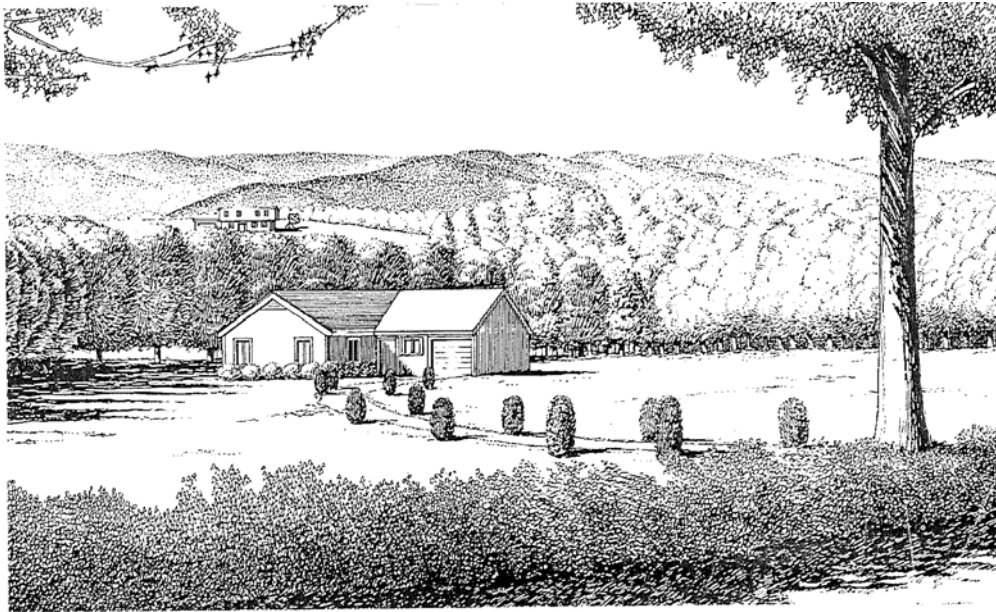


# HOPE LAND USE ORDINANCE



A TRUE COPY

ATTEST:

*Florance A. Merrifield*

**FLORANCE A. MERRIFIELD  
HOPE TOWN CLERK**

**ADOPTED: June 22, 1987**

**REVISED: October 24, 1988  
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ARTICLE I. GENERAL.

1.1 Title.

This Ordinance shall be known and may be cited as the "Land Use Ordinance of the Town of Hope," and will be referred to herein as this "Ordinance."

## 1.2 Purpose.

To protect the lawful use of land as existing on the date of the enactment of this Ordinance. To provide for the development of Hope's idle land in such a way as to protect Hope's pleasant environment. To further the maintenance of safe and healthful conditions and the general welfare: prevent and control water pollution, protect spawning grounds, fish, aquatic and other wildlife habitat: control size and location of building sites, placement of structures and land uses, including conservation of shore cover.

## 1.3 Basic Requirements.

All buildings or structures hereinafter erected, reconstructed, altered, enlarged or moved and uses of premises in the Town of Hope shall be in conformity with the provisions of this Ordinance.

B. Lots and/or buildings of record shall mean by recorded deeds, by deeds not yet recorded, written legal agreements of sale, land divided by inheritance of estate settlements, order of court or gifts of living relatives dated prior to the effective date of adoption or amendment of this Ordinance.

## 1.4 Nonconforming Uses (Grandfather Clause).

A. All lots of record with or without buildings and all buildings of record on the effective date of adoption of this Ordinance, or subsequent amendments thereto, not meeting the requirements of this Ordinance and any amendments thereto shall be referred to as "nonconforming lots and/or buildings."

## 1.5 Nonconformance

### A. Purpose.

The purpose of this article is to regulate nonconforming lots, uses, and structures as defined in this Ordinance such that they can be reasonably developed, maintained or repaired, or changed to other less nonconforming or to conforming uses.

### B. Definitions.

1. Nonconforming lot: a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the minimum lot area, lot area per dwelling unit, lot coverage, or frontage requirements of the District in which it is located. It is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.
2. Nonconforming structure: a structure that does not meet the setback, lot coverage, or height standards of the District in which it is located. It is allowed solely because it was in lawful

existence at the time this Ordinance or subsequent amendments took effect.

3. Nonconforming use: a use of premises that is not permitted in the District in which it is located but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

C. Nonconforming lots.

1. Vacant lots

- (a) A nonconforming lot may be built upon provided that such a lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variance of other requirements shall be obtained only by action of the Board of Appeals.
- (b) If two or more vacant, or partially built, contiguous lots are in the same ownership of record at the time of adoption or amendment of this Ordinance, and if these lots do not individually meet the dimensional requirements of this Ordinance, the lots shall be combined to the extent necessary to meet the dimensional standards, except:
  - (i) where the contiguous lots front onto different streets; and,
  - (ii) the lots were legally created and recorded before the adoption of this Ordinance and any amendments thereto.

No division of any lot may be made which leaves the lot's frontage or area below the minimum requirements of this Ordinance or which worsens an existing nonconforming situation.

2. Lots with Structures.

- (a) If two or more contiguous lots or parcels are in the same ownership of record at the time adoption or amendment of this Ordinance, if all or part of the lots do not meet the applicable area and dimensional requirements, and if a principal use exists on each lot, or if the lots were legally created and recorded before the adoption of this Ordinance, and any amendments thereto, the nonconforming lots may be conveyed separately or together, providing all other State law and local Ordinance requirements are complied with.
- (b) Contiguous nonconforming lots of record which, at the effective date of adoption or amendment of this Ordinance, are the site of permitted accessory structures shall conform to the provisions of Section 1.5, C, 1, b.

## D. Nonconforming Structures.

### 1. Maintenance and Enlargement.

A structure in existence as of the effective date of adoption or amendment of this Ordinance that does not meet the height or yard requirements may be repaired, maintained and improved. It may be enlarged and/or accessory structures may be added to the site without a variance, provided that:

- (a) the enlargement or accessory structure itself does not exceed the height limitations of the district in which it is located; and,
- (b) that the enlargement or accessory structure in combination with the existing structure and paved areas does not exceed the prescribed maximum lot coverage, and
- (c) the enlargement or accessory structure itself meet the setback requirements of the district, or, if located within the same yard area as the nonconforming structure, is no closer to the front, side, or rear lot line than the nonconforming structure and contains no more than 30 percent of the ground floor area of the nonconforming structure.
- (d) No structure which is less than the required setback from the normal high water line of a water body or upland edge of a wetland shall be expanded so that any portion of the structure closer to the water body or wetland than the existing structure. If any portion of a structure is less than the required setback from the water body or wetland, that portion of the structure shall not be expanded in floor area or volume by any more than 30% during the lifetime of the structure. No accessory structure shall be located within the required setback from the normal high water line of a water body or upland edge of a wetland.

### 2. Reconstruction.

Any nonconforming building or structure which is hereafter damaged or destroyed by fire by more than 50% of the market value of the structure before such damage or destruction, or any cause other than the willful act of the owner or his agent, may be restored or reconstructed in conformity with its original dimensions, and used as before within twelve (12) months of the date of said damage or destruction; provided, however, that such reconstruction and use shall no be more nonconforming than the prior nonconforming building or structure or use, and that the reconstructed structure is in compliance with the water setback requirement to greatest practical extent as determined by the Planning Board. Nothing in this section shall prevent the demolition of the remains of any building damaged or destroyed. Willful removal of a nonconforming structure or requests to relocate a nonconforming structure on the property is permitted provided the shoreland setback standard is met to the greatest practical amount as determined by the Planning Board.

E. Nonconforming Uses.

1. Continuance.

The use of land, building or structure, lawful at the time of adoption, or subsequent amendment of this Ordinance, may continue although such use does not conform to the provisions of this Ordinance, except as provided in paragraph 3 below.

2. Resumption.

Whenever a nonconforming use of land and/or structure is superseded by a permitted use, such structure and/or land shall thereafter conform to the provisions of this Ordinance and the nonconforming use shall not thereafter be resumed.

3. Discontinuance.

A nonconforming use which is discontinued for a period of two years shall not be resumed. The uses of the land, building or structure shall thereafter conform to the provisions of this ordinance.

4. Expansion of Use.

A nonconforming use, including a nonconforming out-door use of land, shall not be extended or expanded in area or function.

F. Transfer of Ownership.

Ownership of nonconforming lots, structures, and/or uses as defined in this Ordinance may be transferred without loss of their lawful but nonconforming status.

1.6 Appeals and Variance Applications.

A. Powers and Duties of the Zoning Board of Appeals:

1. To interpret provisions of the Ordinance which are called into question:
  - a. Administrative Appeals: to hear and decide where it is alleged there is an error in any order, requirement, decision, or determination made by the Code Enforcement Officer or the Planning Board.
2. To hear administrative appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Code Enforcement Officer or the Planning Board.
3. To grant variances

- B. The Board of Appeals shall hear and decide upon applications in specific cases where the relaxation of the terms of this Ordinance would not be contrary to the public interest and where, owing to conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in undue hardship. Variance applications shall be in writing to the Board of Appeals in sufficient detail with sketches and measurements as may be necessary for the Board of Appeals to render its decision.
- C. In all cases, a person aggrieved by the decision of the Code Enforcement Officer and/or Planning Board shall commence an appeal within thirty (30) days after said decision is rendered.
- D. Before taking action on any appeal, the Board of Appeals shall hold a public hearing, advertised in advance in a newspaper with local circulation at the expense of the applicant. The Board of Appeals shall, in writing, notify of the nature of the appeal and of the time and place of the public hearing thereon, the Selectmen, the Planning Board, and all owners of property within 500 feet of the property involved in the appeal.
- E. The Board of Appeals may grant a variance only where strict application of this Ordinance would result in "undue hardship" to the petitioner. A variance shall not be granted to permit a use or structure otherwise prohibited by this Ordinance. "Undue hardship" shall mean:
  - 1. That the land in question cannot yield a reasonable return unless a variance is granted;
  - 2. That the need for a variance is due to the unique circumstances of the property and not to general conditions in the neighborhood;
  - 3. That the granting of a variance will not alter the essential character of the locality; and
  - 4. That the hardship is not the result of action taken by the applicant or a prior owner.

Further, within the Shoreland Districts, a variance shall be granted only if the Board of Appeals makes a positive finding, based on information presented to it, that the proposed uses:

- a. Will not result in unsafe or unhealthful conditions;
- b. Will not result in erosion or sedimentation;
- c. Will not result in water pollution;
- d. Will not result in damage to spawning ground, fish, aquatic life, bird and other wildlife habitat;
- e. Will conserve shoreland vegetation as defined in Article IV: E-3.;
- f. Will conserve visual points of access to waters as viewed from public facilities;

- g. Will conserve actual points of public access to waters;
  - h. Will conserve natural beauty; and
  - i. Will avoid problems associated with flood plain development and use.
- F. Notice of any decision of the Board of Appeals shall be mailed or hand delivered to the petitioner, his representative or agent, the Planning Board and the Selectmen within seven (7) days of the rendering of the decision.
- G. If the Board of Appeals shall deny a variance, a second request for a variance, affecting the same property and requesting a similar result, shall not be submitted to the Board of Appeals within six (6) months from the date of denial, unless four members of the Board find that an error of law or misunderstanding of fact has been made.
- H. An appeal may be taken to Superior Court, within thirty (30) days after the decision is rendered by the Board of Appeals, by any party from any order, relief or denial in accordance with the Maine Rules of Civil Procedure, Rule 80-B.
- I. A copy of all variances granted by the Board of Appeals for properties within the Shoreland Districts shall be submitted to the Department of Environmental Protection within 14 days of the Board of Appeals' decision.

