

ZONING ORDINANCE
TOWN OF LIMNER

ADOPTED JANUARY 15, 1997
REVISED FEBRUARY 29, 2008
REVISED NOVEMBER 4, 2008
REVISED MARCH 5, 2010
REVISED MARCH 4, 2011
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REVISED MARCH 1, 2013

INCLUDES THE FOLLOWING AMENDMENT:

SHORELAND ZONING,
FEBRUARY 29, 2008

ATTEST:

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(in a separate Excel document)

Article 1. Preamble

1. A Authority

This Ordinance has been prepared in accordance with the provisions of Titles 30-A and 38 of the Maine Revised Statutes Annotated, as amended.

1. B Short Title

This Ordinance and the accompanying Official Zoning Map shall be known as and may be cited as the "Zoning Ordinance, Town of Limington, Maine."

1. C Purpose

The purpose of this Ordinance is to protect the health, safety, and general welfare of the residents of the Town of Limington; to encourage appropriate use of land throughout the municipality; to promote traffic safety; to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to prevent housing development in unsuitable areas; to provide an allotment of land area in new developments sufficient for all the requirements of community life; to conserve natural resources and visual character; and to provide for adequate public services, as an integral part of a comprehensive plan for municipal development.

1. D Jurisdiction

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

1. E Rules of Construction

Captions and headings within this Ordinance are an integral part of the ordinance and are intended to be utilized in determining the meaning and applicability of the sections they identify.

Article 2 Definitions of Terms Used in this Ordinance

2 A Construction of Language

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the ordinance shall have the meaning implied by their context in the Ordinance or their ordinarily accepted meaning. In the case of any difference of meaning or implication between the text of this Ordinance and any map, illustration, or table, the text shall control.

The word "person" includes firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity.

The present tense includes the future tense, the singular number includes the plural, and the plural numbers include the singular.

The words "shall" and "will" are mandatory, the word "may" is permissive.

The word "lot" includes the words "plot" and "parcel".

The word "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied".

The word "town" or "municipality" means the Town of Livingston, Maine.

2 B Definitions

In this Ordinance the following terms shall have the following meanings:

Abandoned Use or Structure: A use or structure which a person or entity has ceased maintaining or using for a period of one (1) year.

Abutting Property: Property sharing a common boundary with or within two hundred fifty (250) feet of the property, whether or not these properties are separated by a public or private way.

Accessory Apartment: Single bedroom apartment created solely for the purpose of providing additional independent living quarters for a family member on the same lot as the principal residence. Not considered an additional dwelling unit.

Accessory Use or Structure: A use or structure which is customarily and in fact both incidental and subordinate to the principal use or structure. The term "incidental" in reference to the principal use or structure shall mean subordinate and minor in significance 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: The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to forages and sod crops; grains and seed crops; dairy

animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and nurseries and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

Aggrieved Party: An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance. The Selectmen of the Town of Lington shall be included in the definition of Aggrieved Party with respect to any decision of the Lington Planning Board or the Code Enforcement Officer made pursuant to this Ordinance, and the Lington Planning Board shall be included in the definition of Aggrieved Party with respect to any decision of the Code Enforcement Officer made pursuant to this Ordinance.

Alteration: any change, addition, or modification in construction, other than cosmetic or decorative, or any change in the structural members of buildings such as bearing walls, columns, beams, or girders.

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

Animal Husbandry: The keeping of any domestic animals, including fowl, other than customary household pets.

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

Antenna Height: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Applicant: The person or entity submitting a completed application for approval.

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

Aquifer: A saturated permeable geologic unit that can transmit significant quantities of water under ordinary hydraulic gradients.

Area of Special Flood Hazard: The land in the flood plain having a one percent or greater chance of flooding in any given year.

Authorized Agent: Anyone having written authorization, signed by a property owner, to act on behalf of that property owner.

Automobile Graveyard: A yard, field or other area used as a place of storage, other than temporary storage by an establishment or place of business which is engaged primarily in doing auto body repair work for the purpose of making repairs to render a motor vehicle serviceable, for three or more unregistered motor vehicles.

Automobile Service Station: A place where gasoline or any other automobile engine fuel (stored only in DEP approved storage tanks), kerosene or motor oil, and lubricants or grease are retailed directly to the public on the premises; including the sale of minor accessories and the servicing and minor repair of automobiles, not including the storage of unlicensed vehicles, and not including body, frame or fender straightening and repair.

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

Basal Area: The area of cross section of a tree stem at 4 ½ feet above ground level and inclusive of bark.

Base Flood: Means the flood having a one percent chance of being equaled or exceeded in any given year, alternately referred to as the 100 year flood.

Basement: The enclosed area underneath a structure, typically having a masonry floor and walls which comprise the structure's foundation. The clear height up to the joists supporting the floor directly above is three feet or greater.

Bed & Breakfast: A State licensed facility offering three or more rooms for overnight stay to the general public. A full or continental breakfast is included.

Boardinghouse: Any residential structure where lodging or lodging and meals are provided for compensation for a period of at least two weeks, and where a family residing in the building acts as proprietor or owner. There is no provision for cooking in any individual room.

Boathouse: A non-residential structure designed for the purpose of protecting or storing boats for non-commercial purposes.

Bottle Club: An establishment where no alcoholic beverages are sold, but where members, guests or customers provide their own alcoholic beverages, paying a fee or other consideration for admission or membership and/or for set-ups.

Buffer Area: A part of a property or an entire property which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g., noise, dust, visibility, glare, etc.) on adjacent properties, or on sensitive natural resources.

Building: Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or personal property.

Building Height: The vertical distance measured between the mean original grade at the downhill side of the building and the highest point of its roof, not including chimneys, spires, towers, or similar accessory structures.

Camppground: Any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including but not limited to, tents, recreational vehicles or other structures.

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

Change of Use: A change from one category in the land use table to another or the addition of a new category of use to an existing use.

Channel: A natural or artificial watercourse with definite beds and banks to confine and conduct continuously or periodically flowing water. Channel flow is water flowing within the limits of the defined channel.

Club: Any association of persons organized for social, religious, benevolent, or academic purposes; whose facilities are open to members and guests, including fraternities, sororities, and social organizations.

Cluster Development: A development designed to promote the creation of open space by a reduction in dimensional and area requirements.

Code Enforcement Officer: A person appointed by the Municipal Officers to administer and enforce this ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.

Co-location: The use of a wireless communications facility by more than one wireless telecommunications provider.

Commercial Recreation: Any commercial enterprise which receives a fee in return for the provision of some recreational activity including but not limited to racquet clubs, health facilities, and amusement parks, but not including amusement centers.

Commercial Use: The use of lands, buildings or structures, other than a "home occupation" (defined below), the intent or result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Conditional Use Permit: A permit authorized by the Planning Board for a Conditional Use. A Conditional Use is a use that would not be appropriate without restriction, but which is permitted provided that all performance standards and other requirements of this ordinance are met. A Conditional Use Permit may be issued only after the applicant has followed the procedures of this Ordinance. A Conditional Use Permit does not authorize the applicant to build, but merely authorizes the Code Enforcement Officer to issue a building permit, provided that all other requirements for the issuance of a building permit are satisfied by the applicant.

Congregate Housing: A multi-family development with central dining facilities serving functionally impaired persons, including without limitation functionally impaired elderly persons.

Construction: Includes building, erecting, altering, reconstructing, moving upon, or any physical operations on the premises which are required for construction. Excavation, fill, paving, drainage, and the like, shall be considered as part of construction.

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

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

Day: A day is defined as any part of a day.

Day Care Center: An establishment, including a private residence, where three or more children under the age of six are cared for in return for compensation.

DBH: The diameter of a standing tree measured 4.5 feet from ground level.

Deck: An uncovered structure with a floor, elevated above ground level.

Decorative Changes: Repainting or re-siding; removing or replacing trim, railings, or other nonstructural architectural details; or the addition, removal or change of location of windows and doors.

Density: The number of dwelling units per acre of land.

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

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

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

Disability: Any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Direct Watershed of a Great Pond: That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond.

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

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

Driveway: A vehicular access serving one or two private lots.

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

Single-Family Dwelling: a building containing only one (1) dwelling unit for occupation by not more than one (1) family.

Multi-Family Dwelling: a building containing two (2) to four (4) dwelling units, such buildings being designed for residential use and occupancy by two (2) to four (4) families living independently of one another, with the number of families not exceeding the number of dwelling units.

Dwelling Unit: A room or suite of rooms designed and equipped exclusively for use by one family at a time as a permanent, seasonal or temporary habitation, and which contains independent living, cooking, sleeping, bathing and sanitary facilities. The term includes manufactured housing and rental units that contain independent living, cooking, sleeping, bathing and sanitary facilities regardless of the time period rented. Recreational vehicles or motel units that do not contain independent living, cooking, sleeping, bathing and sanitary facilities are not dwelling units.

Duplex: A dwelling containing exactly two (2) dwelling units.

Earthmoving: The movement of soil, topsoil, loam sand, gravel, clay, rock, peat or other like material from its natural location to another location on the same property.

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

Engineered Subsurface Waste Water Disposal System: A subsurface waste water disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of waste water per day or more; or any system designed to be capable of treating waste water with higher Biological Oxygen Demand (BOD) and total suspended solids concentrations than domestic waste water.

Essential Services: The construction, alteration or maintenance of gas, electrical or communication facilities; steam fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines,

collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion:

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

Of a Use: The addition of weeks or months to a use's operating season; additional hours of operation; or an increase in net floor area or ground area devoted to a particular use.

For Wireless Telecommunications: The addition of antennas, towers, or other devices to an existing structure.

Exterior Walls of Traditional Site-Built Appearance: Siding materials such as clapboards, shingles, and shakes, including synthetic or metal siding manufactured to closely resemble clapboards, shingles and shakes. This term shall also include masonry, wood board-and-batten, and 'Texture 1-1F' exterior plywood, but shall not include artificial masonry, or fake board-and-batten made from metal or plastic.

Extraction (or 'water extraction' or 'extraction of water'): Withdrawal, removal, diversion, taking or collection by any means of water from ground water sources, aquifers, springs, wells, pumps, or similar.

Extraction Point or Extraction Facility: The physical location where water is extracted, whether by well, pump, pipeline, catchment or other similar method.

FAA: The Federal Aviation Administration, or its lawful successor.

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

FCC: The Federal Communications Commission, or its lawful successor.

Filling: Depositing or dumping soil, topsoil, loam sand, gravel, clay, rock, peat or other like material on or into the ground or water.

Flea Market: The sale of used merchandise customarily involving tables or space leased or rented to vendors.

Floating Slab: A reinforced concrete slab which is designed to withstand pressures, both from below and above.

Flood Insurance Map: The official map on which the Department of Housing and Urban Development or the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the Town.

Flood Plain: The lands adjacent to a water body which have been or may be covered by the base flood.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100 year flood without cumulatively increasing the water surface elevation more than one (1) foot in height.

Flood Zone, 100 Year: See Base Flood.

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.

Floor Area, Gross: The sum in square feet, of the floor areas of all roofed portions of a building, as measured from the exterior faces of the exterior walls.

Floor Area, Net: The total of all floor areas of a building, excluding the following: stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading and floors below the first or ground floor, except when used for human habitation or service to the public.

