Board will endeavor to submit its recommendation to the Select Board within 30 days of the conclusion of the public hearing. Planning Board action under this Section X-7 is not a decision subject to any rights of appeal.
- E. The Select Board, by a majority vote, must determine whether to place an article to amend the Code or the Official Land Use District Map in the warrant for a regular or special Town meeting.
- F. Any public hearings required to be held by the Planning Board and the Select Board under this Section X-7 or applicable law may be combined into a single consolidated hearing attended by both boards as long as the notice requirements applicable to both the Planning Board and Select Board hearings are satisfied.
- G. Any amendments made to the district or subdistrict boundaries or any other feature portrayed on the Official Land Use District Map must be (a) immediately shown on the Official Land Use District Map or (b) shown within 30 days after an amendment to the

shoreland zoning district boundaries or other shoreland zoning features of the Official Land Use District Map has been approved by the DEP Commissioner in accordance with Section X-4.A (Effective Date). The amended Official Land Use District Map must be certified by the attested signature of the Town Clerk and filed with the Town Clerk.

H. The DEP Commissioner must be notified of any amendments made to the shoreland zoning provisions of this Code in accordance with Section X-4.A (Effective Date).

STATE LAW REFERENCE—30-A M.R.S.A. § 2522 (PETITION FOR ARTICLE IN WARRANT); 30-A M.R.S.A. § 2528(5) (SECRET BALLOT, REFERENDUM QUESTIONS); 30-A M.R.S.A. § 4352 (ZONING ORDINANCES, NOTICES; GENERAL REQUIREMENTS); 38 M.R.S.A. § 438-A(1-B) (SHORELAND ZONING; NOTIFICATION TO LANDOWNERS).

### **Section X-8. Effect of Repeal or Amendment**

Whenever a provision of this Code or the Official Land Use District Map is repealed or amended, such repeal or amendment must not be construed to revive such former provision unless it is so expressly provided therein.

The repeal or amendment of a provision of this Code or the Official Land Use District Map does not affect any enforcement action taken or penalty incurred before the repeal or amendment took effect, nor any suit, prosecution, or proceeding to which this Code or the Official Land Use District Map applied at the time of the repeal or amendment, for an offense committed or cause of action arising under the repealed or amended provision.

### **Section X-9. Compliance and Enforcement; Penalties**

A. **Nuisance.** Any violation of this Code is deemed to be a nuisance.

B. **Enforcement Authority.** The CEO is responsible for enforcing the provisions of this Code and the terms and conditions of any permit or approval issued under this Code. The CEO is appointed or reappointed annually and, if certified in accordance with 30-A M.R.S.A. § 4451, has all of the powers and authorities described in 30-A M.R.S.A. § 4452.

C. **Inspections; Investigation of Complaints.** The CEO may conduct site inspections to ensure compliance with all applicable laws and all terms and conditions attached to permits and approvals under this Code. The CEO may also investigate all complaints of alleged violations of this Code.

D. **Right of Entry.** The CEO has a right to enter any property or enter any building pursuant to 30-A M.R.S.A. § 4452(1).

E. **Notice of Violation.** If, after investigation, the CEO finds that any provision of this Code or any terms or condition of a permit or approval issued under this Code has been violated, the CEO must give written notice of the violation, in person or by certified mail return receipt requested, to the owner or occupant of the premises and to any other person responsible for the violation, indicating the nature of the violation and ordering any action necessary to correct it (including discontinuance of illegal use of structures or lots; discontinuance of work being done; removal or relocation of illegal structures; and abatement of nuisance conditions) within some designated reasonable time. A copy of each such notice of violation must be submitted to the Select Board.

F. **Suspension and Revocation of Permits and Approvals.** A permit or approval may be suspended or revoked by the CEO if the CEO determines that:

1. The permit or approval was issued on materially incomplete or false information;

2. Continuation of the work authorized under the permit or approval would result in a violation of federal or state law, this Code, or any other Town ordinances, regulations, or rules;
3. Continuation of the work authorized under the permit or approval is endangering or may endanger the public health, safety, or welfare;
4. The permit holder exceeded the scope of the work authorized under the permit or approval;
5. A term or condition of the permit or approval issued under this Code has been violated; or
6. The CEO is unable to determine the continued validity of a permit or approval.