#### 1.7 Validity.

- A. Should any section or provision of this Ordinance be declared by the Courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance
- B. State statutes not included in this Ordinance remain applicable as governing land use in the Town of Hope and enforceable as directed by State authorities.
- C. Conflict with Ordinances.

Whenever the regulations of this Ordinance conflict with those of another ordinance, other regulations, or within the Land Use Ordinance, the stricter shall apply.

#### 1.8 Amendments.

Amendments to this Ordinance shall be considered following Petition, recommendation of the Planning Board, or Motion of the Selectmen. All Petitions for amendment of the Zoning Ordinance shall contain the recommendations (whether for or against) of the Planning Board.

Upon receiving a Petition, the Town Clerk shall notify the Planning Board of the proposed amendment. The Planning Board, at its next regular or special meeting following notification from the Town Clerk, shall determine whether the proposed amendment is consistent with the Comprehensive Plan of the Town of Hope. The Board shall indicate, within 14 days, in a written decision, whether a proposed amendment would be consistent with the Comprehensive Plan. The decision of the Planning Board may be appealed to the Board of Appeals within 30 days of the

Planning Board's decision.

If the Planning Board finds the proposed amendment to be inconsistent with the Comprehensive Plan, unless overruled by the Board of Appeals or the Superior Court, such article shall not be considered by the Town Meeting until the Comprehensive Plan shall be amended in such manner that the amendment would be consistent with the amended Comprehensive Plan. The Town may consider the proposed zoning amendment and the proposed amendment to the Comprehensive Plan simultaneously.

If the Planning Board finds that the proposed amendment to the Zoning Ordinance is consistent with the Hope Comprehensive Plan, the Board shall hold a public hearing on the proposed amendment. The hearing shall be advertised fourteen (14) days in advance, such notice to be posted in the manner provided for Town Meetings. In addition, public notice shall be published twice in a newspaper of general circulation in the Town of Hope. The date of first publication shall be at least seven (7) days next prior to the date of the public hearing. Following the public hearing, the Planning Board shall forward its recommendation in writing to the Board of Selectmen.

Not less than ten (10) days prior to an annual or special town meeting, the Selectmen shall hold a public hearing on the proposed amendment to the Zoning Ordinance. The proposed amendment shall be attested and posted in the manner provided for Town Meetings, not less than fourteen (14) days prior to the scheduled hearing. In addition, public notice shall be published twice in a newspaper of general circulation in the Town of Hope. The date of the first publication shall be at least seven (7) days prior to the date of the public hearing.

One copy of the proposed Ordinance or amendment thereto shall be certified by the municipal officers to the Town Clerk, at least seven (7) days next prior to the day of election or Town Meeting, to be preserved as a public record, and copies shall be available at that time for distribution to the voters by the municipal clerk, as well as at the time of the Town Meeting.

The subject matter of the proposed Ordinance or amendment thereto may be reduced to the question:

"Shall an Ordinance or amendment entitled \_\_\_\_\_ be enacted?"

Each Ordinance or amendment shall be on file with the municipal clerk and shall be accessible to any member of the public. Copies shall be made available to any member of the public, at a reasonable cost, at the expense of the person making the request. Notice of availability of the Ordinance or amendment shall be posted.

#### 1.9 Effective Date, Repeal.

This Zoning Ordinance shall be enacted and be of full force and effect on the day following the date of approval of this Ordinance by the voters of the Town of Hope at a town meeting, and any Zoning Ordinance of the Town of Hope in effect prior to the date of enactment of this Zoning Ordinance shall be repealed as of that date. In the case of any amendments involving or related to the shoreland provisions of this Ordinance or any shoreland districts on the Official Zoning Map,

such amendments shall not be effective until approved by the Department of Environmental Protection.

## ARTICLE II. ZONING MAP

### 2.1 Zoning Map, Certification.

A map entitled "Town of Hope Zoning Map" is hereby adopted as part of the Ordinance and shall be referred to as the Official Zoning Map. The Official Zoning Map shall be identified by the signature of the Chairman of the Board of Selectmen and attested by the signature of the Town Clerk. The Official Zoning Map shall be located in the office of the Town Code Enforcement Officer, and it shall be the final authority as to the current zoning status of the land and water areas, buildings, and other structures in the Town.

In addition, the Official Zoning Map shall be supplemented by the Official Tax Assessment Maps, which maps shall depict the actual zone boundaries.

### 2.2 District Boundaries.

#### A. Uncertainty of Boundaries.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of roads and highways shall be construed to follow such center lines;
2. Boundaries indicated as approximately following well established lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits;
4. Boundaries indicated as following shorelines shall be construed to follow the normal high water line, and in the event of natural change in the shoreline shall be construed as moving with the actual shore-line; boundaries indicated as approximately following the center lines of streams, rivers, lakes or other bodies of water shall be construed to follow such center lines;
5. Boundaries indicated as being parallel to or extensions of features indicated in Paragraphs 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map. Any conflict between the zoning map and a description by metes and bounds in a deed shall be resolved in favor of the description by metes and bounds;
6. Where physical or cultural features existing on the ground are at variance with those

shown on the Official Zoning Map, or in circumstances where the items covered by paragraphs 1 through 5 above are not clear, the Board of Appeals shall interpret the district boundaries.

B. Division of Lots by District Boundaries.

Where a zoning district boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulation applicable to the less restricted portion of the lot may be extended into the more restricted portion of the lot, by not more than fifty (50) feet; provided, however, that minimum side yard and back yard requirements and buffering requirements for a non residential or multi-family use abutting a residential use shall be observed.

ARTICLE III. Land Uses

3.1 General.

Land uses and activities involving minimal structural improvements or alteration of the land are allowed in all Zoning Districts and shall not, unless specifically indicated in this Ordinance, require permits from the Code Enforcement officer. These activities include, but are not limited to: hiking, hunting, snowmobiling, harvesting of wild crops, wildlife observation and management, fire prevention activities, surveying, mineral exploration, trail construction and maintenance, and emergency operations. Such activities shall conform to applicable State and Federal laws and regulations.

All other land uses and activities shall conform to applicable General Performance Standards of this Ordinance. In addition, those land uses and activities within the Shoreland Districts shall conform to applicable Shoreland Performance Standards of this Ordinance.

3.2 Purpose.

A. Rural Residential District

1. Purpose: To maintain the rural and agricultural character of Hope, while at the same time protecting this natural and rural quality from development sprawl.

B. Business Transition District 1.

1. Purpose: To provide within the Town of Hope the location of business and service uses consistent with the residential and rural character of the Town.

C. Business Transition District 3.

1. The purpose and the permitted uses are the same as Business Transition District 1 with this exception: Retail use of buildings of 15,000 square feet or less is allowed.

D. Business Transition District 2 and District 4.

1. Purpose: To provide area within the Town of Hope for manufacturing, processing, warehousing, distribution and storage.

3.3 Town-Wide Land Uses Standards.

KEY: YES -- Allowed. No permits required.  
 CEO -- Building Permit Required.  
 PB -- Approval by Planning Board Required.  
 SUB -- Approval by Planning Board Required in accordance with Subdivision Ordinance.  
 NO -- Not Allowed.

<u>LAND USES</u>	<u>RURAL RESIDENTIAL</u>	<u>BUSINESS TRANSITIONAL</u>			
		<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>
Agricultural and horticultural uses and sale, processing, and storage of products grown on the premises. (1)	YES	YES	YES	YES	YES
Timber Harvesting, Forest Management Activities	YES	YES	YES	YES	YES
Mineral Extraction, Processing and Storage	PB	PB	PB	PB	PB
Single & Two Family Detached Dwellings	CEO	CEO	CEO	CEO	CEO
Multi-Family Dwellings/ Apartment Houses	NO	PB	PB	PB	PB
Mobile Home Parks	SUB	SUB	SUB	SUB	SUB
Conversion of Existing Residential Structures to Not More Than Two Dwellings	CEO	CEO	CEO	CEO	CEO
Uses Accessory to Residential Uses	CEO	CEO	CEO	CEO	CEO
Home Occupations	PB	PB	PB	PB	PB
Day Care Center	PB	PB	PB	PB	PB
Elderly congregate Housing	PB	PB	PB	PB	PB
Community Living Use	PB	PB	PB	PB	PB

<b><u>LAND USES</u></b>	<b><u>RESIDENTIAL</u></b>	<b><u>TRANSITIONAL</u></b>			
		<b><u>1.</u></b>	<b><u>2.</u></b>	<b><u>3.</u></b>	<b><u>4.</u></b>
Bed & Breakfast, Tourist Home	PB	PB	PB	PB	PB
Church, Quasi-public facility	PB	PB	PB	PB	PB
School, Commercial, Public or Private	PB	PB	PB	PB	PB
Municipal Open Space/Recreational Uses	PB	PB	PB	PB	PB
Commercial Outdoor Recreational Uses	PB	PB	PB	PB	PB
Business & Professional Offices	NO (2)	PB	PB	PB	PB
Personal Services	NO (2)	PB	PB	PB	PB
Tradesmen's Shops	NO (2)	PB	PB	PB	PB
Restaurants/not including Fast Foods	NO	PB	PB	PB	PB
Motor Vehicle Sales and Services With Building Footprints less than 5,000 sq. ft.	NO	PB	PB	PB	PB
Neighborhood Store, including Sale of Motor Vehicle Fuel/Supplies	NO	PB	PB	PB	PB
Retail Uses of Buildings of 2,000 to 10,000 Square Feet	NO	PB	PB	PB	PB
Retail Uses of Buildings of Over 10,000 to 15,000 Square Feet	NO	PB	PB	PB	PB
Motels/Hotels	NO	PB	PB	PB	PB
Manufacturing, Processing, Warehousing, Distribution and Storage	NO	NO	PB	NO	PB
Junk Yard/Automobile Graveyard	NO	NO	PB	NO	PB
Municipal Uses	PB	PB	PB	PB	PB
Public Utility Installations, Including Power Substations & Pumping Stations	PB	PB	PB	PB	PB
Cemeteries	PB	PB	PB	PB	PB

(1) Building Permits are required for buildings and structures over 100 sq. feet.