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

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

Forested Wetland: A fresh water wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

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

Free-Standing Sign: A self-supporting sign not attached to any building, wall, or fence, but in a fixed location. This does not include portable or trailer type signs.

Frontage:

Street: The distance between the sidelines of a lot as measured along the front lot line of the street right-of-way limits.

Shore: The horizontal distance, measured in a straight line, between the intersections of the lot lines with the shoreline at "normal high-water line," as defined in this Ordinance.

Frost Wall: A masonry foundation wall extending below the ground surface, supported by footings located below the frost-line to protect structures from frost heaves.

Garage Sale: See Yard Sale.

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

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

Guest House: See Inn.

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

Health care facility: Any facility, whether public or private, proprietary or not for profit, required to obtain a certificate of need in accordance with federal laws and regulations under the National Health Planning and Resources Development Act of 1974, or any amendment, and shall include hospitals, psychiatric hospitals, tuberculosis hospitals, skilled nursing facilities, kidney disease treatment centers including free standing hemodialysis units, intermediate care facilities, rehabilitation facilities, ambulatory surgical facilities, home health care providers and health maintenance organizations. The term shall not apply to any facility operated by religious groups relying solely on spiritual means through prayer for healing.

Height: The vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure, to the highest point of the building or structure. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulbheads, or other building accessory features usually erected at a height greater than the main roofs of buildings.

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

High Water Mark - Inland Waters: That line which is apparent from visible markings, changes in the character of soils due to prolonged action of water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers, streams, brooks, or ponds, the normal high water mark is the upland edge of the wetland, and not the edge of the open water.

Home Occupation: An occupation or profession conducted on or in a residential structure or property, and which is (1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and (2) which employs no more than two (2) persons other than family members residing in the house.

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

Hotel: A building in which lodging or meals and lodging are offered to the general public for compensation and in which ingress and egress to and from the rooms are made primarily through an inside lobby or office. The hotel may contain such accessory services and facilities as newsstands, personal grooming facilities and restaurants.

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

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

Industrial: Of, relating to, concerning or arising from the assembling, fabrication, finishing, manufacturing, packaging or processing of goods, except for mineral extraction.

Inn: A building which contains a dwelling unit occupied by an owner or resident manager, in which up to ten (10) lodging rooms or lodging rooms and meals are offered to the general public for compensation, and in which entrance to bedrooms is made through a lobby or other common room. Inn includes such terms as guest house, lodging house and tourist house.

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

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

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

Kennel: A location where dogs or cats are bred or boarded for commercial purposes or where more than eight (8) dogs six (6) months or older reside.

Land Management Road: A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Large Scale Water Extraction: Extraction of water from ground water sources, aquifers, springs, wells, or similar in a total daily amount on any given day of 5000 gallons or more, as extracted by the same individual or entity, or consortium or association of individuals or entities, regardless of the number of extraction facilities utilized.

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

Lodging House: See Inn.

Lot: A parcel of land occupied or capable of being occupied by at least one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by this Ordinance, and having frontage upon a street, road, or private road, as required by this Ordinance.

Lot Area: The total horizontal area within the lot lines, minus the area below the upland edge of a wetland or water body and areas beneath roads serving more than two lots.

Lot, Back: A lot without frontage adjacent to an existing street.

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

Lot Coverage: The percentage of the lot covered by all buildings.

Lot, Interior: Any lot other than a corner lot.

Lot Lines: The lines bounding a lot as defined below.

Front Lot Line: The lot line separating the lot from the street or right of way. On a corner or through lot, the line separating the lot from both streets or rights of way.

Rear Lot Line: The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot

line, not less than ten (10) feet long lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.

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

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

Lot, Through: Any interior lot having frontages on two more or less parallel streets or rights of way or between a street and a water body, or a right of way and a water body, or between two water bodies, as distinguished from a corner lot. All sides of through lots adjacent to streets, rights of way, and water bodies shall be considered frontage. For purposes of determining setbacks, the front lot line shall be on one street or right-of-way only. The remaining lot lines shall be treated, for purposes of determining required setbacks, as side lot lines.

Lot Width: The distance between the side lot lines of the lot measured at the front lot line.

Manufactured Housing Unit: A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two types of manufactured housing are included. Those two types are:

1. This term also includes any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq; and

Those units constructed after June 15, 1976, commonly called 'newer mobile homes', which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are fourteen (14) body feet or more in width and seven hundred and fifty (750) or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit.

2. Those units commonly called 'modular homes', which the manufacturer certifies are constructed in compliance with Title 10, Chapter 957, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained in the unit.

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

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

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

Mechanized Recreation: Recreation activities which require the use of motors or engines for the operation of equipment or participation in the activity except for the personal use of ATVs, snowmobiles and other similar vehicles.

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 disturbed areas to its original condition.

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

Minimum Lot Width: The closest distance between the side lot lines of a lot. When only two (2) lot lines extend into the Shoreland zone, both lot lines shall be considered to be side lot lines.

Mobile Home: See Manufactured Housing Unit.

Mobile Home Park: A parcel of land under unified ownership designed and/or used to accommodate three (3) or more manufactured housing units.

Motel: A building or group of buildings in which lodging is offered to the general public for compensation, and where entrance to rooms is made directly from the outside of the building. Motel includes such terms as tourist cabins and tourist court. And transient accommodations which do not meet the definition of Bed and Breakfast, Hotel or Inn shall be deemed to be a motel for the purposes of this ordinance.

Multifamily Development: A lot which contains one or more multifamily dwellings, two or more duplexes, three or more single family dwellings, or any combination of buildings containing three or more dwelling units or land in common ownership, such as apartment buildings, condominiums, or mobile home parks.

Municipal Engineer: A registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.

Municipal Officers/ Officials: The Board of Selectmen of the Town of Lington.

Native: Indigenous to the local forests.

Naturally Internally Drained: Areas of a site that, as a result of predevelopment topography and intermand final topography produced during development of the site, are and will remain at all times over the course of the development graded so that neither eroded materials or runoff either crosses the property boundary or enters a river, brook, stream, great pond or freshwater or coastal wetland or other protected area. Areas that rely on man-made structures to maintain internal drainage are not considered naturally internally drained.

Net Residential Acreage: The acreage available for development, excluding the area for streets or access and the areas which are unsuitable for development.

Net Residential Density: The number of dwelling units per net residential acre.

Non-Conforming Condition: Non-conforming lot, structure, or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-Conforming Lot of Record: A lot legally existing as of the date on which this Ordinance is adopted, which does not meet the applicable area, frontage, width or depth requirements established by this Ordinance.

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

Non-Conforming Use: Use of land or structures, or parts thereof, that is not allowed in the district or overlay district in which it is located or which does not meet the performance standards prescribed for it by this Ordinance, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-Intensive Recreation: Recreation activities which necessitate some degree of structural or mechanical components for participation in the activity, such as ball fields, playgrounds, and tennis courts, or no structural or mechanical components or facilities, such as hiking, fishing, or hunting.

Normal High-Water Line: That line on the shores and banks of waters which is apparent because of the different character of the soil or the vegetation due to the prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high water are considered part of the river or great pond.

Nursing Home 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.

Open Space Use: A use not involving a structure; earth-moving activity; or the removal or destruction of vegetative cover, spawning grounds, or fish, aquatic life, bird, and other wildlife habitat.

Parks and Outdoor Recreation Areas: Public and private non-commercial recreation facilities open to the general public and requiring minimal structural development, including but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities, but not including campgrounds, commercial recreation and amusement centers as defined elsewhere in this ordinance.

Parking Space: A parking space shall be a minimum of 10' wide x 20' deep. An angled parking space shall be increased by 10% and 25%

Patio: An uncovered floor usually made of concrete, brick or other masonry material, which is not elevated above the surface of the ground in any matter.

Permanent Foundation:

1. A full, poured concrete or masonry foundation;
2. A poured concrete frost wall or a mortared frost wall, with or without a concrete floor;
3. A floating slab for which the municipality may require an engineer's certification if it is to be placed on soil with high frost susceptibility; and
4. Any foundation which, pursuant to the building code of the municipality, is permitted for other types of single family dwellings.

Person: Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

Personal Property: Property which is owned, utilized and maintained by an individual or members of his or her family (as that term is defined in this Ordinance) and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

Personal Service: A business which provides services but where no materials are stocked or sold

Piers, docks, wharves, bridges, and other structures and uses extending over or beyond the normal high-water line or within a wetland:

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

Fitched, Shingled Roof: A roof with a pitch of 2 or more vertical units for every 12 horizontal units of measurement and which is covered with asphalt or fiberglass composition shingles or other materials, but specifically excludes corrugated metal roofing material.

Porch Sale: See Yard Sale.

Portable Signs: A sign standing on, rather than fixed to, the ground. Such signs are usually, but not necessarily, supported from the ground by one (1) or more poles or posts or similar uprights with or without braces, including benches and/or sandwich boards.

Principal Structure: The structure in which the principal use of the lot is conducted.

Principal Use: The primary use to which the premises or lot are devoted.

Private Road: See Streets.

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

Professional Services: A business that offers any type of personal service to the public which requires, as a condition precedent to the rendering of such service, the obtaining of a license or other legal authorization. By way of example, and without limiting the generality of this definition, professional services include services rendered by certified public accountants, public accountants, engineers, chiropractors, dentists, osteopaths, physicians and surgeons, podiatrists, chiropodists, architects, veterinarians, attorneys at law, physical therapists, and life insurance agents.

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

Public Way: A road opened to use by the public and maintained privately or by a governing agency. Roads discontinued subject to gates and bars are included.

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

Alluial	Cornish	Charles	Fryeburg	Hidley
Limerick	Love well	Medomak	Ondawa	Podunk
Rumey	Saco	Suncook	Sunday	Wnooski

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

Recreational Vehicle: A vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and not or home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be road worthy (i.e., possess a current registration sticker from many state Division of Motor Vehicles).

Replacement System A system intended to replace:

1. An existing subsurface sewage system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure it serves or
2. Any existing overboard waste water discharge.

Residential Growth Permit: A document required under the Limiting Growth Ordinance (to which reference may be made for a more complete definition).

Residential Use: Any land use which includes a dwelling unit.

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

Residual Stand: A stand of trees remaining in the forest following timber harvesting and related activities.

Restaurant: An establishment where meals are prepared and served to the public for consumption for compensation.

Standard Restaurant: A business involving the preparation and serving of meals for consumption on the premises, requiring moderate amounts of time between the period of ordering and serving of the food.

Fast Food Restaurant: A business involving the preparation and serving of meals for consumption on the premises or off the premises, normally requiring short amounts of time between the period of ordering and serving of the food, which is served in edible or disposable containers.

Drive-In Restaurant: A business involving the preparation and serving of meals for consumption on the premises in a motor vehicle or off the premises, normally requiring short amounts of time between the period of ordering and serving of the food, which is served in edible or disposable containers.

Reviewing Authority, Reviewing Agency, Planning Board: These terms are used interchangeably in these regulations and have the same meaning.

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

River: The Saco River or the Little Ossipee River.

Road: See Streets

Satellite Receiving Dish: An antenna designed to receive signals from satellites.

