

TOWN OF ADDISON, MAINE

LAND USE AND DEVELOPMENT CODE

Passed March 1973

Part I: Land Use Guidance (Zoning)

Section 1. Authority: This Part I is enacted pursuant to Article VIII-A of the Constitution of the State of Maine, (Municipal Home Rule); Revised Statutes, 1964, Title 30, Section 4962, as amended (Zoning Ordinances); and R.S., 1964, Title 12, Sections 4811-4814, (Mandatory Zoning and Subdivision Control).

Section 2. Purpose: This Part I establishes a system for dividing land in the town into three classifications. The purpose of this is to regulate and guide future land use. These classifications are based on such factors, among others, as present land use, the types and quality of soils and water bodies, and the ability of the town and other public agencies to provide necessary facilities and services.

Section 3. Application of Part I to Future Land Use and Development: The regulations contained in this Part I apply throughout town. Uses of land existing or for which approval has been requested, at the time these regulations came into effect, and which are otherwise lawful, are not affected. If such uses are discontinued for more than 12 consecutive months or are substantially destroyed or expanded, they may not be re-established except in accordance with the provisions of this Part I.

Section 4. Land Use Permit:

- A. No person may establish, expand substantially, re-establish or rebuild a land use not in existence on the date this Code came into effect without first having obtained a land use permit granted by the Planning Board. Provided, that the granting of a land use permit in no way relieves such person from the obligation to obtain other permits provided for in Parts II and III of this Code and other State and Local laws.
- B. A substantial expansion shall include, without being limited to the following:
 - i) An increase of more than 50% in the volume of sanitary waste;
 - ii) An increase of more than 50% in the total floor area of a building; and
 - iii) An increase of more than 50% in the total value of structures and other improvements.
- C. Application for a land use permit shall be filed with the Planning Board or with the Town Clerk addressed to the attention of the Planning Board.

Section 5. Permit to Establish Uses Permitted as a Matter of Right:

Application for a land use permit to establish one or more of the land uses permitted as a matter of right in the land use district in which the land is located shall be subject to review and approval as follows:

- A. The applicant shall apply in writing to the Planning Board on the form provide or shall furnish at least the following information:
 - i) A map or other means of showing the location and size of the parcel of land for which a permit is requested;
 - ii) The land use district in which the land is located;
 - iii) The land use to be established; and
 - iv) A statement or more specific information showing that the use to be established is permitted as a matter of right in the land use district in which the land is located.

Section 6. Permit to Establish Land Uses Other Than Those Permitted As A Matter of Right:

Application to establish one or more land uses other than those permitted as a matter of right in the land use district in which the land is located shall be subject to review and approval as follows:

- A. The applicant shall apply in writing to the Planning Board on the form provided or shall furnish at least the following information:
 - i) A map or other means of showing the size, location, topography and soil characteristics of the property; and
 - ii) The nature and extent of all alterations of the land, construction or other use or development proposed, whether or not to be carried out immediately.
- B. The applicant shall prove that taking into account the purposes of and uses permitted in the land use district in which the land is located, such land use:
 - i) Would be consistent with the maintenance or improvement of the quality of any adjacent water body, the protection of spawning grounds, and of fish, aquatic life, bird and other wildlife habitat; and
 - ii) Could be established or carried out in compliance with the development regulations set forth in Part II of this Code and related local and State laws, ordinances, and regulations, in particular those pertaining to erosion control, conservation of shore land trees and vegetation, preservation of points of public access to public water bodies and the protection of the natural beauty or present appearance of shore land areas.
- C. In determining whether the foregoing test have been met, the Planning Board shall consider:
 - i) Any elements of, or a completed or adopted, comprehensive plan of the community,
 - ii) Recommendations of the Town conservation commission, if any; and
 - iii) The plans, policies and practices of regional and State agencies and commissions having jurisdiction over some or all of such matters, whether such jurisdiction is regulatory or advisory.

Section 7. Permits to Conduct Land Use and Development Activities:

- A. An applicant for a land use permit under this Part I may at the same time apply for review and approval of a subdivision as provided in Part III and/or for one or more permits to carry out one or more development activities as provided in Part II. Provided that applications for such permits and approval and the decision upon them shall be clearly set forth in writing separate from the application and decision for the land use permit.
- B. If the Planning Board finds that it is unable to reach a decision upon an application for a land use permit without considering information required to be submitted under Parts II and III of this Code, then it shall notify the applicant in writing to make application for such permits or approval.
- C. The procedure for notice, public review, and appeal regarding an application for a land use permit shall be as provided in Part IV of this Code.

Section 8. Land Use Districts Defined: (Note: The following are suggestive only. While state guidelines indicate that a Protection District is mandatory, this has not been firmly established.)