(2) Unless operated as Home Occupations

### 3.4 Dimensional Requirements

	<u>DISTRICT</u>				
	<u>RURAL RESID.</u>	<u>BUSINESS TRANSITION 1 2 3 4</u>	<u>RESOURCE PROTECTION STREAM PROT.</u>	<u>SHORELAND LIMITED RES. REC.</u>	<u>MAJOR &amp; MINOR SUB-DIV.</u>
<b>Minimum Lot Area (Sq. Ft.)</b>					
Residential	40,000	40,000	60,000	40,000	60,000
Lot Area Per Dwelling Unit (1)	40,000	40,000	60,000	40,000	60,000
Non-Residential	40,000	40,000	60,000	40,000	60,000
<b>Minimum Lot Dimensions (ft.)</b>					
Shoreland Frontage - Residential	200	200	300	200	200
Shoreland Frontage - Non-residen.	200	200	300	300	200
Road Frontage (2) (6) (7)	150	150	150	150	200
Rear Yard Width (2a)	100	100	200	200	150
Front Yard Setback (3)	58	58	58	58	58
Side Yard Setback	20	20	20	20	20
Rear Yard Setback	20	20	20	20	20
Shoreline Setback (4)	100	100	100	100	100
Maximum Building Hgt. (ft.) (5)	35	35	35	35	35
Maximum Lot Coverage by Buildings & paved surfaces including non-vegetated.	33%	50%	20%	20%	20%
Maximum Density (see Hope Subdivision Ordinance for definition)	3 Acres				

(1) Does not apply to conversion of existing residence to two family dwelling. If located in the Shoreland zone, the minimum lot area and frontage requirements apply to each dwelling unit on the lot.

(2) May be reduced by 30 feet, measured along the chord of a cul-de-sac. A cul-de-sac shall have a minimum right-of-way radius of 65 feet.

(2a) The 200-foot minimum rear yard width applies to any portion of any lot within 100 feet, horizontal distance, of

the normal high water line of a water body or upland edge of a wetland.

- (3) From centerline of any roadway. When a proposed structure is abutted on both sides by structures, within 100 feet of the proposed structure, whose setback is less than that required, the Planning Board may reduce the setback to that of the abutting structures, but in no case to less than 33 feet from the centerline of any roadway. The front yard setback shall be required for each yard abutting a right-of-way.
- (4) Not applicable to piers, docks, and retaining walls.
- (5) Features of buildings or structures not intended for human habitation, such as chimneys, ventilators, towers and spires may exceed these heights, but shall be set back from all lot lines a distance not less than the height of such feature or structure.
- (6) If the majority of the Planning Board members decide that the            better plan could be achieved with less than the minimum 200 foot road frontage, provided they are authorized to waive that requirement.
- (7) Back Lots: Creation of up to two (2) lots, which do not have adequate road frontage, from any existing lot of record is permitted, provided those back lots conform to minimum lot size in their district. The access to the lots, in fee ownership or by right-of-way, shall be at least 30 ft wide, and shall be described in an instrument recorded at the Knox County Registry of Deeds.

### 3.5 General Performance Standards

- A. Purpose: The standards contained in this Section are intended to allow various uses to be accommodated without detriment to neighboring uses and properties.
- B. Conditions: The Planning Board, may, in order to carry out the purposes of this Section, require additional conditions necessary to protect the public interest and to fit such uses harmoniously into their neighborhoods. Such conditions may include, but are not limited to, specifications for: increased setbacks and yards; specified water supplies or sewage disposal facilities; type of vegetation; landscaping and planting screens; periods and methods of operation; routing of traffic; professional operation, maintenance, and inspection of sanitary facilities; and performance guarantees. Such conditions imposed, and the reasons therefore, shall be written as part of those permits approved by the Planning Board which involve additional conditions.
- C. Accessory Buildings: No garage or other accessory building shall be located within the front yard setback. Accessory buildings not exceeding 10 feet in height may be located not less than 10 feet from side or rear lot lines; except that no accessory building shall be located within the shoreline setback. Accessory buildings exceeding 10 feet in height shall be located not less an one foot from the side or rear lot lines for each foot of height.
- D. Air Pollution:
  - 1. All air pollution control shall comply with minimum Federal, State and local requirements.
  - 2. Any activity emitting toxic or odoriferous substances must submit detailed plans to minimize such emissions to the Code Enforcement Officer before a permit for construction is granted.
  - 3. An environmental impact study may be required.
- E. Campgrounds: Campgrounds shall conform to the Shoreland Performance Standards.
- F. Clearcutting:
  - 1. There shall be no clearcutting of trees within 75 feet of any public right-of-way.
  - 2. Clearcutting of trees within shoreland areas shall be governed by the Shoreland Performance Standards.
  - 3. Before trees are clearcut elsewhere within the Town, a written plan endorsing the clearcut and prescribing steps and a timetable for the revegetation of the land to retard erosion and preserve natural beauty shall be obtained from a professional forester registered in the State of Maine and filed with the Code Enforcement Officer. The plan shall be carried out by the property owner according to the timetable in the plan.

G. Community Living Use, Elderly Congregate Housing

Homes providing community living facilities including full-time staffing and residential facilities for short and long-term occupancy by persons not requiring full-time nursing care shall conform to the following:

1. New buildings shall be no higher than two stories, 35 feet in height. No Group Home shall be used for human occupancy above the second story.
2. All Group Homes shall be equipped with automatic sprinklers.
3. Lots shall meet all requirements for dwellings, with each six residents or fraction thereof counting as an additional "family."
4. No parking shall be located within the yard setbacks.

H. Corner Clearances

For purposes of traffic safety, no building or structure may be erected and no vegetation other than shade trees may be maintained above the height of three feet above street level within forty feet of the intersection of the center line of intersecting streets or driveways serving non-residential uses.

I. Dwelling Conversions

A single-family dwelling may be converted to no more than two dwelling units provided:

1. Exterior alterations shall be limited to those required to comply with applicable Health, Building and Fire Safety Codes and shall not substantially alter the single-family appearance of the residence.
2. All dimensional requirements for single-family dwellings shall be met.
3. The lot must contain sufficient area and suitable soil conditions for on-site disposal in accordance with the Maine State Plumbing Code, Part 2.
4. Each unit shall contain the following minimum living areas:

Efficiency or studio apartment	300 sq. ft.
1-bedroom apartment	400 sq. ft.
2-bedroom apartment	550 sq. ft.
3-bedroom apartment	700 sq. ft.
4-bedroom apartment	850 sq. ft.
5. Off-street parking shall be provided in accordance with this Ordinance.
6. No parking shall be located within the yard setbacks.

## J. Glare

All lighting shall be shielded to prevent direct glare, on adjoining residential property or public rights of way.

## K. Home Occupations

Home Occupations shall conform to the following:

Where located within 300 feet of an existing dwelling, the occupation or profession shall be carried on wholly within the dwelling unit or accessory building(s) on the premises; there shall be no exterior storage of materials or products; and no exterior indications of other than residential use.

Home occupations located more than 300 feet from an existing dwelling, may store materials or products outdoors.

1. Home Occupations where located within 300 feet of an abutting dwelling, the occupation or profession shall be carried out wholly within the dwelling unit or accessory structure(s) on the premises. There shall be no exterior storage of materials or products. Excepting appropriate signage, there shall be no exterior indications of other than residential use. Home Occupations located more than 300 feet from a dwelling, may store materials or products outdoors only if screened from view from adjacent residential lots, as required for off-street parking and loading spaces.
2. No more than two persons outside the family, who do not reside in the dwelling shall be employed by the business.
3. No more than one double-faced sign of no more than four square feet of area per face shall be allowed. The sign may display only the name of the proprietor and the business or profession and shall conform to the sign standards of Land Use Ordinance.
4. Off-street parking shall conform to the off-street parking and loading requirements of the Land Use Ordinance.
5. No nuisance, offensive noise, vibration, smoke, dust, odors, heat or glare shall be generated.

## L. Manufacturing, Processing, Warehousing, Distribution and Storage

1. These uses shall conform to dimensional requirements for non-residential uses.
2. No parking or outdoor storage shall be located within the yard setbacks.
3. Off-street parking shall conform to the off-street parking and loading requirements of this Ordinance.

4. All outdoor storage of material, goods or vehicles shall be screened from view from adjacent residential lots, as required for off-street parking and loading spaces.

#### M. Mineral Extraction, Processing and Storage

Topsoil, rock, minerals, sand, gravel, and similar earth materials may be removed for commercial purposes from locations where permitted under the terms of this Ordinance only after a Permit for such operations has been issued by the Code Enforcement Officer provided that:

1. Specific plans are established to avoid hazards from excessive slopes or standing water. Where an embankment must be left upon completion of operations, it shall be at a slope not steeper than two feet horizontal to one foot vertical (2:1) and shall be loomed with not less than four inches of topsoil and seeded and mulched to prevent erosion.
2. No excavation shall be extended below the grade of adjacent streets unless 100 feet from the street line or unless provision has been made for reconstruction of the street at a different level.
3. No below grade excavation except for drainageways shall occur within 50 feet of any lot line, except as allowed in No. 2 above. Natural vegetation shall, to the extent possible, not be removed or disturbed within the 50-foot setback from all lot lines.
4. The operation shall be shielded from surrounding property with adequate screening and create no disturbance of a water source.
5. Removal of sod, loam or topsoil shall leave not less than four inches of topsoil. Where sand, gravel, or other minerals are to be removed, sufficient topsoil shall be stockpiled to permit covering all areas with not less than four inches of topsoil. Upon completion of each section, in accordance with the approved plans, all disturbed areas shall be loomed, with not less than four inches of topsoil, seeded, and mulched to prevent erosion.
6. No excavation, filling or storage of materials shall occur within 100 feet of the bank or any permanently flowing watercourse or the upland edge of a wetland, or within 100 feet of any pond or lake. No excavation shall result in standing water unless in conformance with a final grading plan approved by the Planning Board.
7. A bond or other surety payable to the Town of Hope, in an amount recommended by the Planning Board and approved by the Board of Selectmen shall be filed with the Town of Hope. The amount shall be sufficient to guarantee conformity with Planning Board approval.
8. No activity permitted under this Section shall result in erosion and/or transport of sediment beyond the property lines of the lot(s) for which the Permit is issued.

N. Mobile Home Parks

Mobile Home Parks shall conform to the following:

1. Except as stipulated below, all Mobile Home Parks shall conform to all applicable State laws and the provisions of the Subdivision Ordinance of the Town of Hope. Where provisions of this section conflict with the specific provisions of the Subdivision Ordinance, the provisions of this section shall prevail.
2. Except as indicated in this section, the dimensional requirements of Section 3.4 of this Ordinance shall apply to lots in a Mobile Home Park. Mobile Home Park lots shall meet the following requirements:

Lots served by individual subsurface waste water disposal systems shall be approved by the Local Plumbing Inspector; lots served by central subsurface wastewater disposal systems shall use a system approved by the Maine Department of Human Services:

**DIMENSIONAL REQUIREMENTS**

	On-Site Wastewater Disposal Systems	
	Individual	Central
Lot area	20,000 sq ft	12,000 sq ft
Road Frontage (Min)	75 feet	65 feet
Front Yard Setback from centerline of roadway	30 feet	30 feet
Side Yard Setback	20 feet	15 feet
Rear Yard Setback	20 feet	20 feet
Maximum Building Height	20 feet	20 feet
Maximum Lot Coverage by Buildings	30%	30%

The overall density of any Mobile Home Park served by any subsurface wastewater disposal system(s) shall not exceed one dwelling unit per 20,000 square feet of total park area, exclusive of the area of road rights-of-way.

Lots located within any Shoreland District shall meet the lot area, shore frontage, shoreland setback, and maximum lot coverage requirements of that Shoreland District.