The CEO must give written notice of suspension or revocation to the permit holder stating the reason for the suspension or revocation and, in the case of suspension, the measures that must be taken by a date certain to correct the violation.

A suspension remains in force until the CEO determines that (i) the permit holder can and will pursue the work authorized under the permit or approval without continuing, extending, or creating a violation; (ii) the violation has been abated or otherwise discontinued; or (iii) a new permit or approval has been issued. When cause for a suspension has been removed or corrected, the CEO must so certify in writing. If, within the time specified for correction, cause for the suspension has not been removed or suspended, the CEO may continue the suspension or revoke the permit or approval.

No work authorized under a suspended or revoked permit or approval may continue except work that is necessary to protect the public health, safety, and welfare, as authorized in writing by the CEO.

**G. Legal Prosecution of Violations.** If, after notice and demand, a violation has not been abated within the time specified in the notice of violation, the CEO must refer the matter to the Select Board, who may institute in the name of the Town any and all actions and proceedings, in law or in equity, including seeking injunctions of violations and the imposition of fines, that the Select Board determines are appropriate or necessary to prevent, correct, restrain, or abate any violation of this Code.

**H. Consent Agreements.** The Select Board is authorized to enter into administrative consent agreements for the purpose of resolving violations of this Code and recovering fines without legal prosecution.

1. With regard to violations of the provisions of Chapter IV (Shoreland Zoning), an administrative consent agreement must 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 Town official and there is no evidence that the owner or occupant acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health, safety, and welfare or will result in substantial environmental damage.
2. In determining what, if any, monetary penalty to impose as part of an administrative consent agreement, the Select Board may consider (i) how long the violation has existed; (ii) the nature and circumstances of the violation and the violator; (iii) whether a permit or approval was issued for the work; (iv) whether

the violation was the result of survey work that caused a shift of boundary lines; (v) the statutory minimum and maximum penalties for land use violations set forth in 30-A M.R.S.A. § 4452; and (vi) such other facts and considerations as the Select Board deems relevant.

- I. **Fines and Penalties.** Any person who violates any term or condition of a permit or approval or who violates or continues to violate any provision of this Code after receiving notice of such violation is subject to such fines, penalties, actions and orders as are authorized by 30-A M.R.S.A. § 4452. A fine or penalty may be imposed for each violation. Each day that a violation continues constitutes a separate offense.

STATE LAW REFERENCE—30-A M.R.S.A. § 2691(4) (RIGHT OF APPEAL OF ENFORCEMENT DECISIONS); 30-A M.R.S.A. § 4452 (ENFORCEMENT OF LAND USE LAWS AND ORDINANCES); 38 M.R.S.A. § 441(3) (CEOS, POWERS AND DUTIES).

## Section X-10. Performance Guarantee

Whenever one or more performance guarantees are required by this Code or as a condition of approval of a permit or approval issued by the Planning Board pursuant to this Code, the following requirements apply:

- A. **Review; Delegation.** The performance guarantee must be satisfactory to the Planning Board as to scope, amount, form, sufficiency, manner of execution and surety. The Planning Board may delegate to the Town Manager the review and acceptance of a performance guarantee in accordance with this Section X-10.
- B. **Form.** The performance guarantee must be in the form of a performance bond, a certified check payable to the Town, an escrow account, an irrevocable letter of credit, or some other form of guarantee that is acceptable to the Planning Board.
- C. **Scope; Amount.** The performance guarantee must be of an amount sufficient to cover the full cost of all required infrastructure, reclamation of disturbed land, and/or decommissioning of any facilities or infrastructure associated with the proposal, as determined by the Planning Board. Separate performance guarantees may be required by the Planning Board for any required site infrastructure, reclamation work, and decommissioning work.
  1. For reclamation and decommissioning work, the permit holder must arrange for the costs to be recalculated by an engineer every five years, and the amount of the performance guarantee may be adjusted by the Planning Board if the calculated cost of reclamation or decommissioning materially changes.
- D. **Schedule.** The performance guarantee must contain (i) a schedule and cost estimates for each major phase of required site infrastructure, reclamation work, or decommissioning work, taking into account inflation; (ii) a basis for estimating costs; (iii) provision for the release of part or all of the performance guarantee to the permit holder; and (iv) a date after which the permit holder will be in default and the Town must have access to the guaranteed funds to complete required site infrastructure, reclamation work, or decommissioning work. The Planning Board may approve phased performance guarantees when activity is approved in separate and distinct phases.
  1. **Time for Completing Required Site Infrastructure.** A period of one year, or such a period as the Planning Board may determine appropriate and necessary, not to exceed three years, must be set forth in the performance guarantee as the time within which any required site infrastructure must be completed. The Planning Board may extend this deadline by 12 months upon a showing of good cause.