School:

1. **Public and Private - including Parochial School:** An institution for education or instruction where any branch or branches of knowledge are imparted and which satisfies either of the following requirements:

- (a) The institution is not operated for a profit or a gainful business; or
- (b) The institution teaches courses of study which are sufficient to qualify attendance there as compliance with State compulsory education requirements.

2. Commercial School: An institution which is commercial or profit-oriented. Examples are dancing, music, riding, correspondence, aquatic, driving or business schools.

Seasonal Camp/ Cottage: A camp/cottage that is intended for residential use no more than six (6) months in any calendar year. Considered an additional dwelling unit for purposes of the Growth Ordinance.

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

In the case of electric service:

- 1. 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
- 2. The total length of the extension is less than one thousand (1000) feet;

In the case of telephone service:

- 1. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
- 2. The extension requiring the installation of new utility poles or placement under ground is less than one thousand (1000) feet in length.

Set back/ Shoreland: The nearest horizontal distance from the normal high water line of a water body or tributary stream or upland edge of a wetland, to the nearest part of a structure, parking space or other regulated object or area.

Set back, 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 on the lot measured from overhangs or other permanent protrusions. Back or rear setback and back or rear yard are synonymous.

Set back, Front: The distance between the line of any frontage extending the width of the frontage, and the nearest part of any principal or accessory structure on the lot measured from overhangs or other permanent protrusions. Front setback and front yard are synonymous.

Set back, Side: The distance between the side property line and the nearest part of any principal or accessory structure on the lot measured from overhangs or other permanent protrusions. Any lot line not a back lot line or a front lot line shall be deemed a side lot line. Side setbacks and side yard are synonymous.

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

Shoreline: The normal high-water line or upland edge of a freshwater or coastal wetland

Sign: A display surface, fabric or device containing organized and related elements (letters, pictures, products, or sculptures) composed to form a single unit, designed to convey information visually and which is exposed to public view. In cases where matter is displayed in a random or unconnected manner without an organized relationship, each such component shall constitute a sign. Any structure, display, logo, device or representation which is designed or used to advertise or call attention to any item, business, activity or place and is visible from outside a building. It does not include the flag pennant or insignia of any nation, state or town.

Sign Area: Total sign area shall be the aggregate of all exposed faces.

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

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

Sight Distance: The length of unobstructed sight line of motor vehicle drivers in normal daylight conditions. Sight distance is measured from the perspective of a hypothetical person seated in a vehicle from three (3) vantage points: (1) sitting in the access viewing vehicles traveling on the highway (both left and right), (2) traveling on the highway viewing a vehicle sitting in an access and (3) traveling on the highway viewing a vehicle turning into the access (both ahead and behind). In case of discrepancy between these measurements, the lesser measurement will be used to determine whether the sight distance standard is met. Sight distance is measured to and from the point on the centerline of the proposed access that is located ten (10) feet from the edge of the traveled way. The height of the hypothetical person's view is considered to be 3 ½ feet above the pavement and the height of the object being viewed is considered to be 4 ½ feet above the pavement.

Soil Survey:

High Intensity: A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

Medium Intensity: A map prepared by a Certified Soil Scientist, identifying the soil types on a per-lot basis at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The

map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and depth to seasonal high water table or bedrock at that location.

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

Street: Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access. Drive ways, as defined, are excluded.

Street Classification

Arterial Street: A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial streets: List streets designated as arterials in the Comprehensive Plan or other planning document.

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

Cul-de-sac: A street with only one outlet and having the other end for the reversal of traffic movement.

Industrial or Commercial Street: Streets servicing industrial or commercial uses.

Minor Residential Street, Private Road: A street servicing only residential properties and which has an average daily traffic of less than 200 vehicles per day.

Street Construction: The construction of a new street or the upgrading of an existing street or right-of-way. Routine street maintenance is not considered street construction.

Structure: Anything constructed or erected, the use of which requires a fixed location on or in the ground, or an attachment to something having a fixed location on the ground, including buildings, commercial park rides and games, satellite receiving dishes, carports, decks, other building features, and patios within the shoreland areas, but not including signs, sidewalks, fences, patios not in the shoreland areas, drive ways, parking lots, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors.

In Shoreland Zone or Aquifer Protection Zone: Includes any structure for which construction began on or after (**insert date**), 2008. The area included in the expansion of an existing structure is deemed to be a new structure.

Subdivision: A division of land as defined in Title 30-A, Section 4401 of the Mine Revised Statutes Annotated. Without limiting or expanding the foregoing, a subdivision

is, in general terms, the division of a lot of land into three or more lots within a single five year period. (See Town of Linnington Subdivision Rules and Regulations.)

Substantial Expansion: Floor space increase of 25% or new materials or processes not normally associated with the existing use.

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

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

Sustained Slope: A change in elevation where the referenced percent grade, measured at two-foot contour intervals, is maintained or exceeded throughout the measured area.

Tag Sale: See Yard Sale.

Temporary Sign: Any sign erected, affixed or maintained on a premises for a short, fixed period of time including portable and/or mobile signs such as sandwich boards and signs on trailers. For purposes of measuring length of time a temporary sign is displayed, use of a sign for any length of time in a twenty-four (24) hour period shall constitute a day.

Temporary Structure: A structure without any foundation, footing, not connected to water and sewer, and removed when the designated time period, activity or use for which the temporary structure was erected has ceased, not to exceed 180 days.

Timber Harvesting: The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the Shoreland zone on a lot that has less than two (2) acres within the Shoreland zone shall be not considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Article 11. R *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.*

Trailer, Utility: A vehicle without motive power, designed to be towed by a passenger automobile but not designed for human occupancy and which may include a utility trailer, boat trailer, horse trailer, or snowmobile trailer.

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 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 in this Ordinance. This definition does not include the term "stream" as defined elsewhere in this Ordinance, or rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity, and only applies to that portion of the tributary stream located within the Shoreland zone of the receiving water body or wetland.

Undue Hardship:

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

Unreasonable Adverse Impact: Means that the proposed project would produce an end result which is:

1. Excessively out of character with the designated scenic resources affected, including existing buildings, structures and features within the designated scenic resources, and
2. Would significantly diminish the scenic value of the designated scenic resource.

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

Used Merchandise Sales: The outdoor sale of used articles, conducted for more than five consecutive days or for more than two weekends per year. Used Merchandise Sales include flea markets.

Variance: A variance is a relaxation of the terms of this ordinance. Variances permissible under this ordinance are limited to dimensional and area requirements. No variance shall be granted for the establishment of any use otherwise prohibited, nor shall a variance be granted exclusively because of the presence of nonconformities in the immediate or adjacent areas.

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

Vehicle Sales: Any business which involves a parking or display area for the sale of new or used cars, trucks, motorcycles, campers, farm equipment, recreational vehicles, mobile homes, or similar products.

Volume of a Structure: The volume of all portions of a structure enclosed by roof and fixed exterior walls, as measured from the exterior faces of these walls and roof.

Water Body: Any great pond, river or stream

Water Bodies or Surface Waters (for purposes of Ground Water Extraction): Means lakes, ponds, rivers, streams, wetlands, and similar.

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

Wetland: Swamps, marshes, bogs, and similar areas which are:

1. Of ten (10) or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of ten (10) acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils. Wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Wetland Soils: The following soils, as described and identified in the Soil Survey of the County:

Biddford mucky peat	Sulfhe mists, frequently flooded
Chocorua peat	Vassalboro peat
Sebago peat	Vassalboro peat, ponded
Saco	Waskish peat
Woody Vegetation - live trees or woody, non-herbaceous shrubs.	

Wireless Telecommunications Facility or Facility: Any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communication (SMR), common carrier wireless exchange phone services, specialized mobile phone communications (SMR), common carrier wireless exchange access services, and personal communications service (PCS) or pager services.

Yard: The area between a structure and the property boundary.

Yard Sale: All general sales open to the public, conducted from or on residential premises for the purpose of disposing of personal property. Yard sales shall not be considered to be 'used merchandise sales' as defined in this ordinance and shall not require a permit from the Code Enforcement Officer.

Used Merchandise Sale: This term refers to so-called 'garage sale businesses', which may be described as the indoor or outdoor sale of used articles, conducted for more than five (5) consecutive days or for more than two (2) week-ends during the period May 1

through October 30. This term shall include extended yard sales, but shall not include flea markets or shops for second-hand clothing or second-hand books. Used merchandise sales shall require a permit, which shall be conditional upon the provision of adequate off-street parking.

Year: Any period of twelve (12) consecutive calendar months.

Zone of Contribution: That area of an aquifer that contributes water to a well or other extraction point under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at approved yield with no recharge from precipitation). It is bounded by the groundwater divides that result from pumping the well and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases streams or lakes may act as recharge boundaries. In all cases the zone of contribution shall extend up gradient to its point of intersection with prevailing hydrologic boundaries (a groundwater flow divide, a contact with till or bedrock, or a recharge boundary).

Article 3 Official Zoning Map

3 A Official Zoning Map

Districts which are located and bounded as shown on the Official Zoning Map which is made a part of this Ordinance. There may for purpose of clarity, necessitated by reasons of scale on the map, be more than one Official Zoning Map. The Shoreland, Aquifer Protection, and Endangered Species and Critical Areas Zone boundaries are determined by the terms of the sections creating those districts, and any delineation of the mon on the Official Zoning Map shall be for reference only and shall not supersede or modify such boundaries as created in those sections.

3 B Certification of Zoning Map

The Official Zoning Map is certified by the attested signature of the Town Clerk under the following words: "This is the Official Zoning Map referred to in Article 3 A of the Zoning Ordinance of the Town of Livingston," together with the date of the adoption of this Ordinance. The official copy shall be located in the office of the Town Clerk.

3 C Changes of the Official Zoning Map

If changes are made in the district boundaries or other matter portrayed on the Official Zoning Map such changes shall be made on the Official Zoning Map within fourteen (14) days after the amendment has been adopted together with an entry on the Official Zoning Map as follows:

"On (insert date) by official action of the Town, the following change(s) was (were) made: (insert brief description of the nature of change)." Immediately beneath the entry the Town Clerk shall place his or her signature.

3 D Replacement of Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions the legislative body shall adopt a new Official Zoning Map.

Article 4 Establishment of Zoning Districts

4 A Zoning Districts

For the purpose of this Ordinance, the Town is hereby divided into the following Districts:

**Commercial
Residential
Village
Rural
Resource Conservation**

District boundary lines shall be as described in Article 4. C of this Ordinance, and as depicted on the Official Zoning Map, maintained in the Town Office.

Overlay Districts

**Aquifer Protection Zone
Endangered Species and Critical Areas Zone
Shoreland Zone**

4 B Rules Governing District Boundaries

Where uncertainty exists as to the boundaries of districts as specified in this Ordinance and as shown on the Official Zoning Map, the following rules shall apply.

4. B 1 Boundaries indicated as approximately following the center lines of streets, highways, alleys, railroad rights-of-way, rivers, or streams shall be construed to follow such center lines.
4. B 2 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
4. B 3 Boundaries indicated as approximately following Town limits shall be construed as following Town limits.
4. B 4 Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline.
4. B 5 Sources for the exact delineation of the Special Flood Hazard areas shall be the FEMA Flood Insurance Map.
4. B 6 Sources for the exact delineation of the Aquifer Protection Zone shall be the Maine Geological Survey "Hydrogeologic Data for Significant Sand and Gravel Aquifers," Map # 4 (Maine Geological Survey Catalog #85-93), 12 (Maine Geological Survey Catalog #87-1b), and 13 (Maine Geological Survey Catalog #87-1c).