O. Motels

Motels shall conform to the following:

1. Lots shall meet all requirements for non-residential uses and shall have an area of not less than 5,000 square feet per sleeping room.
2. New buildings shall be no higher than one story, 25 feet in height.
3. No parking shall be located within 10 feet of any lot line.
4. Off-street parking shall be provided in accordance with this Ordinance.
5. Off-Street parking shall be provided in accordance with the single family dwelling requirements of this Ordinance

P. Off-Street Parking and Loading Standards

1. Applicability.

In all new construction, alterations, and changes of use there shall be provided off-street parking and loading space adequate for their use.

2. Off-Street Parking Standards.

Off-street parking shall be considered as an accessory use when required or provided to serve conforming uses located in any district. An area of 200 square feet appropriate for the parking of an automobile, exclusive of maneuvering space shall be considered as one off-street parking space. No off-street parking facility shall have more than two (2) entrances and exits on the same street, and no entrance or exit shall exceed 26 feet in width, exclusive of traffic control islands and curb radii at the entrance. Parking areas with more than four parking spaces shall be so arranged that vehicles can be turned around within such areas and are prevented from backing into the street.

The following minimum number of spaces shall be provided and maintained in case of new construction alterations and changes in use:

Single family dwellings:	2 parking spaces per dwelling unit
Two family dwellings:	2 parking spaces per dwelling unit
Motels, tourist homes, bed & breakfast, camp- grounds	1 parking space for each each sleeping room or space for each recreational vehicle or tent site

Nursery schools and day care centers	2 parking spaces for each room used for care nursery school or day
Schools	As specified by the Maine State Department of Education, or where not specified by the State, 1 parking space per adult employee plus 1 parking space per 5 students at the time of peak enrollment
Community Living, Elderly Congregate Living	1 parking space for each 3 beds plus 1 space per employee on the largest shift.
Churches, Quasi-Public Facilities	1 parking space for each 4 seats or for every 500 square feet of assembly area of no fixed seats
Offices, Professional and Public Buildings	1 parking space for each 200 square feet of gross floor area.
Retail Stores and Personal Services	1 parking space per 100 square feet of gross floor area for the first 2,000 square feet, plus 1 parking space per 200 square feet of gross floor area thereafter
Restaurants and Night Clubs	1 parking space for each 3 seats
Industrial Uses, Trades-men's Shops	1 parking space for each 1,000 square feet of floor area, but in no case less than 1 space for each employee on the largest shift.

All Uses Not Listed  
Above

Sufficient number of  
parking spaces, as  
determined by the Planning Board  
or by the Code Enforcement officer,  
to eliminate the necessity  
of on-street parking.

### 3. Location of Off-Street Parking

Required off-street parking shall be located on the same lot as the principal building or use, except that where off-street parking cannot be provided on the same lot, the Planning Board may permit such off-street parking to be located a reasonable distance from the principal building or use, measured along lines of public access. If serving a business or industrial use, such parking area shall be in a business or industrial district. Such parking areas shall be held under the same ownership or lease. The Planning Board may approve the joint use of a parking facility by two or more principal buildings or uses where it is clearly demonstrated that the parking facility will substantially meet the intent of the requirements by reasons of variation in the time of use by patrons or employees among such establishments.

Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas for public boat launching facilities may be reduced to no less than 50 feet from the NHWL or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.

Parking areas shall be designed to prevent stormwater runoff from flowing directly into a water body or wetland, and where feasible, to retain all runoff on-site.

### 4. Off-Street Loading Standards

Retail, wholesale and industrial operations with a gross floor area of more than 2,000 square feet shall provide one loading bay, with minimum dimension of fourteen (14) feet by fifty (50) feet, for each 60,000 square feet of floor area or fraction thereof. Off-street loading facilities shall be located entirely on the same lot as the building or use to be served so that trucks, trailers and containers shall not be located for loading or storage upon any public way.

Any required bay or bays shall be in addition to the required off-street parking.

### 5. Landscaping of Parking Areas

In addition to the off-street parking spaces and loading bays required by this Ordinance, the following minimum standards for landscaping of parking areas shall apply:

- a. Where a parking area abuts a public right-of-way, a continuous strip of landscaping of a minimum of six feet in width along the public right-of-way within the parking area shall be provided and properly maintained, provided, however, that the landscaping shall not interfere with sight distance and traffic safety.

- b. In addition to the area required for parking spaces, loading bays, and the landscaping required in Paragraph (5)(a) above, a minimum of five percent of the total area of any parking lot, including drives and entrances, accommodating ten or more parking spaces, shall be landscaped and properly maintained. Parking areas shall be divided into small areas of no more than 50 parking spaces each, by landscaping such as shade trees, shrubs, and park benches.
- c. Required loading and parking spaces for non-residential uses, where not enclosed within a building, shall be effectively screened from view by a continuous landscaped area not less than eight (8) feet in width containing evergreen shrubs, trees, fences, walls, berms or any combination thereof forming a visual barrier not less than six (6) feet in height along exterior lot lines adjoining all residential properties, except that driveways shall be kept open to provide visibility for vehicles entering and leaving.

Q. On-Site Sale of Products

Agricultural or horticultural products, the major portion of which is grown or produced on the premises may be sold from a stand not exceeding 100 square feet in area. A larger sales building shall be considered a retail or wholesale business.

R. Polluting Factors

No new commercial or industrial enterprise or expansion of an existing enterprise shall be permitted, if by reason of smell, smoke, fumes, vapors, dust, gas, vibration, heat, glare, electrical disturbance, noise levels greater than 75 decibel/100 feet, heavy metals, toxicity or other polluting factors, or for any other health or sanitation reason, if it is detrimental to the well-being of the Town or adjacent properties.

S. Public Buildings

Public Buildings shall conform to the applicable off-street parking and loading requirements and to the land use standards applicable to similar privately operated facilities.

T. Public Utility Buildings

Public Utility Buildings shall conform to the applicable off-street parking and loading requirements. Offices shall conform to the land use standards for Retail and Wholesale Business, Personal Services, Business and Professional Offices. Storage, manufacturing and research uses shall conform to the land use standards for Manufacturing, Processing, Warehousing, Distribution and Storage.

U. Retail and Wholesale Business, Personal Services, Business and Professional Offices and Tradesmen's Shops shall conform to the following:

- 1. Applicable off-street parking and loading requirements of this Ordinance shall be met.

2. No parking or outdoor storage shall be located within 10 feet of any lot line.
3. All outdoor storage of materials, goods or vehicles shall be screened from view from adjacent residential lots as required for off-street parking and loading areas.

V. Restaurants shall conform to the following:

1. Lots shall meet all requirements for non-residential uses.
2. Applicable off-street parking and loading requirements of this Ordinance shall be met.
3. No parking shall be located within 10 feet of any lot line.
4. Refuse containers not within a building shall be placed no less than 30 feet from any lot line and shall be screened from view and maintained so as to prevent access by flies and vermin.
5. Restaurants serving "take-out" food or providing outdoor dining on the premises shall provide suitable waste receptacles for use by customers.

W. School, Public and Private, Quasi-Public Facilities; Churches; Cemeteries

1. Lots shall meet all requirements for non-residential uses.
2. No parking or outdoor storage shall be located within 10 feet of any lot line.
3. Applicable off-street parking and loading requirements of this Ordinance shall be met, except that no off-street parking shall be required for cemeteries.

X. Signs. A Sign permit of Compliance is required from the Code Enforcement Officer, for erection of any sign other than those specifically exempted in the following articles.

1. Residential uses, including home occupation, may display no more than one sign attached to a building plus no more than one detached sign located in the front yard relating to uses or goods sold or services rendered on the premises. The total display area of the signs shall not exceed eight square feet. No part of the detached sign, or its supporting framework, shall exceed a height of 8 feet above the finished grade upon which it is erected. No part of any sign shall be located within a public right-of-way.
2. Non-Residential (On Premises).
  - a. No-residential uses may display attached, detached or projecting signs, single- or double-faced, identifying uses or goods sold or services rendered on the premises.
  - b. To the extent that they are within the jurisdiction of the laws of the State of Maine, on-premises signs shall comply with Title 23, Chapter 21, Maine Revised Statutes Annotated, as amended, and shall further comply with the standards of this

Ordinance.

- c. The maximum total display area of all signs, including attached and detached, on each premises shall not exceed 50 square feet. In addition, one row of letters identifying the name or owner of the business is permitted on the front of the building, provided the letters are not illuminated and do not exceed 12 inches in height. The display area limits may be exceeded by not more than 50 percent upon approval of the Planning Board.
  - d. Detached signs shall not exceed a height of 20 feet above the finished grade upon which they are erected. Detached and projecting signs shall not extend over the street right-of-way and shall have a clear space of no less than eight feet below the display area of the signs. The display area of a projecting sign shall not exceed 16 square feet. Attached signs and their supporting structures shall not extend above a flat roof or above the level of the ridge pole on other types of roofs.
  - e. No sign shall be located in a manner that will constitute a hazard to vehicular or pedestrian traffic. No part of any sign shall be located within a public right-of-way. Within ten feet of the public right-of-way, no part of the display area of any sign shall be located between three feet and eight feet above the finished grade on which it is erected.
  - f. Signs with visible movement or any animated or moving parts or that have blinking, moving, or glaring illumination are strictly prohibited. All other illuminated signs, whether directly or indirectly illuminated, shall be allowed only upon the approval of the Planning Board. There shall be no more than one illuminated sign allowed on a premise. Indirect illumination shall be shielded from view from the public way or nearby residential lots.
  - g. All projecting signs shall comply with the structural requirements contained in Article 19, "Signs," of the BOCA Basic Building Code/1981, as amended, provided that where the provisions of such code conflict with this Ordinance, the provisions of this Ordinance shall apply.
3. Non-Residential (Off-Premises).
- a. Only Official Business Directional Signs, as defined by the State of Maine, shall be allowed to be located off-premises in the Town.
  - b. Off-premises signs shall comply with Title 23, Chapter 21, Maine Revised Statutes Annotated, as amended, and shall further comply with the standards of this Ordinance.
  - c. Each place of business, service, or point of interest, provided that such place of business, service, or point of interest is located within Hope, shall be eligible for a maximum number of four Official Business Directional Signs, which shall be placed within a radius of no more than 5 miles from the business, service, or point of

interest.

- d. Reflectorized Business Directional Signs shall not exceed dimensions of 12 inches by 48 inches and shall have white lettering on a blue background. Nonreflectorized Business Directional Signs shall not exceed dimensions of 12 inches by 48 inches and shall have white lettering on a blue, green, brown or red background.

4. Temporary Signs.

No permit shall be required for Temporary Signs.

5. Administration and Enforcement.

- a. No sign, either on-premises or off-premises, shall be erected, attached to a building, physically altered or reconstructed until a permit has been issued by the Code Enforcement Officer to the owner or person in control of the sign. The application for a permit shall be accompanied by plans and specifications showing the location, dimensions, materials, and type of sign, and the manner in which it is to be secured to the premises.

- b. Permits are not required for:

Street numbers and personal occupant signs attached to a building not exceeding two square feet in total display area.