**E. Inspections.**

1. **Escrow; Selection of Inspector.** At least seven days prior to commencing construction of any required site infrastructure, and at least 30 days prior to commencing any reclamation work or decommissioning work, the permit holder must deposit in escrow with the Town funds to cover the costs of site inspections to be conducted by an engineer mutually acceptable to the permit holder and the Planning Board. The contractual rate and all indirect charges constitute the expenses for which the permit holder's escrow account will be charged. The Planning Board must determine the type and frequency of inspections reasonably necessary to protect the environmental quality or general welfare of the Town and the amount required to be placed in escrow. Any part of this escrow payment in excess of the final costs for inspections must be returned to the permit holder.
2. **Building Permits.** No building permits will be issued for any project and no work will begin until an escrow payment has been made for the site inspections related to any required site infrastructure.
3. **Inspections; Addressing Deficiencies.** If the inspector finds, upon inspection of the required site infrastructure, reclamation work, or decommissioning work, that any of the site infrastructure or work has not been done in accordance with the plans and specifications filed by the applicant, the reclamation plan, the decommissioning plan, or any applicable conditions of approval, the inspector must so report to the Town Manager. The Town Manager must then notify the permit holder. The Town Manager may take any necessary steps to preserve the Town's rights under the performance guarantee and to remedy any insufficiencies identified by the inspector. The Town Manager may, in the Town Manager's discretion, allow the permit holder a period of time not to exceed 90 days, to remedy any insufficiencies identified by the inspector.
4. **Certification.** Before a permit holder may be released from any performance guarantee obligation, the inspector must certify to the Town that all required site infrastructure, reclamation work, and decommissioning work has been satisfactorily completed in accordance with conditions of approval, reclamation plans, decommissioning plans, long-term maintenance plan, and applicable state, federal, and local laws, rules, and regulations.

**F. Release.** Upon certification in accordance with subsection E.1, above, the permit holder may apply to the Select Board for the release of all or part of the performance guarantee. Prior to the release of any part of a performance guarantee, the Select Board must determine that the required site infrastructure, reclamation work, and decommissioning work comply with the requirements for that portion of the work for which a release is requested.

**Section X-11. Validity and Severability**

The sections, paragraphs, sentences, clauses, and phrases of this Code are severable. If any section, paragraph, sentence, clause, or phrase of this Code is declared unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such unconstitutionality, invalidity, or unenforceability does not affect the validity of any remaining sections, paragraphs, sentences, clauses, and phrases of this Code.