- 4. B 7. Boundaries indicated as parallel to or extensions of features indicated in subsections A through D above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- 4. B 8. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or other circumstances not covered by subsections A through G above, the Board of Appeals shall interpret the district boundaries.

4 C Lots Divided by District Boundaries

When a lot is divided by a zoning district boundary, other than the boundary to an overlay zone, the following rules shall apply:

- 4. C 1. On lots six (6) acres or less in area, the lot shall be used as if the entire lot were in the district which comprises the larger portion. This provision is applicable to existing lots as of January 15, 1997.
- 4. C 2. On lots larger than six (6) acres, the district regulations shall be followed in each portion.

4 D Description of Zone Districts

4 D 1 Rural

The Rural Zone shall consist of all that land outside of the Resource Conservation, Residential/Village, and Commercial Zones.

4 D 2 Resource Conservation

Beginning on the southerly sideline of the Route 117 right-of-way at the northwest corner of Lot 94 on map R10 of the Town of Limerick on tax maps as revised April 1, 2006; thence southerly along the westerly line of Lot 94 and Lot 93 to the northeast corner of Lot 2, tax map R4; thence westerly along the line of Lot 2 to the northwest corner of Lot 2; thence southerly along Lot 2 to a corner; thence westerly along Lot 2 to a corner; thence southerly along Lot 2 to a corner; thence westerly along Lot 2 and Lot 38, tax map R3 to the northwest corner of Lot 38 on map R3; thence southerly along the westerly line of Lot 38 to the northerly right-of-way sideline of Shaving Hill Road and the corner of Lot 35; thence westerly along the northerly right-of-way line of Shaving Hill Road to the Limerick town line; thence northerly along said Town line to the northwest corner of Lot 13.3, map R4 and the southerly sideline of Lot 17A; thence easterly along the southerly boundary line of Lot 17A to the westerly right-of-way sideline of the Sawyer Mountain Road; thence continuing along said sideline in a generally northeasterly direction to the easterly sideline of Lot 17A; thence northerly along the easterly line of Lot 17A to the southwest corner of Lot 15; thence easterly along Lot 15 and Lot 14.1 to the southeast corner of Lot 14.1 and the sideline of Lot 12A; thence southerly along Lot 12A to the southwest corner of Lot 12A; thence easterly along the southerly line of Lot 12A and Lot 12.2 to the southeast corner of Lot 12.2; thence continuing on a projection of the same

course to the westerly sideline of Lot 11.6; thence southeasterly along Lot 11.6 and Lot 11.3 to the most southerly corner of Lot 11.3; thence along the southerly line of Lot 11.3 in a northeasterly, northerly, and easterly direction to the westerly right-of-way line of Route 117; thence southerly and easterly along said sideline of Route 117 to the point of beginning.

4 D3 Residential

Beginning at Shaving Hill Road at the northwest corner of the Parsonage lot (Lot 19 as shown on Li n i n g t o n Tax M a p R3) and going southerly by the westerly boundary of Lot 18 and continuing easterly along the southern boundary of Lot 18 to Route 11, crossing Route 11 and continuing along the southerly boundary of Lots 63A, 61, and 60, as shown on Li n i n g t o n Tax M a p R3 to a point located 500 feet west of Route 117. Continuing southerly parallel to and 500 feet westerly of Route 117 to a point representing the westerly extension of Richardson Road. Going easterly along the extension of Richardson Road, crossing Route 117 and following the Northwest side of Richardson Road in a Northeasterly direction. From the eastern end of Richardson Road passing northerly along the western boundary of Lots 20 and 21 as shown on Li n i n g t o n Tax M a p R9, then east along the southern boundary of Lots 26, 25, and 24 as shown on Li n i n g t o n Tax M a p R9 to Boothby Road. Continuing northerly along the westerly side of Boothby Road across Route 11 and continuing northerly along South Road to the northern boundary of the ball field (Lot 46 on Li n i n g t o n Tax M a p R10). Continuing west by the northerly boundary of Lots 46 and 45 as shown on Li n i n g t o n Tax M a p R10 and continuing in a line 500 feet north of Route 11 and old Route 11 until said line intersects with a stone wall which runs between, on one side, Lots 87, 88 and 67, and on the other, Lots 32, 1, 32, 37 and 38 as shown on Li n i n g t o n Tax M a p R10. Following said stone wall in a westerly direction to Route 117. Continuing westerly along the southerly side of the Governor Black Road to the northwest corner of Lot 47A (Li n i n g t o n Tax M a p R3), thence south along the westerly side of Lots 47A and 48 as shown on Li n i n g t o n Tax M a p U9 to Shaving Hill Road. Then across Shaving Hill Road and east along the road to the northwest corner of the Parsonage lot and the point of beginning.

4 D4 Commercial

Beginning at a point on the northeast sideline of South Road located one thousand (1000) feet south of the nearest point on the south sideline of Route 25; thence east parallel to and at a constant distance of one thousand (1000) feet from the southwest sideline of Route 25 to a point one thousand (1000) feet north of the northwest sideline of Route 11; thence southwest parallel to and at a constant distance of one thousand (1000) feet from the northwest sideline of Route 11 to a point on the northeast sideline of South Road located one thousand (1000) feet from the northwest sideline of Route 11; thence south along the northeast side of South Road, crossing Route 11 and following the northeast side of Boothby Road to Pine Hill Road then east along the north side of Pine Hill Road to Route 25. Crossing Route 25 at Hamlin Brook and then north along Hamlin Brook to the outlet of Wards Pond. Then following the west side of Wards Pond to the outlet of Rhoda Brook, the brook that flows from Hick Pole Swamp to Wards Pond. Then continuing to the northeast corner of the airport property. Then west along

the north boundary of the airport property to Horne Pond Brook. Then south along Horne Pond Brook to Websters Mill Pond. Then west along the north shore of Websters Mill Pond to the Central Mine Power Company Transmission Line. Following the west side of said transmission line to the M- M- Day- O Road and then west along the M- M- Day- O Road, crossing Route 25, and following the northeast side of South Road to the point of beginning.

4 D5 Village

Beginning at the junction of the Governor Black Road and Route 117 North. Thence westerly along the south side of the Governor Black Road to the northwest corner of Lot 47A on Linington Tax Map R3. Thence south along Lot 47A and Lot 48 to the Shaving Hill Road. Thence west on Shaving Hill Road to the northwest corner of Lot 20.1 as shown on Linington Tax Map R9. Thence south along the westerly line of lots 20.1 and 20 to the southwest corner of Lot 20, then along the south line of Lot 20 to Route 11, then across Route 11 to the southwest corner of Lot 63A as shown on Linington Tax Map R3. Thence southeasterly along the southerly line of Lots 63A, 62 and 61 to Route 117 South. Thence south along Route 117 to the southeast corner of Lot 70.1. Thence north along the east boundary of Lot 34 and Lot 59A to the junction of Pine Hill Road and Route 11, then west toward the Village to the southeast corner of Lot 31. Thence along Lots 31, 32 and 1 as shown on Linington Tax Map U9 to the southeast corner of Lot 87 (Linington Tax Map R10). Thence west along the south boundary of Lot 87 to Route 117 north, then across Route 117 to the Governor Black Road and the point of beginning.

4 D6 Historic Village District

Beginning on the south side of Shaving Hill Road at the northwest corner of Lot 20.1 as shown on Linington Tax Map R9. Thence southerly along the western line of Lot 20.1 to the north line of Lot 17B. Thence in a straight line in an easterly direction, crossing Route 11 and Route 117 to a point intersected extended line to the point on Route 11, along the southwest corner of Lot 32 and an extension of that line to intersect with an extended straight line west passing along the line passing between lots 69.1 and 69.2, and extending west to the west line of Lot 47A (Linington Tax Map R3). Thence south, along the west lines of Lots 47A and 48 to Shaving Hill Road. Thence west along the south side of Shaving Hill Road to the point of beginning.

Article 5 General Provisions

5. A Land Use Requirements

Except as hereinafter specified, no building structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, moved, or altered, and no new lot shall be created, unless in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

5. B Non-Conformance

5. B 1 General

- 5. B 1. A Continuance, Enlargement, Reconstruction: Any legally existing nonconforming use or non-conforming structure may continue to exist but may not be extended, reconstructed, enlarged, or structurally altered except as specified below.
- 5. B 1. B Transfer of Ownership: Non-conforming structures, non-conforming lots of record, and non-conforming uses that may continue to exist under this Ordinance may also be transferred, and the new owner may continue the nonconforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
- 5. B 1. C Restoration or Replacement

This Ordinance allows the normal upkeep and maintenance of non-conforming uses and structures:

- 5. B 1. C 1. Repairs, renovations or modernizations which do not involve expansion of the non-conforming use or structure.
- 5. B 1. C 2. Such other changes as Federal, State, or local building and safety codes may require, or as may be required by law in order to provide accessibility to persons with disabilities.
- 5. B 1. C 3. Any non-conforming use or structure which is hereafter damaged or destroyed by fire or any cause other than the willful act of the owner or his agent, may be restored or reconstructed within one (1) year of the date of said damage or destruction, provided that:
 - (a) The nonconforming dimensions of any restored or reconstructed structure shall not exceed the non-conforming dimensions of the structure it replaces;
 - (b) Any non-conforming structure shall not be enlarged except in conformity with this Ordinance and the

Maine State Subsurface Wastewater Disposal Rules;
and

- (c) Any non-conforming use shall not be expanded in area.
- (d) Nothing in this section shall prevent the demolition of the remains of any building so damaged or destroyed.

5. B 2 Non-Conforming Use

5. B 2 A Resumption of Use Prohibited

- 5. B 2 A 1. A lot, building or structure, other than a residential structure, in or on which a non-conforming use is discontinued for a period exceeding one (1) year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use, even if the owner has not intended to abandon the use.
- 5. B 2 A 2. The Planning Board may, for good cause shown, and on application made before the expiration of the original one year period, grant an extension of the period for up to one (1) additional year.

5. B 2 B Resumption of Use of Residential Structure Prohibited

A residential structure in or on which a non-conforming residential use is discontinued for a period exceeding five (5) years, or which is superseded by a conforming use, may not again be devoted to a non-conforming use, even if the owner has not intended to abandon the use.

5. B 2 C Structure Non-Conforming as to Use

- 5. B 2 C 1. Except for single family dwellings, a building or structure, non-conforming as to use, shall not be enlarged unless the non-conforming use is terminated.
- 5. B 2 C 2. A non-conforming use or part of a building or structure shall not be extended throughout other parts of the building or structure unless those parts of the building or structure were manifestly arranged or designed for such use prior to the adoption of this Ordinance, or of any amendment making such use non-conforming.
- 5. B 2 C 3. Non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such residential structures, as permitted in this Ordinance, including the provisions applying to the Shoreland Zone.

5. B 2 D Change of Use

- 5. B 2 D 1. A legally existing non-conforming use may be changed to another non-conforming use provided that the proposed use is equally or more appropriate to the district than the existing non-conforming use, and the impact on adjacent properties is less adverse than the impact of the former use as determined by the Board of Appeals.
- 5. B 2 D 2. The case shall be heard as an administrative appeal.
- 5. B 2 D 3. The determination of appropriateness shall require written findings on the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use.
- 5. B 2 D 4. The performance standards of this Ordinance shall apply to such requests to establish new non-conforming uses.