Signs, not exceeding three in number and eight square feet in total display area, which advertise the sale, rental or lease of the premises on which they are located.

Signs denoting the architect, engineer, contractor, or funding agency when placed upon work under construction, not exceeding eight square feet in total display area, and removed upon completion of construction.

Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.

Traffic or other municipal signs, legal notices, railroad crossing signs, danger, and such temporary emergency or non-advertising signs.

Official Business Directional Signs erected and maintained in accordance with the Maine Traveler Information Services Act, Title 23, and Section 1906 M.R.S.A.

Signs indicating only business hours.

Signs indicating "No Trespassing" or "No Hunting" posted in accordance with State laws and regulations.

- c. In considering whether to grant an appeal under this subsection, the Zoning Board of

Appeals shall consider the following: proximity to and effect on nearby properties; the number of separate business spaces on the premises; compatibility with the overall design, height, and bulk of the building; the number of signs on the premises; and any hazards to driving or pedestrian safety that may be caused by the sign or its location.

- d. Any sign in existence prior to the date of adoption or amendment of this Ordinance shall not be governed by the terms of this Ordinance. However, any alteration of a nonconforming sign, unless the sign is specifically designed for a periodic change of message, or of total sign display area, shall constitute a new sign and such changes shall be governed by the terms of this Ordinance.
- e. The owner of any premises where business goods are no longer sold or produced or where services are no longer provided shall have 180 days to remove any remaining or derelict on- premises signs following notification by the Code Enforcement Officer. Where due written notice has been given and compliance has not been made within 180 days, the Town may remove such sign(s) at the expense of the owner of the premises on which the sign(s) are located.
- f. All signs, including their supporting structures and other components, shall be kept in good repair and shall be maintained to prevent rust, peeling, or similar deterioration. Vegetation and landscaping adjacent to any sign shall be maintained in a neat and slightly condition, and shall not interfere with the legibility of the sign. Damaged signs shall be repaired or removed within 30 days. Any sign determined by the Code Enforcement Officer to be an immediate public safety hazard shall be removed or repaired within 24 hours. The Code Enforcement Officer may remove, repair, or secure such sign to make it safe at the cost of the owner of the property on which the sign is located.
- g. Applicability. The performance standards contained in this Article shall apply to all signs in the Town, unless otherwise specified, whether or not a permit is required.

#### Y. Waste Water.

- 1. On-site subsurface waste water disposal shall comply with applicable provisions of the State of Maine Subsurface Wastewater Disposal Rules, Chapter 241 (Maine State Plumbing Code, Part II), as amended.
- 2. Plumbing Permit Required Prior to Building Permit.

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

- 3. a. The minimum setback for new subsurface sewage disposal systems, shall be no less than 100 feet horizontal distance, from the normal high-water line of a perennial water

body or from the upland edge of a wetland. The minimum setback distances from water bodies for new subsurface sewage disposal systems shall not be reduced by variance.

b. Replacement systems shall meet the standards for replacement systems as contained in the Rules.

Z. Water Quality.

1. No building, structure, activity, or use shall discharge untreated waste water directly to a water body.
2. Where a use or activity presently discharges untreated waste water directly to a water body, there shall be no increase or change in that use that will increase the volume or pollution load of the untreated waste water so discharged.
3. There shall be no storage of materials which by their volume, toxicity, temperature or obnoxiousness or by their location, will run off from or percolate into the soils and pollute subsurface or ground waters.

3.6. Shoreland Uses.

Land Use Standards In Shoreland Zones:

- KEY: YES -- Allowed. No permits required.  
 CEO -- Building permit required.  
 PB -- Approval by Planning Board required.  
 SUB -- Approval by Planning Board required in accordance with Subdivision Ordinance.  
 NO -- Not Allowed.

DISTRICTS

<u>LAND USES</u> <u>PROTECTION</u>	<u>RESOURCE</u> <u>PROTECTION</u>	<u>LIMITED</u> <u>RESIDENTIAL</u> <u>RECREATIONAL</u>	<u>STREAM</u> <u>PROTECTION</u>
Agricultural and horticultural uses & sale, processing, & storage of products grown on the premises (1)	NO	YES	NO
Timber Harvesting	NO	CEO	CEO
Forest Management Activities (1)	YES	YES	YES
Mineral Extraction, Processing and Storage	NO	NO	NO
Single & Two-Family Detached Dwellings	NO	CEO	NO
Mobile Home Park	NO	NO	NO
Conversion of Existing Residential Structures to Not More Than Two Dwellings	NO	CEO	NO
Uses Accessory to Residential Uses	NO	CEO	NO
Home Occupations	NO	PB	NO
Day Care Center	NO	PB	NO

DISTRICTS

<u>LAND USES PROTECTION</u>	<u>RESOURCE PROTECTION</u>	<u>LIMITED RESIDENTIAL RECREATIONAL</u>	<u>STREAM PROTECTION</u>
Community Living Use	NO	PB	NO
Bed & Breakfast, Tourist Home	NO	PB	NO
Church, Quasi-Public Facility	NO	PB	NO
School, Commercial, Public or Private	NO	PB	NO
Filling	CEO	CEO	CEO
Municipal Open Space Recreational Uses	PB	PB	PB
Commercial Outdoor Recreational Uses	NO	PB	NO
Business and Professional Offices	NO	NO (2)	NO
Personal Services	NO	NO (2)	NO
Tradesmen's Shops	NO	NO (2)	NO
Restaurants	NO	NO	NO
Neighborhood Store, including Sale of Motor Vehicle Fuel/Supplies	NO	NO	NO
Retail Uses of Buildings of 2,000 to 10,000 Square Feet	NO	NO	NO
Municipal Uses	NO	PB	NO
Retail Uses of Buildings of over 10,000 to 15,000 Square Feet	NO	NO	NO
Motels	NO	NO	NO

DISTRICTS

<u>LAND USES PROTECTION</u>	<u>RESOURCE PROTECTION</u>	<u>LIMITED RESIDENTIAL RECREATIONAL</u>	<u>STREAM PROTECTION</u>
Manufacturing, Processing, Warehousing, Distribution and Storage	NO	NO (2)	NO
Junkyard	NO	NO	NO
Public Utility Installations, Including Power Substations and Pumping Stations	NO	PB	NO
Cemeteries	NO	PB	NO

(1) Building Permits are required for all building and for all structures other than fences.

(2) Unless operated as Home Occupations.

### 3.7. Shoreland Performance Standards.

- A. Purpose. The purpose of this Article as regards shoreland use is to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; conserve shore cover; insure proper land use and placement of structures.
- B. Applicability. The provisions of this Article apply to all land within 250 feet, horizontal distance, of the normal high water mark of any body of water in excess of 10 acres in area; 250 ft from the upland edge of non-forested freshwater wetlands greater than 10 acres in area; and, 75 ft. from the NHWL of streams. Shoreland areas are depicted on the Zoning Map.

#### C. Districts.

- 1. **Resource Protection District.** The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biotic systems, or scenic and natural values. This District shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Residential-Recreational District:

- a. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands and wetlands associated with great ponds, which are rated "moderate" or "high" value by the Maine Department of Inland Fisheries & Wildlife as of January 1, 1973.

The Natural Resources Protection Act, Title 38 Sections 480-A through 480-S, requires the DEP to designate areas of Significant Wildlife Habitat. These areas include: habitat for species appearing on the official state or federal lists of endangered or threatened species; high or moderate value deer wintering areas and travel corridors as defined by the Dept. of Inland Fisheries & Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas.

- b. Flood plains as designated by the 100-year flood plain on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in absence of these, by soil types identified as recent flood plain soils.

- c. Areas of two or more contiguous acres with sustained slopes of 20% or greater.

- d. Areas of two or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a water body during normal spring high water.

- 2. **Limited Residential-Recreational Districts.** The Limited Residential-Recreational District includes areas other than those included in the Resource Protection District or Stream Protection District.

3. **Stream Protection District.** The Stream Protection District includes all land areas within seventy-five (100) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two hundred and fifty (250) feet, horizontal distance, of the normal high water line of a waterbodies or upland edge of freshwater wetland. Where a stream and its associated shoreland are located within two hundred fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland; and, including tributary or streams flowing into ponds, from the NHWL of the water body or upland edge of wetland extending 250 feet.

D. Shoreland Performance Standards.

All shoreland use activities shall conform to the following standards:

1. Agriculture.
  - a. All spreading or disposal of manure shall be accomplished in conformance with the "Maine Guidelines for Manure and Manure Sludge Disposal on Land" published by the University of Maine and the Maine Soil and Water Conservation Commission in July 1972 or
  - b. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. Within five (5) years of the effective date of this ordinance all manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. Existing facilities which do not meet the setback requirements may remain, but must meet the no discharge provision within the above five (5) year period.
  - c. Agriculture activities involving tillage of soil Greater than 40,000 square feet in surface area, or the spreading, disposal or storage of manure within the shoreland zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

NOTE: Assistance in preparing a soil and water conservation plan may be available through the local Soil and Water Conservation District office.

- d. There shall be no new tilling of soil within 100 feet, horizontal distance, of the normal high-water line of a great pond within 75 feet, nor within 25 feet, horizontal distance, of a tributary streams, and wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- e. After the effective date of this Ordinance, newly established livestock grazing areas shall not be permitted within 100 feet, horizontal distance, of the NHWL of great

ponds; within 75 feet, horizontal distance, of other waterbodies, nor within 25 feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated with on-going farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Soil & Water Conservation Plan.

2. Beach Construction. Beach construction on any waterbody shall require a permit from the Department of Environmental Protection.
3. a. Public or Commercial Campgrounds. The area intended for placement of the recreational vehicle, tent or shelter and utility and service buildings, shall be set back 100 feet from the normal high water mark of a pond or lake; and 75 ft. from the NHWL of a stream or wetland. Camping areas shall contain a minimum of 5000 square feet of suitable land, not including roads and driveways or land supporting wetland vegetation, for each site.
- b. Individual Private Campsites

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

- (i) One campsite per lot existing on the effective date of this Ordinance, or 30,000 square feet of lot area within the shoreland zone, whichever is less, any be permitted.
- (ii) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back 100 feet from the normal high-water line of a great pond and 75 feet from the normal high-water line of other water bodies, tributary streams, or upland edge of a wetland.
- (iii) Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.
- (iv) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to 1000 square feet.
- (v) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- (vi) When a recreational vehicle, tent or similar shelter is placed on-site for more than 120 days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

4. Clearing of Vegetation for Development

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

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

- b. Except in areas described in Paragraph 1, above, and except to allow for the development of permitted uses, within a strip of land extending 100 feet, horizontal distance, inland from the normal high-water line of a great pond and 75 feet, horizontal distance, from any other water body, tributary stream, or upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
  - (i) There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed 10 feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond or stream flowing to a great pond the width of the foot path shall be limited to 6 feet.
  - (ii) Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of this section a "well-distributed stand of trees and other vegetation" adjacent to a great pond or stream flowing to a great pond shall be defined as maintaining a rating score of 12 or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet above ground level:

	<u>Points</u>
2-4 inches	1
>4-12 inches	2
>12 inches	4

Adjacent to other waterbodies, tributary streams and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of 8 points per 25-foot square area.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four inches or more in diameter, measured at 4-1/2 feet above ground level, may be removed in any ten-year period.