## APPENDICES

### Appendix A. Standards Adopted by Reference in the Code

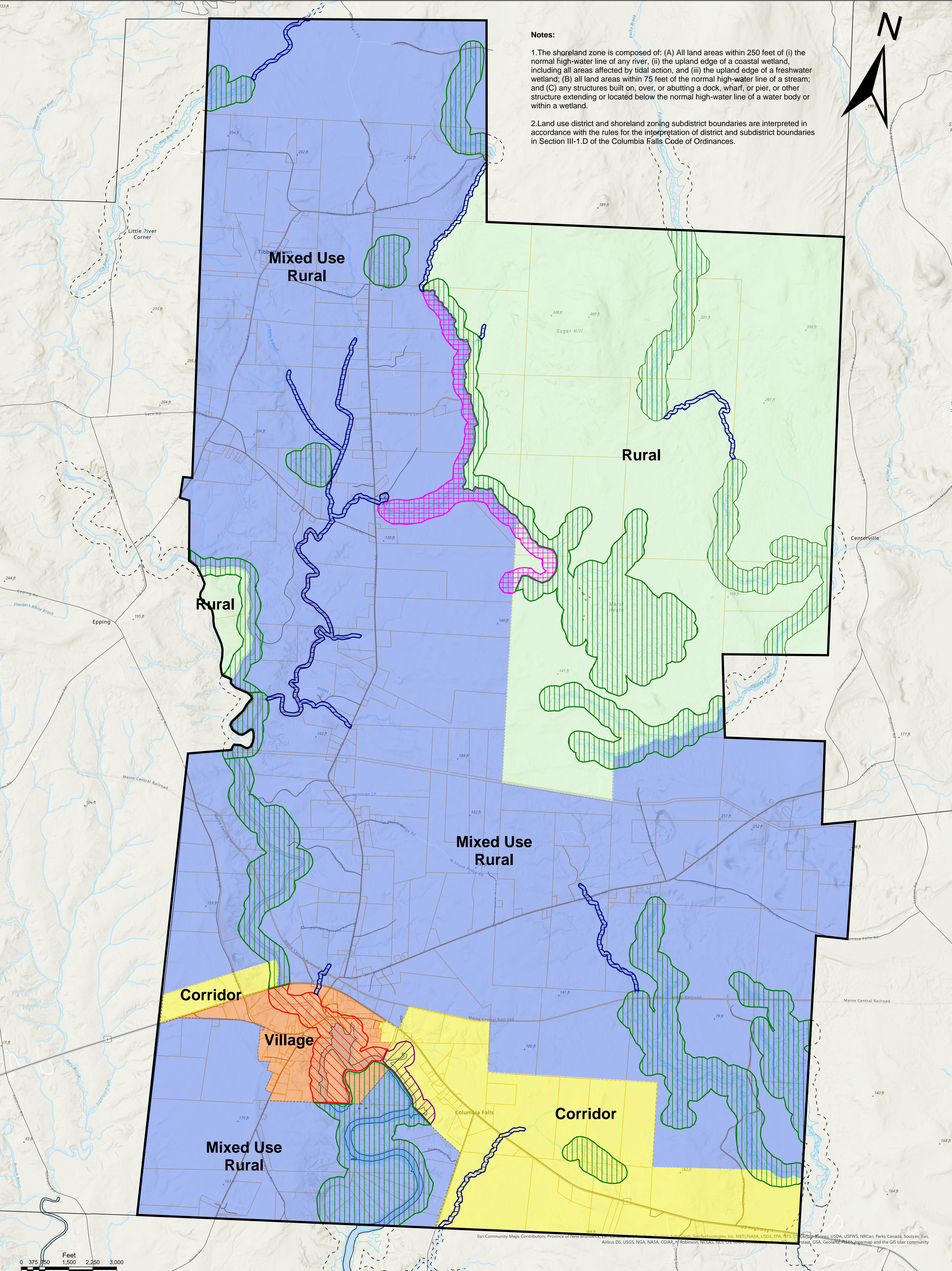
The following standards are adopted by reference in this Code, and a copy of each is on file in the office of the Town Clerk and is available for public use, inspection, and examination:

1. [DOT Best Management Practices for Erosion and Sedimentation Control](#) (DOT, Feb. 2008).
2. [DOT Standard Specifications, Division 700—Materials](#) (DOT, Dec. 2002).
3. [Guidelines for Maine Certified Soil Scientists for Soil Identification and Mapping](#) (Maine Association of Professional Soil Scientists, Mar. 2009).
4. [Maine Stormwater Management Design Manual: Phosphorus Control Manual, Vol. II](#) (DEP, Mar. 2016).
5. [Manure Utilization Guidelines](#) (DACF, Nov. 1, 2001).

STATE LAW REFERENCE—30-A M.R.S.A. § 3003 (MUNICIPALITIES; ADOPTION OF CODES BY REFERENCE).

**Appendix B. Official Land Use District Map**

The Official Land Use District Map is attached hereto.