5. B 2 E Use of Land

- 5. B 2 E 1. A non-conforming use of land may not be extended into any part of the remainder of a lot of land. A non-conforming use of land which is accessory to a non-conforming use of a building shall be discontinued at the same time the non-conforming use of the building is discontinued.
- 5. B 2 E 2. In the case of earth removal operations, the removal of earth may not be extended as a non-conforming use beyond the required set-back lines of the specific parcel upon which such operations were in progress when such use became non-conforming, as required by the performance standards for extractive industries.
- 5. B 2 E 3. Adjacent parcels in the same or different ownership shall not be eligible for exemption under the non-conforming use provisions unless earth removal operations were in progress on these parcels before these provisions were enacted.
- 5. B 2 E 4. The provision of required off-street parking for an existing non-conforming use shall not be considered an expansion of the use.

5. B.3. Non-Conforming Structures - Dimensional Requirements

(Pertaining to dimensional requirements. Applications regarding non-conforming use shall be reviewed under the provisions above.)

5. B.3.A Enlargements Controlled

A non-conforming structure shall not be added to or enlarged unless: such addition or enlargement conforms to all the regulations of the district in which it is located; the addition does not increase the non-conformity of the structure; or a variance is obtained. In addition, state laws must be adhered to.

5. B.3.A.1 The addition of an open patio with no structures elevated above ground level shall not constitute the expansion of a non-conforming structure. The addition of steps or the enclosure of an existing deck shall not constitute the expansion of a non-conforming structure. But the addition of a deck shall constitute the expansion of a non-conforming structure and shall meet all the dimensional requirements of this ordinance.

5. B.3.A.2 The placing of a foundation below a lawfully existing nonconforming structure shall not constitute the expansion of the structure so long as the first floor space of the structure is not increased.

5. B.3.A.3 Construction or expansion of a foundation under an existing dwelling which expands habitable space shall be considered an expansion and shall be subject to the State Plumbing Laws (Title 30, Maine Revised Statutes Annotated, §3221, Subsection 4) requiring documentation of wastewater disposal capabilities.

5. B.3.B Discontinuance

Discontinuance of the use of a legally existing non-conforming structure shall not constitute abandonment of the structure. Conforming use of the structure may be commenced at any time.

5. B.3.C Lack of Required Parking or Loading Space

A conforming building or structure which is non-conforming as to the requirements for off-street parking and/or loading space shall not be enlarged, added to, or altered unless off-street parking and/or loading space is provided to bring parking and/or loading space into conformance with the requirements of this ordinance for both the addition or alteration and the original building or structure, or a variance is obtained.

5. B 4 Non-Conforming Lots of Record

5. B 4 A Vacant Lots

A vacant non-conforming lot of record may be built upon without a variance provided that:

- 5. B 4. A 1. Such lot is in separate ownership and not contiguous with any other vacant lot in the same ownership
- 5. B 4. A 2. A permit to build the proposed structure on the lot could legally have been issued without a variance under the zoning and land use provisions in effect immediately before the enactment of this Ordinance; and
- 5. B 4. A 3. All provisions of this Ordinance except lot size and frontage and shore frontage can be met.

If proposed construction on a non-conforming lot fails to meet the applicable requirements of this Ordinance, then no construction shall be permitted on the lot unless a variance from the applicable requirements is first obtained from the Board of Appeals.

5. B 5 Built Lots

A non-conforming lot on which a structure was legally built prior to the enactment or subsequent amendment of this Ordinance is subject to the following restrictions:

- 5. B 5. 1. The structure(s) may be repaired, maintained, or improved, and may be enlarged provided that, as enlarged, they conform with all dimensional requirements of this Ordinance except lot area, lot width, or lot frontage.
- 5. B 5. 2. If the proposed enlargement of the structure(s) cannot meet the applicable dimensional requirements, then no permit shall issue for the proposed enlargement unless a variance from the applicable dimensional requirements is first obtained from the Board of Appeals.

5. B 6 Contiguous Built Lots

- 5. B 6. 1. If two or more contiguous lots or parcels are in common ownership of record at the time of adoption of this Ordinance, if one or more of the lots do not meet the dimensional requirements of this Ordinance, and if a principle use exists legally on each lot, the non-conforming lots may be conveyed separately or together, providing the State Minimum Lot Size Law and (12 M.R.S.A., Sections 4807- A through 4807- D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with

- 5. B 6.2 If two or more principal uses existed legally on a single lot of record on the effective date of this Ordinance, each may be sold as a separate lot provided that the above referenced Law and Rules are complied with
- 5. B 6.3 When such lots are divided, each lot thus created must conform as nearly as possible to the dimensional requirements of this Ordinance.

5. B 7. Contiguous Lots - Vacant or Partially Built

If two (2) or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or a amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one (1) or more of the lots are vacant or contain only an accessory structure or only a structure not legally permitted at the time of adoption of this Ordinance, the lots shall be combined to the extent necessary to meet the dimensional standards, except where rights have vested.

In a Shoreland Zone this provision shall not apply to two (2) or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the Registry of Deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- 1. Each lot contains at least one hundred (100) feet of shore frontage and at 20,000 square feet of lot area; or
- 2. Any lots that do not meet the frontage and lot size requirements of Article 5. B 7 (1) are re-configured or combined so that each new lot contains at least one hundred (100) feet of shore frontage and twenty thousand (20,000) square feet of lot area.

5. B 8. Vested Rights

Non-conforming use rights cannot arise by the mere filing of a notice of intent to build, an application for building permits, or an application for required state permits and approvals. Such rights arise:

- 5. B 8.1. When the land owner has made a substantial start on construction of structures, or
- 5. B 8.2 Development of infrastructure improvements for town approved subdivisions, prior to or within twelve (12) months of the adoption or a amendment of this Ordinance, or
- 5. B 8.3 In the case of pending applications, when the review process on an application commences.

5. B & 4. Such construction must be legal at the time it is commenced and the owner must be in possession of and in compliance with all validly issued permits, federal, state and local.

Article 6 Administration

6 A Building Permits

6 A.1 Permit Not Required

Only the following activities shall not require a building permit: repairs, replacement, and/or normal maintenance not requiring structural elements, decorative changes in existing structures or buildings, provided that the activity is in conformance with Federal, State or local laws and does not involve any other physical modifications or changes requiring a permit under this Ordinance.

6 A.2 Permits Required - Shoreland Zoning

After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the District in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued non-conforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

6 A.2.1. A permit is not required for the replacement of an existing road culvert as long as:

6 A.2.1.A The replacement culvert is not more than 25% longer than the culvert being replaced;

6 A.2.1.B The replacement culvert is not longer than seventy-five (75) feet; and

6 A.2.1.C Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

6 A.3. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

6 A.4. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

6 B Permit Application

6 B.1. Every applicant for a permit shall submit a written application which shall include the following information:

a. Structures to be erected, structures to be moved, and exterior additions to existing structures.

- b. The shape, size and location of the lot for which application is made.
 - c. The shape, size and location on the lot of the proposed structure, and of any proposed additions to existing structures.
 - d. The shape, size and location of any other existing structure on the lot.
 - e. The location of adjacent structures on adjacent lots, with reference to the distance from the lot line.
 - f. In the Shoreland Zone if the property is not served by a public sewer a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the plumbing inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewerage disposal system
6. B.2 The above requirements shall not apply to alterations wholly within an existing structure.
6. B.3 All applications shall also include:
- a. The name and address of the property owner.
 - b. The name, address and telephone number of the person, firm or firms involved in the construction on the property.
 - c. The value of the proposed construction.
 - d. A statement of the proposed use for any new or moved structure or altered portion of an existing structure.
 - e. Any other information the applicant wishes to furnish.
 - f. Any other information requested by the Code Enforcement Officer to make the application intelligible and to determine whether the proposed construction will conform to this Ordinance, other local ordinances and State law. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the plumbing inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewerage disposal system
 - g. A certification that the information in the application is complete and correct to the best of the applicant's knowledge and belief.
 - h. A residential growth permit issued by the Code Enforcement Officer with any application for a permit for a new residential dwelling unit.

6. B 4. All applications shall be signed:
- a. By the person or firm to do the work; and
 - b. By the owner or individual who can show evidence of rights, title or interest in the property, or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder certifying that the information in the application is complete and correct.
6. B 5. All applications shall be dated and the Code Enforcement Officer shall note upon each application the date and time of its receipt.
6. B 6. Procedure for Administering Permits:
6. B 6.1. Within thirty-five (35) days of receiving a written application, the Planning Board or Code Enforcement Officer, as appropriate, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within thirty-five (35) days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within thirty-five (35) days after the first available date on the Planning Board's agenda following receipt of the completed application, or within thirty-five (35) days of the public hearing if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.
 6. B 6.2. When an application conforms to the provisions of this Ordinance and other codes and ordinances of the town, upon payment of the required fee, the Code Enforcement Officer shall, within ten (10) days of its receipt, issue the permit, shall notify the Tax Assessor, and keep a copy of the application/permit in a permanent file.
 6. B 6.3. If the application does not conform, the Planning Board or Code enforcement Officer shall, within ten (10) days, deny the permit in writing stating therein his reasons for such denial. In the event the proposed building or structure is so constructed or is of such usage as to require a review of the application by other authorities or boards, as determined by reference to the land-use regulation file, the Code Enforcement Officer shall refer the applicant to the appropriate authority or board for review approval or denial. Upon his receipt of the decision of the reviewing authority or board, in writing, and if such decision is an approval, the Code Enforcement Officer shall issue the permit with any conditions prescribed by the

reviewing authority or board. The Code Enforcement Officer shall not issue any building permit if he has knowledge that a particular structure would be located in an unapproved subdivision, and/or if he has knowledge that the structure would be in violation of a particular State law for which the municipality has enforcement responsibilities, or local ordinance. In denying any permit under these circumstances, the Code Enforcement Officer shall state in writing the reasons for the denial.

6. B 6.4 The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

6. B 6.5. **The following criteria shall apply only in Shore and Zoning:**

After the submission of a complete application to the Planning Board, the Planning Board shall approve the application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

6. B 6.5.1. Will maintain safe and healthful conditions;

6. B 6.5.2. Will not result in water pollution, erosion, or sedimentation to surface waters;

6. B 6.5.3. Will adequately provide for the disposal of all wastewater;

6. B 6.5.4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

6. B 6.5.5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;

6. B 6.5.6. Will protect archaeological and historic resources as designated in the Comprehensive Plan;

6. B 6.5.7. Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/ Marine Activities district;

6. B 6.5.8. Will avoid problems associated with floodplain development and use; and

6. B 6.5.9. Is in conformance with the provisions of Article 7, Land Use Standards.

6. B. 7. **The following paragraph applies only in Shoreland Zoning:**

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the municipality.

6. B. 8. Unless the applicant picks up the building permit within thirty (30) days after the Code Enforcement Officer notifies him that it has been approved, the permit shall lapse and become void.