- (iii) In order to protect water quality and wildlife habitat adjacent to ponds and streams which flow to great ponds, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or

other permitted uses as described above.

- (iv) Pruning of tree branches, on the bottom one-third of the tree is permitted.
- (v) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new growth is present.

The provisions contained in Paragraph b above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. cleared areas, however, shall be limited to the minimum area necessary.

## 5. Erosion and Sedimentation Control.

- a. General. The following provisions shall apply to filling, grading, lagooning, dredging, excavation, processing and storage of soil, earth loam, sand, gravel, rock and other mineral deposits. Filling, grading, lagooning, dredging, and other earth moving activity which would result in erosion, sedimentation, or impairment of water quality or fish and aquatic life is prohibited.
- b. Earth Moving Not Requiring a Conditional Use Permit.

The following earth moving activity shall be allowed without approval from the Planning Board:

- (i) The removal or filling of less than ten (10) cubic yards of material from or onto any lot in any one (1) year.
  - (ii) The removal or filling of material incidental to construction, alteration or repair of a building or in the grading and landscaping incidental thereto; and
  - (iii) The removal, filling, or transfer of material incidental to construction, alteration or repair of a public or private way or public utility facility.
- c. All other earth moving, processing and storage shall require authorization by the Planning Board in accordance with Section 3.5, M., of this Ordinance. Within the Shoreland Districts, the Erosion Control Plan shall be submitted to the Planning Board for approval. The Plan shall include, where applicable, provisions for mulching and revegetation of disturbed soil, temporary runoff control features such as hay bales, silt or diversion ditches, permanent stabilization structures such as retaining walls or riprap.
  - d. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Area of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

- e. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
  - f. Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked, by use or riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine months of the initial date of exposure. In addition:
    - (i) Where mulch is used, it shall be applied at a rate of at least one bale per 500 square feet and shall be maintained until a catch of vegetation is established.
    - (ii) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
    - (iii) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
  - g. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a 25 year storm or greater, and shall be stabilized with vegetation or lined with riprap.
6. Mineral Exploration and Extraction. New mineral extraction and exploration activities are not permitted in the shoreland zone. Such activities in operation as of the effective date of this Ordinance shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than 100 square feet of ground surface. A permit from the CEO is required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured so as to restore disturbed areas and protect the public health and safety.
7. Piers, Docks, Launching Ramps and other Structures and Uses Projecting Into Water Bodies.

In addition to Federal and/or State permits which may be required, such structures and uses shall conform to the following:

- (i) Access from the shore shall be developed on soils appropriate for such use and constructed to prevent erosion.
- (ii) The location shall not interfere with developed beach areas.
- (iii) The facility or use shall be located so as to minimize adverse effect on fish and other aquatic life.

- (iv) The structure shall be no larger than necessary to carry on the activity and be consistent with existing use and character of the area.
  - (v) No new structures shall be 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 unless the structure requires direct access to the water as an operational necessity.
  - (vi) No existing structure built on, over a abutting a pier dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
  - (vii) Structures built on, over or abutting pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty feet in height above the pier, wharf, dock or other structure.
8. Road & Driveway Construction. All new, public and privately constructed roads shall conform with the following standards:
- a. Roads and driveways shall be set back at least 100 feet from the normal high-water line of a great pond, and 75 feet from the normal high-water line of other water bodies, tributaries streams, or the upland edge of a wetland unless no reasonable alternatives exists as determined by the Planning Board. If no other reasonable alternatives exist, the Planning Board may reduce the road and/or driveway setback requirement to no less then 50 feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relies culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.  
  
On slopes of greater than 20 percent the road and/or driveway setback shall be increased by 10 feet for each 5 percent increase in slope above 20 percent.  
  
This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity.
  - b. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.
  - c. New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

- d. Road banks shall be no steeper than a slope of 2 horizontal to 1 vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection Q.
- e. Road grades shall be no greater than 10 percent except for short segments of less than 200 feet.
- f. In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least 50 feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- g. Ditch relief (cross drainage) culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

<u>Road Grade (Percent)</u>	<u>Spacing (Feet)</u>
00-02	250
03-05	200-135
06-10	100-80
11-15	80-60
16-20	60-45
21+	40

- (ii) Drainage dips may be used in place of ditch relief culverts only where the road grade is 10 percent or less.
  - (iii) On road sections having slopes greater than 10 percent, ditch relief culverts shall be placed across the road at approximately a 30 degree angle downslope from a line perpendicular to the centerline of the road.
  - (iv) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- h. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

9. Timber Harvesting.

- a. In a shoreland area zoned for protection abutting a great pond, timber harvesting shall be limited to the following:
- (i) Within strip of land extending 75 feet inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:
    - (1) The ground is frozen;
    - (2) There is no resultant soil disturbance;
  - (3) The removal of trees is accomplished using cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
    - (4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured 4 1/2 feet above ground level, are cut in any 10 year period; and a well-distributed stand of trees and other vegetation remains; and
    - (5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.
  - (ii) Beyond the 75 foot "no-harvest" strip referred to in paragraph a. above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees 4 1/2 inches in diameter at 4 1/2 feet above the ground be reduced to less than 30 square feet per acre.
- b. Except in areas as described in paragraph 1 above, timber harvesting shall conform with the following provisions:
- (i) Selective cutting of no more than 40 percent of the total volume of trees 4 inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any 10 year period is permitted. In addition:
    - (a) Within 100 feet, horizontal distance of the normal high-water line of a great pond and within 75 feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
    - (b) At distances greater than 100 feet, horizontal distance of a great pond, and greater than 75 feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet they shall be at least 100 feet apart. Such clearcut openings shall be included in the calculation of total volume removal. For the purposes of these standards, volume may be considered to be equivalent to basal area.
  - (ii) Timber harvesting operations exceeding the 40% limitation in paragraph a.) above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in

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

- (iii) No accumulation of slash shall be left within 50 feet of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than 4 feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.
- (iv) Timber harvesting equipment shall not use stream channels as travel routes except when:
  - (a) Surface waters are frozen; and
  - (b) The activity will not result in any ground disturbance.
- (v) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- (vi) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- (vii) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral shall be located such that an unscarified strip of vegetation of at least 75 feet in width for slopes up to ten percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each 10 percent increase in slope, the unscarified strip shall be increased by 20 feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than 25 feet from the normal high-water line of a water body or upland edge of a wetland.

## 10. Storm Water Runoff

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment condition. Where possible existing natural runoff control features such as berms, swells, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
2. Storm water runoff control system shall be maintained as necessary to assure proper functioning.

## 11. Essential Services

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
2. The installation of essential service is not permitted in a Resource Protection or Stream Protection District, except to provide service to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternatives exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surroundings uses, and resources, including visual impacts.

## 12. Archeological Sites & Historic Preservation

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

## ARTICLE IV. ADMINISTRATION.

4.1 PERMITS REQUIRED. None of the following actions shall be taken until the Code Enforcement Officer has issued a Building, Use, and/or Demolition Permit certifying that the plans of an intended use of the land or building are in conformity with this Ordinance. In addition to the actions identified below, this Ordinance applies to any other actions which do not require a Building or Use Permit. Copies of building permits, applications and their accompanying plans shall be maintained as a permanent record by the Code Enforcement Officer.

- A. Construction, enlargement, demolition, or any alteration of a building or structure of 100 square feet or less, per annum, requires no permit. However, any such construction, enlargement, demolition, or alteration which is greater than 100 square feet per annum, requires a permit and must meet all provisions of this Ordinance.
- B. Change of use.
- C. Change of exterior dimensions of a sign.
- D. Resumption of use of a lot or structure.
- E. Establishment of new use of abandoned structure.
- F. Mineral extraction, processing and storage.
- G. Excavation or filling of land causing the removal or filling of earth exceeding 75 cubic yards in any one year period.

- H. Placement of a mobile home or a manufactured housing unit.
- I. Placement of wharves, piers, and floats, permanent or seasonal.
- J. Moving a building over any Town Road

#### 4.2 TEMPORARY BUILDING PERMITS

- A. Temporary Building Permit shall be required for any temporary structures necessary for the construction of permanent structures. The term of such Temporary Building Permit shall not exceed the time limits of the permit(s) issued for the permanent structure(s), and such temporary structures shall be removed within 30 days of completion of construction. A temporary structure serving as a residence shall comply with the Maine State Plumbing Code. A temporary Building Permit shall not be required for seasonal storage structures, such as those covering boats or woodpiles, which are removed within 6 months of their erection.

#### 4.3 DEMOLITION PERMIT. Before a Demolition Permit is issued, a plan must be submitted showing the following:

1. Date the work will start.
2. Date the work will be completed. On completion of work, the site shall include finish grading, landscaping, and proper drainage to make the area look presentable.
3. Disposal site(s) for demolition debris.

#### 4.4 PERMIT APPLICATION. Applications shall be in writing on forms provided by the Code Enforcement Officer. The Code Enforcement officer may require the submission of whatever additional information may be necessary to determine conformance with the provisions of this Ordinance.

#### 4.5 SOIL ANALYSIS AND PLANNING. A Building Permit shall not be issued for any building or structure, including manufactured homes, which requires any form of plumbing until such time as the applicant has secured a satisfactory soil analysis test and a Plumbing Permit in accordance with the State Plumbing Code.

#### 4.6 APPROVAL OF PERMITS. A permit shall not be denied by the Code Enforcement Officer if the proposed use and structure are in conformance with this Ordinance. All permits shall be approved or denied within 10 days of receipt of completed applications or such additional information as may be required. The Construction which is the subject of the permit must be substantially started within six (6) months of issuance and the permit expires 24 months after issuance. A permit may be renewed subject to the provision of this Ordinance for an additional 24 months after which the permit expires and a new permit is required. To constitute the start of construction is to install batter boards for footings or cellar. An extension of time to commence or to complete shall be granted upon application to and approval by the Zoning Board of Appeals if reasonable need can be shown.

4.7 CONSTRUCTION WITHOUT REQUIRED BUILDING PERMIT. Any on-site construction activity prior to issuance of a valid Building Permit by the Code Enforcement Officer shall be a violation of this Ordinance. No Building Permit shall be required for clearing to allow surveys and soil tests, and excavating for soil tests.

4.8 APPEALS. In the event of an adverse decision by the Code Enforcement Officer, the aggrieved party may appeal to the Board of Appeals in accordance with Section 1.6 of this Ordinance

#### 4.9 APPLICATION FEES

A. The application for a permit shall be accompanied by an application fee in such amount as the Board of Selectmen may, by rule, from time to time, establish. The fee schedule will be provided to the applicant by the Code Enforcement Officer. Fees shall be established sufficient to cover the cost to the town of administering the provisions of the ordinance.

B. Certificate of Occupancy. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises which is hereafter constructed, converted, altered, enlarged, or changed in its use or structure, and which requires site plan review and approval under this Ordinance, until a certificate of occupancy shall have been issued therefore by the Code Enforcement Officer and endorsed to the effect that the proposed use of the building conforms with the requirements of this Ordinance.