# Town of Columbia Falls Official Land Use District Map

Enacted: March 19, 2024  
Date of Applicability: March 15, 2024

A true copy, attest:

*Melvin Allen Gosselle*  
Town Clerk  
Town of Columbia Falls

## Land Use Districts

- Mixed Use Rural District
- Rural District
- Village District
- Corridor District

## Shoreland Zoning Subdistricts

- Stream Protection
- Resource Protection
- Limited Commercial
- General Development
- Limited Residential

**CERTIFICATION OF PROPOSED ORDINANCE ENTITLED, "TOWN OF COLUMBIA FALLS CODE OF ORDINANCES," AND ORDER**

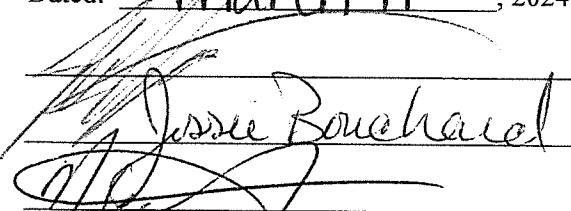
The municipal officers of the Town of Columbia Falls hereby **CERTIFY** to the municipal clerk of the Town of Columbia Falls, pursuant to 30-A M.R.S.A. § 3002, that attached hereto is a true copy of the proposed ordinance entitled, "Town of Columbia Falls Code of Ordinances," to be voted on at a town meeting of the Town of Columbia Falls on March 19, 2024 (the "Town Meeting"), under the following warrant article:

Article 10. Shall an ordinance entitled, "Town of Columbia Falls Code of Ordinances," be enacted?

*(Note: A "yes" vote on this article will repeal the following ordinances and replace them with the proposed Code of Ordinances: (1) Town of Columbia Falls Application Building Permit Ordinance, (2) Town of Columbia Falls Demolition of Property Ordinance, (3) Town of Columbia Falls Land Use Regulations, (4) Shoreland Zoning Ordinance for the Municipality of Columbia Falls, (5) An Ordinance for the Regulation and Control of Land Subdivisions in the Town of Columbia Falls, Maine, (6) Town of Columbia Falls Zoning Ordinance, (7) Town of Columbia Falls Street and Storm Water Management Design and Construction Standards, (8) Wireless Telecommunications and Wind Tower Facilities Siting Ordinance of the Town of Columbia Falls, and (9) Ordinance Establishing a Moratorium on Large-Scale Commercial and High-Density Residential Development. A copy of the proposed Code of Ordinances is attached to the posted warrant and copies are available at the Town Office.)*

**BE IT FURTHER ORDERED**, pursuant to 30-A M.R.S.A. § 3002(1), that the municipal clerk shall keep this certified copy as a public record and shall make copies of the proposed ordinance available for distribution to the voters of the Town of Columbia Falls from the time of this certification. Copies of the proposed ordinance shall also be attested by the municipal clerk and posted in the same manner as the warrant calling the Town Meeting and shall be made available to the voters at the Town Meeting.

Dated: March 11<sup>th</sup>, 2024



Jessie Bouchard

A majority of the municipal officers  
of the Town of Columbia Falls

A true copy of the proposed ordinance entitled, "Town of Columbia Falls Code of Ordinances," is attached hereto.

Attest: Melissa Allie Damrell  
Town Clerk  
Town of Columbia Falls

RETURN

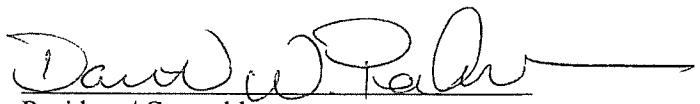
Washington County, ss.

State of Maine

I certify that I have posted an attested copy of the proposed ordinance entitled, "Town of Columbia Falls Code of Ordinances," at

Elmers Country Store  
Columbia Falls Post Office  
Town Office

being conspicuous public places within the Town of Columbia Falls on March 12<sup>th</sup>, 2024, which is at least seven (7) days next prior to the date of the March 19, 2024 Town Meeting.

  
\_\_\_\_\_  
Resident / Constable  
Town of Columbia Falls