6. B. 9. Following the issuance of a building permit, other than one granted for a residence to be located in an approved subdivision, if no substantial start is made on the construction within three (3) months of the date of the permit, and no extension of that time has been granted by the Code Enforcement Officer due to adverse weather conditions, the permit shall lapse and become void. Thereafter no further work on such construction can be made until a new application has been made and approved as aforesaid. The fee for such permit shall be charged as a renewal fee.

6. B. 10. Any permit issued which is not in conformity with the provisions of this ordinance confers no rights and is void.

6. B. 11. No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the Shoreland Zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that the installation has been completed.

6. C Certificate of Occupancy Required

6. C. 1. A Certificate of Occupancy issued by the Code Enforcement Officer is required in advance of the use or occupancy of:

6. C. 1. A Any lot or change of the use thereof.

6. C. 1. B A structure hereafter erected or a change in the use of an existing structure, or as the building code requires.

6. C. 2. No Certificate of Occupancy shall be issued unless the lot or building or structure complies with all the provisions of this Ordinance, and of the current edition of the BOCA National Building Code, which is incorporated herein by reference. A record of all Certificates of Occupancy shall be kept on file in the office of the Code Enforcement Officer, and a copy shall be furnished, on request, to any person having a proprietary or tenancy interest in the structure or land involved.

A duplicate copy shall be filed in the office of the tax assessor and the certificate of occupancy shall state specifically the uses which it permits.

- 6. C.3. No Certificate of Occupancy shall be issued until a house number is properly placed in accordance with current 911 standards.

6. D Conditional Use Permits

6. D.1. Authorization

The Planning Board is hereby authorized to hear and decide upon applications for Conditional Use Permits, in accordance with State law and the provisions of this ordinance. The Board shall approve, approve with modifications or conditions, or disapprove an application for a Conditional Use Permit. No Conditional Use Permit shall be authorized unless specific provision for such conditional use is made in this Ordinance.

6. D.2. Existing Conditional Use or Structure

A conditional use which existed prior to the effective date of this Ordinance may not be changed to another conditional use nor substantially expanded or altered except in conformity with all regulations of this Ordinance pertaining to conditional uses. No changes shall be made in any approved conditional use without approval of the change by the Planning Board.

6. D.3. Application Procedure

A person informed by the Code Enforcement Officer that a proposed use requires a Conditional Use Permit shall file an application for the permit with the Planning Board on forms provided for the purpose. All plans for conditional uses presented for approval under this section shall show the following information unless the Planning Board waives these requirements:

6. D.3. A General

- 6. D.3. A.1. The name and address of the applicant (or his authorized agent).
- 6. D.3. A.2. The name of the proposed development.
- 6. D.3. A.3. A copy of the deed or record of ownership.
- 6. D.3. A.4. The assessor's map and lot number.
- 6. D.3. A.5. Names and addresses of owners of all property within two hundred (200) feet of the subject property's boundaries.
- 6. D.3. A.6. A sketch plan showing the general location of the site within the Town.

6.D3.A7. Names of all abutting property owners shown on sketch plan

6.D3.B Description

6.D3.B1. Total floor area

6.D3.B2. Total ground coverage

6.D3.B3. Location, size and type of all existing and proposed buildings, structures, or additions, including

- a. Height
- b. Driveways
- c. Sidewalks
- d. Parking areas
- e. Loading areas
- f. Open spaces
- g. Open drainage courses
- h. Signs
- i. Exterior lighting
- j. Service areas
- k. Easements
- l. Landscaping

6.D3.B4. Perimeter survey of the parcel made and certified by a registered land surveyor licensed in Maine (drawn at a scale of not smaller than one (1) inch equals fifty (50) feet) showing:

- a. Reference points
- b. True north point
- c. Graphic scale
- d. Corners of parcel
- e. Date of survey
- f. Total acreage
- g. Lot area
- h. Road frontage

6.D3.C. The appropriate fees shall be paid to cover administrative and legal advertisement costs.

6.D3.D. Nine (9) copies (or other quantity if requested) shall be submitted to the Code Enforcement Officer at least two (2) weeks before a scheduled Planning Board meeting.

6.E Public Hearing

Following the filing of an application, and before taking action on any application, the Planning Board shall hold a public hearing on the application within thirty (30) days. The Board shall notify the Code Enforcement Officer and municipal officers, and shall publish notice of the time, place and subject matter

of hearing at least ten (10) days in advance in a newspaper of general circulation in the area.

- 6.E.1. The Planning Board shall notify by regular U.S. mail, first class, postage prepaid, the applicant and the owners of all property within two hundred (200) feet of the property involved at least ten (10) days in advance of the hearing of the nature of the application and of the time and place of the public hearing.
- 6.E.2. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.
- 6.E.3. The Code Enforcement Officer, or his designated assistant, shall attend hearings and may present to the Planning Board all plans, photographs or other material he deems appropriate for an understanding of the application.
- 6.E.4. The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.
- 6.E.5. Projects needing Board of Appeals Review

When an applicant needs a variance from a requirement in this Ordinance before the Planning Board is able to approve the application as submitted, an appeal may be submitted to the Board of Appeals prior to final action by the Planning Board. If an appeal is filed with the Board of Appeals prior to the Planning Board making a final decision, the Planning Board shall table final action on the application pending the Board of Appeals' decision and shall notify the Board of Appeals of that action.

6.F. Decision

- 6.F.1. Within thirty (30) days of the public hearing the Planning Board shall reach a decision on a conditional use and shall inform in writing the applicant, the Code Enforcement Officer and municipal officers of its decision and shall prepare a detailed finding of facts and conclusions. Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Planning Board, or deny a Building Permit.
- 6.F.2. A Conditional Use Permit secured under the provisions of this Ordinance by vote of the Planning Board shall expire if the work or change involved is not commenced within two (2) years of the date on which the conditional use is authorized.

- 6.F.3 An appeal may be taken to Superior Court within forty-five (45) days after a decision is rendered.

6.G Standards Applicable to Conditional Uses

- 6.G.1. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Planning Board shall approve the application unless it makes written findings that one or more of these criteria have not been met:
- 6.G.1.A The use will conserve shore cover and visual, as well as actual, access to water bodies.
 - 6.G.1.B Traffic access to the site meets the standards contained in this Ordinance; and traffic congestion has been addressed in accordance with performance standards in this Ordinance.
 - 6.G.1.C The site design is in conformance with all municipal flood hazard protection regulations.
 - 6.G.1.D Adequate provision for the disposal of all waste water and solid waste has been made.
 - 6.G.1.E Adequate provision for the transportation, storage and disposal of any hazardous materials has been made.
 - 6.G.1.F A storm water drainage system meeting State standards shall be installed.
 - 6.G.1.G Adequate provisions to control soil erosion and sedimentation have been made.
 - 6.G.1.H There is adequate water supply to meet the demands of the proposed use and for fire protection purposes.
 - 6.G.1.I. The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties, including public areas, from detrimental features of the development, such as noise, glare, fumes, dust, odor, adverse visual impact, and the like.
 - 6.G.1.J. All performance standards in this Ordinance, applicable to the proposed use will be met.
 - 6.G.1.K The use will not result in unsafe or unhealthful conditions.

- 6. G 1. L The use will not have an adverse impact on natural beauty, historic sites, or rare and irreplaceable natural areas.

6. H Conditions Attached to Conditional Uses

- 6. H 1. Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required in this Ordinance that it finds necessary to further the purposes of this Ordinance.
- 6. H 2. Violation of any of these conditions shall be a violation of this Ordinance.
- 6. H 3. Such conditions may include, but are not limited to, specifications for:
 - 6. H 3. A Type of vegetation;
 - 6. H 3. B Increased setbacks and yards;
 - 6. H 3. C Specified sewage disposal and water supply facilities;
 - 6. H 3. D Landscaping and planting screens;
 - 6. H 3. E Period of operation;
 - 6. H 3. F Operational controls;
 - 6. H 3. G Professional inspection and maintenance;
 - 6. H 3. H Sureties;
 - 6. H 3. I. Deed restrictions,
 - 6. H 3. J. Restrictive covenants;
 - 6. H 3. K Locations of piers, docks, parking and signs;
 - 6. H 3. L Type of construction;
 - 6. H 3. M Any other conditions necessary to fulfill the purposes of this Ordinance.
- 6. H 4. In evaluating each application the Planning Board may request the assistance of the County Soil and Water Conservation District, a State or Federal agency, or consultant which can provide technical assistance.

6. I Performance Guarantees

- 6. I. 1. At the time of approval of the application for conditional use, the Planning Board may require the applicant to tender either:
 - 6. I. 1. A A certified check payable to the Town of Lington;
 - 6. I. 1. B An irrevocable letter of credit from a lending institution, or;
 - 6. I. 1. C A performance bond payable to the Town of Lington issued by a surety company in an amount adequate to cover the total costs of all required improvements, taking

into account the time-span of the bond and the effects of inflation upon costs.

- 6.I.2 The conditions and amount of the certified check or performance bond shall be determined by the Board of Select men
- 6.I.3 Prior to the release of any part of or the entire performance guarantee, the Planning Board shall determine to its satisfaction, in part upon the report of the engineer hired by the town to inspect the development and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

Any interest accumulated on an escrow account shall be returned with any money owed by the town to the developer after it has been determined that the proposed improvements meet all design and construction requirements.

- 6.I.4 If the appointed engineer finds, upon inspection of the improvements performed before release of the guarantee, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the applicant, he shall so report to the Planning Board and Code Enforcement Officer.

The Planning Board shall then notify the applicant, and, if necessary, the bonding company or lending institution, and take all necessary steps to preserve the town's rights under the guarantee.

- 6.I.5 Performance guarantees, when required, shall be tendered for all improvements required under this Ordinance, including but not limited to

- 6.I.5 A Sidewalks
- 6.I.5 B Drainage facilities
- 6.I.5 C Parking areas
- 6.I.5 D Lighting
- 6.I.5 E Signs
- 6.I.5 F Landscaping
- 6.I.5 G Buffer areas

6.J Site Review

- 6.J.1 Additional performance standards and specific submission requirements for new or expanded commercial, industrial, and multi-family housing structures of three (3) or more units. Exempt from this section will be all single family and two-family residential structures.

Site Plan Review in accordance with the provisions of this Ordinance, shall be required for the following activities before a building permit may be issued:

- 6.J.1.A New construction with at least two thousand (2000) square feet of gross first floor area.
 - 6.J.1.B Additions to existing structures of at least one thousand (1000) square feet of gross floor area.
 - 6.J.1.C Creation of impervious surfaces of at least two thousand (2000) square feet.
 - 6.K.1.D Creation of un-vegetated surfaces of at least two thousand (2000) square feet excluding impervious surfaces.
- 6.J.2 Site Plan Review shall be conducted by the Planning Board in concert with all other requirements of this Ordinance as well as any other requirements which may be applicable.
 - 6.J.3 Review may be conducted as one application along with application for conditional use.
 - 6.J.4 Construction, site development, and landscaping shall be carried out in accordance with the plans, sketches, drawings, and other documents approved by the Planning Board, unless amended with Planning Board approval.
 - 6.J.5 Nothing in this section shall be construed to prevent the ordinary repair and improvement of existing structures and facilities.
 - 6.J.6 If the development requires action by the Board of Appeals or any other government authority, Planning Board review shall not commence until all other applications and decisions have been made.
 - 6.J.7 Failure to comply with any conditions of the Site Plan Review subsequent to approval, shall be grounds for revoking the approval, initiating legal proceedings to enjoin the construction or any specific activity violating the conditions of approval, or imposing such fines as the municipal officers shall have established for violations of this Ordinance, for each day that the violation continues to exist after official notification by the Code Enforcement Officer.