C. Opening Permit. An opening permit is required to dig, excavate, or in any way alter a town road. A bond, a certified check payable to the Town, a savings account or certificate of deposit naming the Town as owner, or an irrevocable letter of credit from which the Town may draw shall be required in the amount requested by the Town when the Town Officers feel such surety is necessary. The road shall be restored to state road specifications and shall be supervised by the Town Road Commissioner. The Town Road Commissioner shall have the authority to approve or disapprove the completed restoration work.

D. Surety and Terms of Permit:

A bond or other security, as described in C. above, shall be required in an amount sufficient to cover reasonably anticipated costs of public improvements and required on-site improvements, other than buildings, for the following:

1. Commercial enterprises;
2. Industrial enterprises;
3. Moving of buildings over public roads.

No bond or security shall be required for a single-family dwelling or accessory buildings.

## ARTICLE V. ENFORCEMENT.

5.1 ENFORCEMENT AGENCIES. The Code Enforcement Officer, appointed by the Selectmen, is hereby given the authority and the power to enforce the provisions of this Ordinance.

5.2 ENFORCEMENT PROCEDURES. If the Code Enforcement Officer shall find that provisions of this Ordinance are being violated, he shall notify in writing the party responsible for such violation, indicating the nature of the violations and specifying the action necessary to correct them. He shall order discontinuance of illegal use of land, buildings, structures, additions, or work being done, or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions. Failure by the party so notified to take the corrective action indicated shall make that party subject to the penalties provided in this Ordinance. Any violation of this Ordinance shall be a nuisance.

In addition to such penalties, the Town may bring action in Superior Court to enjoin violations of this Ordinance and impose such other penalties as by law may be provided. The Code Enforcement Officer shall keep records of his proceedings and such records shall be made public on request.

5.3 LEGAL ACTIONS. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Selectmen, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and impositions of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance.

## ARTICLE VI. PENALTIES:

The monetary penalties for violations of this Ordinance shall be as follows:

1. The minimum penalty for starting construction or undertaking a land use activity without the required permit shall be \$100.00 and the maximum penalty shall be \$2,500.00.
2. The minimum penalty for any other specific violation shall be \$100.00 and the maximum penalty shall be \$2,500.00
3. In the Resources Protection District the maximum penalty shall be \$5,000 per day.

In all other respects, assessment of penalties under this Ordinance shall be in accordance with Title 38 MRSA, Section 429 and Title 30 MRSA, Section 4966. Each day a violation continues may be counted as a separate offense. Assessment of penalties shall commence on the date of issuance of a Notice of Violation signed by the Code Enforcement Officer (Selectmen) to the person or party in violation of this Ordinance. Return of the receipt indicating that the notice was undeliverable as addressed or otherwise not delivered to the person or party shall not in any respect invalidate enforcement of this Ordinance or any penalties for violation thereof. In addition to the penalties provided herein, the Town may bring action in Superior Court to enjoin violation of the Ordinance and for such other relief as the law may provide.

## ARTICLE VII. DEFINITIONS.

7.1 **Meaning of Words.** All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural and vice versa. The word "lot" shall include "parcel" and "plot." The word "shall" is used to indicate the mandatory and the word "may" is used to indicate the permissive. The words "occupied" or "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied." Any item not defined, see Black's Law Dictionary.

### 7.2 Definitions.

**ABUTTING PROPERTY:** Any lot which is physically contiguous with the lot in question even if only at a point and any lot which is located directly across a public street or way from the lot in question.

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

**AGRICULTURE (or FARMING):** Agriculture does not include forest management and timber harvesting activities.

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

**AQUACULTURE:** The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

**BED-AND-BREAKFAST ESTABLISHMENT or TOURIST HOME:** An owner-occupied residential structure in which no more than two sleeping rooms are made available for a fee to overnight travelers and which may provide guests with a morning meal. Such establishments do not provide guests with the independent living quarters and eating facilities normally associated with a hotel or motel. If located in a Rural Residential District, they must in addition comply with all conditions of a home occupation.

**BOARDING HOUSE:** A house in which boarders are provided, under contract, rooms and meals for a certain period of time, usually by the week or month.

**BOAT LAUNCHING FACILITY:** A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

**BUILDING:** Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals or chattel. Each portion of a building, separated from other

portions by a fire wall, shall be considered as a separate building.

**BUSINESS SERVICE:** A service listed under U.S. Standard Industrial Classification Code 73, including by way of example: advertising, credit reporting and collection, mailing and reproduction services, services to buildings, personnel supply services, computer and data processing services, management and public relations, similar services to businesses, and the business offices of corporations or firms.

**CHURCHES:** As used in this Ordinance, refers to a place of worship regardless of denomination.

**CLEAR CUT:** The harvesting of a stand of trees within a forested area of five or more acres such that more than 60 percent of the crown closure has been removed.

**CODE ENFORCEMENT OFFICER:** The official responsible for enforcement of this Ordinance and for other duties set forth by state statute and other ordinances. The Code Enforcement Officer shall also have all the duties of a Building Inspector.

**COMMERCIAL USE:** Buying and Selling of goods, natural or manufactured, exclusive of rental of residential buildings and/or dwelling units.

**COMMERCIAL OUTDOOR RECREATION:** Outdoor recreation activities that are operated by an entity other than a unit of government and which are available for use for a fee, including but not limited to standard golf courses, ice skating rinks, tennis courts, cross-country ski trails, and alpine ski trails, but excluding games and activities common to amusement parks. Private outdoor recreation facilities serving exclusively a residential use shall be considered accessory to the residential use.

**COMMERCIAL STRUCTURE:** A structure primarily used for the buying and selling of goods, natural or manufactured.

**COMMUNITY LIVING USE:** A state-approved, authorized, certified or licensed group home, or intermediate care facility for eight or fewer mentally handicapped or developmentally disabled persons.

**CORNER LOT:** Lot located at the intersection of two streets. Corner lots shall conform with the front yard setback on each street and the side yard setback between the principal building and the adjoining property on each street.

**DAY CARE CENTER (or NURSERY SCHOOL):** A facility licensed by the State of Maine for the care or instruction of more than three pre-school aged children, exclusive of children who may be living in the home which is serving as the day care or nursery school facility.

**DECK:** An attached open platform to a building or structure without a roof.

**DIMENSIONAL REQUIREMENTS:** Numerical standards, relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

**DRIVEWAY:** A vehicular access-way serving two lots or more.

**DWELLING:** A building used as the living quarters for one or more families, containing a minimum of three hundred (300) square feet of floor area, exclusive of garages and similar unheated storage spaces, and equipped with a heating system and plumbing. The term includes manufactured housing as defined by Title 30, Section 4965, Maine Revised Statutes Annotated, as amended.

**DWELLING, ATTACHED:** A single family dwelling which has two or more fire separation walls, or one fire separation wall in the case of a dwelling unit at the end of a group of attached dwellings; which has no dwelling unit above or below it; and which has no common hallway with any other dwelling unit.

**DWELLING, TWO-FAMILY:** A building used for residential occupancy by two families living independently of each other.

**DWELLING, MULTI-FAMILY:** A building, or portion thereof, used for residential occupancy by three or more families, each living independently of the other.

**DWELLING UNIT:** A room or group of rooms within a dwelling designed and equipped as living quarters for a person or for a family, including provisions for living, sleeping, cooking, bathing and eating.

**ELDERLY CONGREGATE HOUSING:** A type of multi-family dwelling, including multiple individual rooms or dwelling units to be occupied by elderly persons as a residential shared living environment. Such construction will normally include small individual apartments, combined with shared community space, shared dining facilities, housekeeping services, personal care and assistance, transportation assistance, and specialized shared services such as medical support services and physical therapy.

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

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

**EXPANSION OF A STRUCTURE:** An increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached: decks, garages, porches, and greenhouses.

**EXPANSION OF USE:** The addition of one or more months to a use's operating season; or the use of one or more floor area or ground area devoted to a particular use.

**FINANCIAL SERVICE:** A service listed under U.S. Standard Industrial Classification Codes 60 through 67, inclusive, and including banking, other credit agencies, security and commodity brokers and service, insurance, real estate and investment offices.

**FLEA MARKET:** An outdoor market selling antiques, used household goods, curios, and the like, at a frequency of no more than four days in any six-month period.

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

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

**FORESTED WETLAND:** A freshwater wetland dominated by woody vegetation that is 6 meters tall or taller.

**FOUNDATION:** The supporting substructures of a building or other structure including but not limited to basements, slabs, sills, posts or frostwalls.

**FRESHWATER WETLAND:** Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of 10 or more contiguous acre; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

**FRONTAGE, ROAD:** The linear distance between the sidelines of a lot, measured along the lot line that borders upon whatever right-of-way serves as legal access to the lot. For the purposes of this Ordinance, the following ways shall constitute legal access to a lot along which frontage may be measured:

- (1) a way accepted by or established as belonging to the Town of Hope, Knox County, or the State of Maine, provided access is not specifically prohibited;
- (2) a way, whether dedicated to public ownership or not, as shown on an approved subdivision plan;
- (3) a private or public way which has not been approved by a governmental subdivision but which has been established in a deed recorded in a Registry of Deeds or otherwise legally established

by adverse possession or adverse use.

In the case of a lot situated on a curve of a way or on a corner of two ways, the measurement of frontage may include the entire length of the property line along such way or ways.

**FRONTAGE, SHORE:** The straight line distance between the points of intersection of the side lot lines with the shoreline at normal high water elevation.

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

**HOME OCCUPATION:** An occupation or business activity which results in a product or service. The business is to be conducted, in whole or in part, in the dwelling unit or accessory structure(s), and is clearly subordinate to the residential use of the dwelling unit and property.

**HEIGHT OF BUILDING:** Vertical measurement from a point on the ground at the mean grade adjoining the foundation as calculated by averaging the highest and lowest points around the building or structure, to the highest point of the building or structure, excluding incidental protrusions, such as chimneys, steeples, or antennas as which have no floor area.

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

**INDUSTRY:** An occupation, activity or business conducted for profit, particularly involving the manufacturing, processing and storage of goods or products intended for sale to the public.

**INDUSTRIAL STRUCTURE:** A structure primarily used for the manufacturing, processing and/or storage of goods.

**JUNKYARD:** A yard, field, or other area used as a place of storage for the following items, excluding items which are being stored out of doors for household use within a reasonable period of time:

- (1) Three or more unserviceable, discarded, worn-out, or junked motor vehicles as defined by state law, not including temporary storage, as defined by state law, by an establishment or place of business engaged primarily in doing auto body repair work for the purpose of rendering a motor vehicle serviceable.
- (2) Discarded, worn-out, or junked plumbing, heating supplies, household appliances, and furniture;
- (3) Discarded, scrap, and junked lumber; or

- (4) Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material.

**LOT:** A contiguous parcel of land in single or joint ownership described on a deed, plot plan, or similar legal document.

**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 OR GROUND COVERAGE:** The percentage of lot area covered or occupied by principal and accessory structures, and roads, driveways, parking lots and other impermeable surfaces.

**MAXIMUM DENSITY:** Applicable to all (major; or minor and major??) subdivisions. The maximum number of lots that may be created from the parcel being subdivided, based on three-acres per dwelling unit. When determining the maximum density, the areas of wetlands and waterbodies, and shoreline setback areas from these waterbodies and wetlands as defined by the Shoreland Zoning ordinance, are excluded from the total parcel size.