- A. Protection Districts:
 - Purpose: To achieve the most appropriate uses in area comprising significant natural, recreation, economic, historical or visual resources of the town and to restrict, at this time, the use of areas which are severely limited for development by reason of soil type, slope, location with respect to public roads, inadequate water supply, or deficiencies in other resources and public services and facilities.
 - Designation: The following areas are located within Protection Districts: All land areas within 250 feet of any natural pond or lake with a water surface of 10 acres or more, artificially increased pond or lake with a water surface of 30 acres or more, (any part of) a stream or river capable of floating watercraft, and any salt water body. Such distance shall be measured along a line following the surface of the land.
- B. Uses Permitted within Protection Districts: The following uses, and only the following uses, are permitted as a matter of right in Protection Districts, and then only to the extent that the Planning Board finds that such uses will not unduly burden or otherwise harm or destroy the resource or area so used:
 - i) Public, primitive and wilderness recreational uses;
 - ii) Resource protection and management practices carried out by a duly authorized state or local agency with the prior approval of the Planning Board.
 - iii) Agricultural practices of the home garden or small commercial farm type on tracts of five acres or less but excluding dairying, livestock and poultry raising except for home use or limited sale;
 - iv) Home-related retail, professional, service and aquacultural harvesting and marine product landing, processing and distribution, provided that no such establishment employs more than three persons not residing in the home to which such use is related.;

- v) Any and all other uses may be permitted as a conditional use in the manner provided for in Section 6, above, of this Part I and the related provisions of this Code.

C. Management Districts:

Purpose: To protect and conserve those areas suited for the large scale (alt: commercial) production of agricultural, aquacultural, and forest products and to limit development of areas otherwise suited for varied uses, in accordance with the ability of the town and others to provide public facilities and services.

The following areas are included within Management Districts:

All land inland of areas included in a Resource Protection District but excluding any land within 500 feet of the center of all public roads maintained year round.

D. Uses Permitted Within Management Districts:

The following, and only the following uses, are permitted as a matter of right in Management Districts:

- i) All uses permitted in Protection Districts:
- ii) Forest management and commercial harvesting but not processing, of forest products, forest nurseries, and tree farms;
- iii) Agricultural management and commercial harvesting but not processing, of agricultural products, including but not limited to: dairying, livestock and poultry raising; bee keeping; grazing and pasturage; stables and paddocks; fruits and vegetables, berries and cereal grain raising; and, horticultural and ornamental plant raising;
- iv) Aquacultural management and commercial harvesting of aquacultural products including but not limited to mussels, oysters and marine worms but excluding the landing and processing of other marine products unless permitted as a conditional use in accordance with (vii), below:
- v) Dwellings, provided that the applicant for a land use permit shall agree in writing, binding also on any successors in interest, to assume³ responsibility for the provision of roads and road maintenance, snow removal, school transportation, fire protection and other services and facilities which the Planning Board might reasonably require to protect the health and safety of the occupants of such areas and of the town;
- vi) Erection of accessory structures or buildings and carrying out of accessory uses as may be necessary for the conduct of uses permitted within Management Districts; and,
- vii) Any and all other uses may be permitted as a conditional use, in the manner provided for in Section 6, above, of this Part I and the related Provisions of this Code.

E. General Districts:

Purpose: To encourage such other residential, recreational, commercial, industrial development and land uses which are consistent with the health safety and general welfare of the inhabitants of the town and which may be suitable for and compatible with such areas and to discourage inconsistent, unsuitable and incompatible development and land use.

The following areas are included within General Districts:

- i) All land areas within the town lie within five hundred feet of the center of a public road and which are not included in a Protection District.

F. Uses Permitted within General Districts:

The following uses, and only the following uses, are permitted as a matter of right in a General District:

- i) All uses permitted in a Protection or a Management District;
- ii) Any and all other land uses may be permitted as a conditional USE, IN THE MANNER PROVIDED FOR IN section 6, above, of this Part I and the related provisions of this Code.

Section 9. Enforcement:

- A. No person shall be granted any permit required by Parts II and III of this Code without first having obtained a land use permit in accordance with this Part I.
- B. No person shall commence or continue any land use activity for which a permit is required by Parts II and III, without first having obtained a land use permit.
- C. Any person in violation of B., above, shall take steps as may be required by the Planning Board to prevent or minimize harmful or adverse effects of such unauthorized activity to persons, the land, or a water body.

Section 10. Penalties:

Any person who commences or continues any land use activity without first obtaining a land use permit in accordance with this Part I shall be punished by fine of not more than \$100.00 for each such activity. Each day that any such activity is carried on shall constitute a separate offense. Each day following notice from the Planning Board on which measures to minimize or prevent harmful or adverse effects are not taken or are not continued with reasonable diligence shall constitute a separate offense.

Section 11. Suits and Remedies:

- A. The town through its Selectmen or Planning Board or any seven of its registered voters or taxpayers may institute proceedings to enjoin the violation of this Part I.
- B. Upon notice by the Planning Board that measures required to be taken pursuant to 9C., above, have not been taken or have not been continued with reasonable diligence, the Selectmen shall cause said measures to be taken and shall assess and collect the reasonable costs for such measures in the same manner as in the assessment and collection of a tax on real property.