6.K Submission Requirements

When the owner of the property or an authorized agent of the owner makes formal application for Site Plan Review the application package shall contain at least the following exhibits and information:

- 6.K.1 All application procedure requirements for a Conditional Use Permit.
- 6.K.2 A complete, signed copy of the application for Site Plan Review
- 6.K.3 At least nine (9) copies of the site plan drawn at a scale sufficient to allow review of all performance standards required in this Ordinance, but not more than fifty (50) feet to the inch for that portion of the total tract being proposed for the development, showing the following:

- 6. K.3.1. Owner's name, address, and signature;
- 6. K.3.2. Names and addresses of owners of all property within two hundred (200) feet of the subject property's boundaries;
- 6. K.3.3. Sketch map showing the general location of the site within the Town;
- 6. K.3.4. Boundaries of all contiguous property under the control of the applicant, regardless of whether it is part of the development or not;
- 6. K.3.5. The lot area of the parcel and the road frontage;
- 6. K.3.6. The location, size, and type of all existing and proposed structures, including height, drive ways, sidewalks, parking areas, loading areas, open spaces, large trees, open drainage courses, signs, exterior lighting, service areas, easements, and landscaping;
- 6. K.3.7. Existing and proposed topography of the site at two-foot contour levels if major changes are to be made to the existing topography; and
- 6. K.3.8. A storm water drainage plan showing:
 - a. The existing and proposed method of handling storm water run-off;
 - b. The direction of flow of the run-off by the uses of arrows;
 - c. The location, size, and elevation of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm drains;
 - d. A septic plan showing the location of waste water disposal devices and water supply sources;
 - e. A landscaping schedule keyed to the site plan, indicating the sizes, types, and location of all plants and other landscaping elements to be planted on the site;
 - f. Copies of any proposed or existing easements, covenants, deed restrictions, etc.

6. L. Administration

- 6. L.1. The following procedures and requirements shall apply to all applications for Site Plan Review

- 6. L 1. A All applications for Site Plan Review shall be made in writing to the Planning Board on the forms provided for that purpose. The application shall be made by the owner of the property or by the owner's authorized agent, as designated in writing by the owner, and shall be accompanied by the payment of an application fee for Site Plan Review to the Town of Livingston to cover administrative costs of processing the application.
- 6. L 1. B Prior to formal application, an owner or agent may be request an informal review of the site plan by the Planning Board to determine its compliance with Town regulations.
- 6. L 1. C The completed application with the required documentation shall be placed on the Planning Board agenda for consideration within thirty (30) days of its receipt.
- 6. L 1. D Any application which is not complete shall be sent back to the applicant with an indication of the additional information needed.
- 6. L 1. E Prior to taking final action on any Site Plan Review application, the Planning Board shall, within thirty (30) days hold a public hearing to afford the public the opportunity to comment on the application.
- 6. L 1. F Notice of the nature of the application and of the time and location of the hearing shall be given by mail to the applicant and owners of all property within two hundred (200) feet of the property involved, at least ten (10) days in advance of the hearing and shall be published at least seven (7) days in advance in a newspaper of general circulation in the area.
- 6. L 1. G The owners of property shall be considered to be those against whom taxes are assessed.
- 6. L 1. H Failure of any property owner to receive a notice shall not necessitate another hearing unless the property was not listed on the submitted application.
- 6. L 1. I Failure of any property owner to receive a notice shall not invalidate any action by the Planning Board.
- 6. L 1. J Within sixty (60) days of the receipt of a completed application, the Planning Board shall act to approve, disapprove, or approve with conditions, the site plan as submitted or amended, unless the applicant and the Planning Board agree to a continuance.

- 6. L. 1. K If the Planning Board does not act upon the application, the site plan shall be deemed to have been disapproved.
- 6. L. 1. L If the Planning Board shall vote to disapprove the application, the applicant shall be notified in writing and the specific cause for disapproval shall be noted.
- 6. L. 1. M The Planning Board may attach such conditions as it finds necessary to ensure compliance with the purpose and standards of this Ordinance. Requests for changes in the conditions of approval require Planning Board review under the provisions of this section.
- 6. L. 1. N The Planning Board may require that an expert consultant review one or more submissions of an application and report as to the compliance or non-compliance with this Ordinance, and advise, if necessary, of procedures which will result in compliance. The consultant shall be properly qualified to provide this information, and shall be agreed upon by the Planning Board and the applicant mutually. The applicant shall maintain responsibility for all costs incurred for the use of these consultants.
- 6. L. 1. O The Planning Board may require the applicant to undertake any study which it deems necessary and reasonable to insure that the requirements of this Ordinance are met. The costs of all such studies shall be borne by the applicant.
- 6. L. 1. P One copy of the approved site plan shall be included in the application for a building permit.
- 6. M** The Planning Board may require the applicant to post, prior to final approval of any plan, a bond, escrow agreement, irrevocable letter of credit, or other surety in such amount as is approved by the Planning Board as being reasonably necessary to ensure completion of all improvements required as conditions of approval of such plan, in such form as approved by the Planning Board.
- 6. N** A Certificate of Occupancy shall not be issued until the Code Enforcement Officer determines that the completed project meets all of the requirements of the plan as approved by the Planning Board.

Article 7. Land Use

7. A Basic Requirement

Permitted uses and conditional uses in all districts shall conform to all applicable specifications and requirements. A Plumbing Permit, Building Permit, and/or Certificate of Occupancy shall be required for all buildings, uses of land and buildings, and sanitary facilities, according to the provisions of this Ordinance, and a Residential Growth Permit shall be required before any new dwelling unit may be created or located in Livingston.

7. B District Regulations

Land uses permitted in each district, in conformance with applicable Performance Standards and, where appropriate, Specific Performance Standards are shown in the following table.

Key:

- Y Allowed (no permit required, but the use must comply with all applicable land use standards)
- PI Plumbing Inspector - Permit Required
- CO Permitted use (Code Enforcement Officer - Permit Required)
- PB Conditional use (Planning Board - Permit Required)
- N Prohibited use

Districts:

General

- RU Rural District
- RC Resource Conservation District
- RE/ V Residential / Village District
- C Commercial District

Shoreland

- RC Resource Conservation District
- RU RE Rural/ Residential District
- SP Stream Protection District
- C Commercial District

Aquifer Protection

- RU Rural District
- C Commercial District

Other

- ESCA Endangered Species and Critical Overlays

LAND USE TABLE

(on separate Excel Spreadsheet)

General Land Use

1. In considering any application for a permit to construct a private sewerage disposal system for a permitted use in the Resource Conservation District, the Planning Board shall apply the submission and performance standards set forth in the Subdivision Rules and Regulations for Sewerage Disposal.

Shoreland Zone

- s1. In Resource Conservation not allowed within seventy-five (75) feet, horizontal distance, of the normal high water line of great ponds, except to remove safety hazards.
- s2. Requires permit from the Code Enforcement Officer if more than one hundred (100) square feet of surface area, in total, is disturbed.
- s3. In Resource Conservation not allowed in areas so designated because of wildlife value.
- s4. Provided that a variance from the setback requirement is obtained from the Board of Appeals.
- s5. See further restrictions in Article 8.
- s6. Except when area is zoned for Resource Conservation in flood plain criteria, in which case a permit is required from the Planning Board.
- s7. Single family residential structures may be allowed by special exception only according to the provisions of Section 8Z.B. Two family residential structures are prohibited.
- s8. Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

Endangered Species and Critical Overlay

- c1. Planning Board shall not issue a permit for any new building or use unless it determines that the proposed building or use will have no adverse impact on the habitat and species that have caused the land to be included within the Endangered Species and Critical Areas Zone. In determining whether adverse impact will occur, the Planning Board shall require from the applicant written documentation, which may include a report prepared by a wildlife biologist, regarding the probable effects of the proposed building or use on significant habitat and species.

7. C Dimensional Requirements

Lots and structures in all districts shall meet or exceed the following minimum requirements. Height requirements do not apply to flagpoles, chimneys, transmission towers, steeples, windmills or similar structures usually erected at a greater height than the principal building, however such accessory structures or appurtenances require a lot line setback distance of no less than its height.

RC	Resource conservation District
RU	Rural district
RE/ V	Residential / Village District
C	Commercial District
AP	Aquifer Protection Overlay
N	Use Not Permitted

DI MENSIONAL REQUIREMENTS TABLE

1. All new building lots created after the effective date of this Ordinance shall be laid out so that at least 40,000 square feet of land area, including the proposed building site, has a sustained ground slope less than or equal to 15% and soils where the seasonal high water table is more than fifteen (15) inches below the surface.

NOTE A Back lots served by an access road (as defined in Article 11) shall be exempt from the road frontage requirements set forth in the preceding Table, provided that the width of the lot at the building site is equal to or greater than the applicable minimum street frontage requirement.

NOTE B Deleted by referendum vote 11/06/2012.

* **NOTE C** If the applicant can meet rural setback requirements.

NOTE D On non-conforming lots of record the Code Enforcement Officer may reduce setbacks up to 20%.

Article 8 Shoreland Zone Regulations

8 A Shoreland Zoning

8 A.1 Purpose

Shoreland Zone: In order to make the Linington Zoning Ordinance conform to the laws of the State of Maine, a Shoreland Zone is hereby created in accordance with the provisions of Title 38 Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

8 A.2 Scope

Shoreland Zone: This zone applies to all land areas within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river, or upland edge of a freshwater wetland, and all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

This zone also applies to any structure built on, over, or abutting a dock, wharf or pier or other structure extending or locating below the normal high-water line of a water body or within a wetland.

8 A.3 Amendments

Shoreland Zone: This zone may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

8 B Repeal of Municipal Timber Harvesting Regulation

The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the Shoreland Zone. On the date established under 38 M.R.S.A. 438-A(5), the following provisions of this Ordinance are repealed:

8 B.1. Article 7, Land Use Table of Permitted Uses, repeal the row labeled 'Timber Harvesting' only.

8 B.1.A Article 11. R Timber Harvesting repeal entire section.

8 B.1.B Article 2 B repeal definitions of the following terms:

Basal area, residual
Harvest area
Residual stand

8 C Nature and Effect

Shoreland Zone: The Shoreland Zone shall overlay the existing districts created by this Ordinance and its terms shall supersede any requirements of said underlying districts, unless the underlying requirements are more restrictive than those set forth here, in which case the more restrictive shall govern.

8 D Districts

Shoreland Zone: The Shoreland Zone shall be divided into the following districts as shown on the Official Shoreland Zoning Maps which is made a part of this Ordinance:

8.6.1 Shoreland Resource Conservation

8.6.2 Stream Protection

8.6.3 Rural/ Residential

8.6.4 Commercial

8 E Official Shoreland Zoning Map

The official Shoreland Zoning Map shall be certified by the attested signature of the Town Clerk and shall be located in the Town Hall. The official Shoreland Zoning map shall be drawn at a scale of not less than: 1 inch = 2000 feet. Zoning boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

If amendments, in accordance with Article 3 C, are made in the zone boundaries or other matter portrayed on the official Shoreland Zoning Map, such changes shall be made on the official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

8 F Interpretation of District Boundaries

The Code Enforcement Officer shall be the municipal official responsible for making determinations regarding the location of Shoreland Zoning boundaries and interpreting the official Shoreland Zoning map. Decisions of the Code Enforcement Officer regarding the location of zoning boundaries may be appealed to the Board of Appeals, pursuant to Article 14.D. of this Ordinance.