For example:

Size of Parcel being subdivided (excluding non-buildable areas above): 24 acres.

Maximum number of lots to be created: 24 divided by 3 = 8 lots.

When the size of the lot being subdivided is not divisible by three, the total number of lots created will be rounded down.

Example:

Size of parcel being subdivided (excluding non-buildable areas): 17 acres.

Maximum number of lots created: 17 divided by 3 = 5 lots.

In addition, each lot must meet all minimum lot size and applicable setback requirements.

**MINIMUM LOT WIDTH:** The closest distance between the side lot lines of a lot.

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

**MINERAL EXTRACTION:** Any operation within any 12 month period which removes more than 100 cubic yards or soil, topsoil, loam, sand, gravel, clay, rock, peat, or other material from its natural location and to transport the product removed, away from the extraction site.

**MOBILE HOME (MANUFACTURED HOUSING UNIT):** A detached residential dwelling unit designed for transportation, after fabrication, on streets or highways on its own wheels, or on a flat bed or other trailer, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, such as locating on jacks or other foundation, or connection to utilities. For the purpose of this Ordinance, a mobile home shall be treated as a single-family dwelling and be subject to all land use regulations applicable thereto.

**MOBILE HOME PARK:** A parcel of land unified ownership approved by the municipality for the placement of three (3) or more manufactured housing units.

**MOBILE HOME PARK LOT:** A parcel of land within a mobile home park, designated on the mobile home park plan, on which an individual manufactured housing unit (mobile home) may be located and which is reserved for use by the occupants of that home.

**MOTEL:** A building or group of buildings designed, intended or used primarily for providing temporary living accommodations which may include provisions for living space, cooking, bathing and eating.

**MOTEL UNIT:** A room or group of rooms designed and equipped for use as temporary living quarters which may include provisions for living space, cooking, bathing, and eating.

**MOTOR VEHICLE SALES AND SERVICE:** Motor Vehicles are any form of motorized transport. They may be for business, domestic or personal use. They include, but are not limited to: Automobiles, trucks, equipment, boats personal watercraft, motorcycles, snowmobiles and ATVs.

Sales refer to the wholesale and resale of such vehicles as well as new and/or reconditioned parts for them. Specifically excluded from this is any warehousing of disabled vehicles for use or resale of parts, or any other activity which could be construed as that of a junkyard.

Services refer to the maintenance and repair of vehicles. Other services include but are not limited to ground transport, towing services, vehicle rental agency and auto body repair.

**MULTI-UNIT RESIDENTIAL:** A residential structure containing 3 or more residential dwelling units.

**NEIGHBORHOOD STORE:** A retail store that occupies less than 2,000 square feet of total floor space and within which no alcoholic beverages are consumed.

**NURSING OR CONVALESCENT HOME:** A facility in which nursing care and medical services are performed under the general direction of persons licensed to practice medicine in the State of Maine for the accommodation of convalescent or other persons who are not in need of hospital care, but who do require, on a 24-hour basis, nursing care and related medical services.

**PARKING SPACE:** An area not less than nine (9) feet wide and eighteen (18) feet long, not including the access thereto, accessible from street or aisles leading to streets and usable for the storage or parking of passenger vehicles. Parking space or access thereto may be construed to be usable year round. A parking space to accommodate the handicapped shall be an area not less than twelve (12) feet wide and eighteen (18) feet long.

**PERSON:** An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, 2 or more individuals having a joint or common interest, or other legal entity.

**PERSONAL SERVICE:** A service listed under U.S. Standard Industrial Classification Code 72, and including laundry and cleaning services, photography studios, shoe repair shops, funeral homes, and similar services to the general public.

**PIERS, DOCKS, WHARVES, BRIDGES,** and other structures and uses extending over or beyond the normal high-water line or within a wetland-

**Temporary:** Structures which remain in or over the water for less than 7 months in any period if 12 consecutive months.

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

**PORCH:** An attachment to a building or structure which has a roof and may be screened or enclosed; it will not be heated. \_

**PRINCIPAL STRUCTURE:** A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

**PRINCIPAL USE:** A use other than one which is wholly incidental or accessory to another use on the same premises.

**PROFESSIONAL OFFICE:** Any structure which houses the business office of a person or persons who supply a service to the public.

**QUASI-PUBLIC FACILITY:** A facility for a recognized public purpose, such as an auditorium, library, park, or museum, which is operated by a not-for-profit organization or by a public agency other than the municipality.

**RECREATIONAL VEHICLE:** A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle with the State Division of Motor Vehicles.

**REPLACEMENT SYSTEM:** A system intended to replace: 1). and existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2). any existing overboard wastewater discharge.

**RESTAURANT:** A full service eating facility that meets the following criteria:

- (1) Food and beverages are served at a table for consumption predominately on the premises.
- (2) Plates and utensils are washed on premises.
- (3) At least 50% of the seating is within the building

(4) State and Town hygiene requirements are met.

**ROOMING HOUSE:** A building of residential character in which three (3) or more rooms are rented to guests for the purpose of lodging and/or the taking of meals. The renting of one or two bedrooms in a dwelling otherwise used as living quarters for one family shall not be considered a rooming house but rather shall be considered an accessory use to the single family dwelling.

**SCHOOL, COMMERCIAL:** A place or institution for teaching and learning, which place or institution is established for commercial or profit-making purposes, including, by way of example only, schools for dance, music, riding, gymnastics, photography, driving or business.

**SCHOOL, PUBLIC AND PRIVATE:** A Place or institution for teaching and learning, which place or institution teaches courses of study sufficient to qualify attendance there as being in compliance with state compulsory education requirements. A public school, as differentiated from a private school, is operated by a municipal corporation or school administrative district or, for the purposes of this Ordinance, by a recognized religious organization.

**SERVICE DROP:** Any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electrical
  - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
  - b. the total length of the extension is less than 1000 feet.
2. in the case of telephone service
  - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
  - b. the extension requiring the installation of new utility poles or placement underground is less than 1000 feet in length.

**SETBACK. BACK:** The distance between the rear line of the lot, extending the full width of the lot, and the nearest part of any principal or accessory structure. Back or rear setback and back or rear yard are synonymous.

**SETBACK. FRONT:** The distance between the street right-of-way or easement line extending the width of the frontage, and the nearest part of any principal or accessory structure. Front setback and front yard are synonymous.

**SETBACK-SHORELINE:** The nearest horizontal distance from the normal high-water line of a waterbody or the upland edge of a wetland to the nearest part of a structure, road, parking space or other regulated object or area.

**SETBACK. SIDE:** The distance between the side property line and the nearest part of any principal or accessory structure. Any lot line not a back lot line or a front lot line shall be deemed a side lot line. Side setback and side yard are synonymous.

**SHORELAND ZONE:** The land area located within 250 feet, horizontal distance, of the normal high-water line of any great pond, river, or saltwater body; within 250 feet of the upland edge of a freshwater wetland; or within 75 feet of the normal high-water line of a stream.

**SIGN:** Structure, device, letter, word, model, banner, insignia, flag, or other representation which is used as or is in the nature of an advertisement, announcement, or direction. The area of a sign is the area on one side of the smallest simple geometric shape such as a square, rectangle, triangle, circle, etc., encompassing all lettering, wording, design, symbols, together with any background which is not the same color as the building. An inconspicuous support such as a slim post is not part of sign area.

**SIGN. ILLUMINATED.** A sign which has characters, letters, figure, designs, or outlines illuminated by electric lighting or luminous tubes as part of the sign, and not the so-called neon tube, or whose illumination is derived entirely from an external artificial source.

**SIGN. OFF-PREMISE:** A sign which is not located upon the same real property that the business, facility, or point of interest which it serves is located.

**SIGN. ON-BUILDING:** A sign which is attached to the building wall and which extends not more than six inches from the face of such wall.

**SIGN. ON-PREMISE.** A sign which is located upon the same real property that the business, facility or point of interest which it serves is located.

**SIGN. TEMPORARY:** A sign of a temporary nature, erected less than 90 days, within any 12-month period, exemplified by the following: political signs, charitable signs, fundraising sign, construction signs, carnival signs, garage sales, lawn sales, rummage sales, and all signs advertising sales of personal property (excluding mobile homes), and for rent signs. Any exterior sign displayed by an ongoing business on the business premises on which the written or printed message changes while the structure of the sign remains unchanged shall not be considered as a temporary sign. For example, chalkboards and signs with removable lettering shall not be considered temporary signs if in place for 90 days or more within any 12-month period.

**STREAM:** A free-flowing body of water from the outlet of a great pond or from the confluence of 2 perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minutes series topographic map, or if not available, a 15 minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area.

**STREET:** A public or private way which affords the principal means of access to abutting properties and which has been duly recorded as such in the Knox County Registry of Deeds.

**STRUCTURE:** Any constructed or erected material or combination of materials in or upon the ground, permanently or temporarily located, including but not limited to: buildings, mobile homes, radio towers, sheds, signs, decks, and storage bins; but excluding fences.

**SUBSTANTIAL START:** Completion of 30 percent of a permitted structure or use measured as a percentage of estimated total cost.

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

**SUSTAINED SLOPE:** A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**TRADESMAN'S SHOP:** The shop of a self-employed craftsman or person in a skilled trade.

**TRIBUTARY STREAM:** A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or by the presence of aquatic vegetation, and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. The definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

**UPLAND EDGE:** The boundary between upland vegetation and/or soil types and wetland vegetation and/or soils.

**VARIANCE:** A variance is a relaxation of the terms of this Ordinance by decision of the Board of Appeals. It can be granted only where such variance will not be contrary to the public interest and only where a literal enforcement of the Ordinance will result in undue hardship.

The words "undue hardship" shall mean:

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

As used in this Ordinance, a variance authorized only for height, area of lot and density associated therewith, and size of structures and/or size of yards and setbacks. However, a side yard or rear yard variance shall not be granted if it will interfere with access of fire fighting apparatus to a structure on the land in question or adjacent property.

In general, the amount of variance granted should be only sufficient to relieve the undue hardship.

Establishment or expansion of a use otherwise prohibited by this Ordinance shall not be allowed by variance.

**VEGETATION:** All live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 above ground level.

**VOLUME OF STRUCTURE:** The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

**WATER BODY:** Any great pond, river, stream or tidal area.

**WATER CROSSING:** Any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the water course. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings.

**WETLANDS ASSOCIATED WITH GREAT PONDS:** Wetlands contiguous with or adjacent to a great pond, and which during normal high water, are connected by surface water to the great pond. Also included are wetlands which are separated from the great pond by a berm, causeway, or similar features less than 100 feet in width, and which have a surface elevation at or below the normal high water line of the great pond. Wetlands associated with great ponds are considered to be part of that great pond, such that the shoreland zone encloses both the great pond and the wetland as a whole.

**YARD (OR GARAGE) SALE:** A sale of used household goods, curios and the like. Yard (or garage) sales, as distinguished from flea markets, shall be considered to be accessory uses under this Ordinance and shall not be conducted more frequently than four (4) days in any thirty (30) day period.