8 G Non-Conformance -- Shoreland Zone

Within the Shoreland Zone the Non-Conformance provisions of Article 5 of this Ordinance shall apply. A non-conforming condition shall not be permitted to become more non-conforming, and the following additional limitations on non-conforming structures shall also apply:

8 G.1 Expansion of Portion of Non-Conforming Structure Within Setback

After January 1, 1989, if any portion of a structure is less than the required setback from the normal high-water line of a water body, tributary stream

or the upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume by 30% or more during the lifetime of the structure. If a replacement structure conforms with the requirements of Article 8 and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.

8 G2 Construction or Enlargement of Foundation

Whenever a new enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met as nearly as is practical, as determined by the Planning Board, basing its decision on the criteria set forth in Section 8 G4, Relocation, below:

8 G2 A The completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 8 G2 above, and

8 G2 B The foundation does not cause the structure to be elevated by more than three (3) additional feet as measured from the uphill side of the structure (from the original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

8 G3 Expansion Toward Water Prohibited Within Setback

No structure which is less than the required setback from the normal high-water line of a water body or tributary stream or from the upland edge of a wetland shall be expanded toward the water body, tributary stream or wetland.

8 G4 Relocation

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

In determining whether the building relocation meets setback requirements as nearly as is practical, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was

removed must be replanted with vegetation. Replanting shall be required as follows:

8. G4. A Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five (5) trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

8. G4. B Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be re-established within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

8. G4. C Where feasible, when a structure is relocated on a parcel the original location of the structure shall be re-planted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

8. G5. Reconstruction or Replacement:

Any non-conforming structure which is located less than the required setback from a water body, tributary stream or wetland, and which is removed, damaged or destroyed, regardless of the cause, to an extent that exceeds 50% of the market value of the structure immediately before such removal, damage or destruction, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said removal, damage or destruction, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement of this Ordinance as nearly as is practical, as determined by the Planning Board, in accordance with this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 8. G4 above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 8. G4 above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream or wetland and which is removed by 50% or less of the market value, or damaged or destroyed

(excluding normal maintenance and repair) to an extent less than or equal to 50% of the market value of the structure immediately before the damage or destruction may be reconstructed, in place, if a permit is obtained from the Code Enforcement Officer within one (1) year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback as nearly as is practical the Planning Board shall consider, in addition to the criteria in Section 8 G4 above, the physical condition and type of foundation, if any, and the purpose of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

8 G6 Change of Use of a Non-Conforming Structure:

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

In determining whether greater adverse impact will occur, the Planning Board shall require written documentation from the applicant regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and functionally water-dependent uses.

8 H Establishment of Districts - Shoreland Zone

8 H1 Resource Conservation District - Shoreland Zone

In addition to any areas of the Resource Conservation District as defined in Article 4 D2 of this Ordinance that are also within the limits of the Shoreland Zone as described herein, the Resource Conservation District within the Shoreland Zone shall include areas in which development would adversely affect water quality, productive habitat, biological ecosystems or areas of particular scenic or natural value. This district includes the following areas when they occur within the limits of the Shoreland Zone (exclusive of the Stream Protection District), except areas which are already developed as of the date of enactment of this Ordinance and areas within the Commercial District.

~~8.H1.A~~ DELETED MARCH 1, 2013 REFERENDUM ELECTION

8.H1.B Flood Plains along rivers defined by the 100 year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

- 8. H 1. C Areas of two (2) or more contiguous acres with sustained slopes of 20% or greater.
- 8. H 1. D Areas of two (2) 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 the period of normal high water.
- 8. H 1. E Land areas along rivers subject to severe bank erosion, undercutting or river bed movement.

8. H 2 Rural / Residential District - Shoreland Zone

The Rural / Residential District includes those areas in the Rural District (as described in Article 4.D 1 and 4. D 3. of this Ordinance) and the Residential / Village District (as described in Article 4. D 3. of this Ordinance) that are also in the Shoreland Zone, except those that are in the Resource Conservation District (described in Article 4. C 2) above, and those that are in the Stream Protection District described in 8. H 4 below

8. H 3 Commercial District - Shoreland Zone

The Commercial District includes those areas in the Commercial District (as described in Article 4.D 4 of this Ordinance) that are also in the Shoreland Zone, except those that are in the Resource Conservation District described in Article 8. H 1 above, and those that are in the Stream Protection District described in Article 8. H 4 below

8. H 4 Stream Protection District - Shoreland Zone

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream exclusive of those areas within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a wetland. Where a stream and its associated shoreland area is located within two hundred and fifty (250) feet, horizontal distance, of the above-mentioned water bodies or wetlands, that land area shall be regulated under the terms of the Shoreland Zone district associated with that water body or wetland.

8.I. Table of Land Uses - Shoreland Zone

All land use activities, as indicated in the ‘ ‘Land Uses in the Shoreland Zone’ ’, shall conform to all of the applicable land use standards in Article 7. The district designation for a particular site shall be determined from the Official Zoning Map of the Town of Lington.

8. J. Land Use Standards - Shoreland Zone

All land use activities within the Shoreland Zone shall conform to the following provisions, if applicable.

8. J. 1. Minimum Lot Standards - Shoreland Zone

All land use activities on any lot within the Shoreland Zone shall conform with at least the following minimum standards; however, if standards set forth elsewhere

in the Ordinance are applicable and are more restrictive than those set forth here, the most restrictive standards that apply shall govern.

8.J.1.A Lot Area and Shore Frontage

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
Residential, per dwelling unit	40,000	200
Governmental, Institutional or Commercial, per principle structure	60,000	300
Public and Private Recreational Facilities	40,000	200

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

8.J.3 Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

8.J.4 A minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

8.J.5 If more than one residential dwelling unit, principal governmental, institutional, light commercial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principle structure, or use.

8.K Principal and Accessory Structures - Shoreland Zone

All new principle and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high water line of great ponds and rivers, and seventy-five (75) feet, horizontal distance, from the normal high water line of other water bodies, tributary streams, or upland edge of wetlands. In the Resource Conservation District the set back requirement shall be two hundred and fifty (250) feet, horizontal distance, except for structures, parking spaces for other regulated objects specifically allowed in that district in which case the set back requirements above shall apply.

In addition:

1. The water body, tributary stream or wetland setback provision shall apply neither to structures which require direct access to the water body or wetland as an operational necessity (such as piers, docks, and retaining walls), nor to other functionally water dependent uses.
 2. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area or eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principle structure.
8. K.1. Principle or accessory structures and expansions of existing structures which are permitted in the Resource Conservation, Residential or Commercial Districts and Stream Protection District shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
 8. K.2. The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record or, in the absence of these, the flood as defined by soil types identified as recent flood plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2004 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that Ordinance and need not meet the elevation requirements of this paragraph.
 8. K.3. The total footprint area of all structures, parking lots and other non-vegetated surfaces shall not exceed twenty (20) percent of any lot, or portion thereof, located within the Shoreland Zone, including land area previously developed.
 8. K.4. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
 - A. The site has been previously altered and an effective vegetated buffer does not exist;
 - B. The wall(s) is (are) at least twenty-five (25) feet, horizontal distance, from the normal high water line of a water body, tributary stream or upland edge of a wetland;
 - C. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - D. The total height of the wall(s), in the aggregate, is (are) not more than twenty-four (24) inches;

- E Retaining walls are located outside of the 100 year floodplain on rivers, streams, coastal wetlands, and tributary streams as designated on the Federal Emergency Management Agency' (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood or record, or in the absence of these, by soil types identified as recent flood plain soils;
 - F The area behind the wall is re-vegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
 - G A vegetated buffer area is established within twenty-five (25) feet, horizontal distance, of the normal high water line of a water body, tributary stream or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 1. The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 2. Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of storm water runoff;
 3. Only native species may be used to establish the buffer area;
 4. A minimum buffer width of fifteen (15) feet, horizontal distance, is required, measured perpendicularly to the normal high water line or upland edge of a wetland;
 5. A footpath not to exceed the standards in Section 8 W2 A
 - H If the wall and associated soil disturbance occurs within seventy-five (75) feet, horizontal distance, of a water body, tributary stream or coastal wetland, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection.
8. K.5. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unsuitable soils, provided that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high water line of a water body or the upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. Sec. 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

8. L.6 Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Below the Normal High Water Line of a Water Body or Within a Wetland Shoreland Zone.

- 8. L.6.1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- 8. L.6.2 The location shall not interfere with existing developed or natural beach areas.

- 8. L 6 3 The facility shall be located so as to minimize adverse effects on fisheries.
- 8. L 6 4 The facility shall be not larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses, and character of the area. A temporary pier, dock or wharf shall not be wider than six (6) feet for non-commercial uses.
- 8. L 6 5 No new structure shall be built on, over or abutting a pier, wharf, dock, or other structure extending beyond the normal high water line of a water body or a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- 8. L 6 6 New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
- 8. L 6 7 No existing structures built on, over or abutting a pier, wharf, dock, or other structure extending beyond the normal high water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- 8. L 6 8 Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock, or other structure.

8 M Campgrounds - Shoreland Zone

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

- 8. M1. One campsite per lot, legally existing on the effective date of this Ordinance or per thirty thousand (30,000) square feet of lot area within the Shoreland Zone, whichever is less, may be permitted.
- 8. M2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high water line of a great pond, and seventy-five (75) feet, horizontal distance, from the normal high water line of other water bodies, tributary streams, or the upland edges of wetlands.

8 N Individual Private Campsites - Shoreland Zone

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

- 8. N1. One campsite per lot, legally existing on the effective date of this Ordinance or per thirty thousand (30,000) square feet of lot area within the Shoreland Zone, whichever is less, may be permitted.

- 8. N2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform shall be set back one hundred (100) feet, horizontal distance, from the normal high water line of a great pond and seventy-five (75) feet, horizontal distance, from the normal high water line of other water bodies, tributary streams, or upland edges of wetlands.
- 8. N3. Only one (1) recreational vehicle shall be allowed on a campsite. The recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- 8. N4. The clearing of vegetation for the siting of any recreational vehicle, tent or similar shelter in a Shoreland Resource Conservation District shall be limited to one thousand (1,000) square feet.
- 8. N5. 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.
- 8. N6. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal rules unless served by public sewage facilities.

8. O Commercial and Industrial Uses - Shoreland Zone

The following new commercial and industrial uses are prohibited within the Shoreland Zone adjacent to great ponds and rivers and streams which flow to great ponds classified CPA

- 8. O1. Automobile washing facilities.
- 8. O2. Automobile or other vehicle service and/or repair operations, including body shops.
- 8. O3. Chemical and bacteriological laboratories.
- 8. O4. Storage of chemicals, including herbicides, pesticides or fertilizers other than in amounts normally associated with individual household or farms.
- 8. O5. Commercial painting, wood preserving, and furniture stripping.
- 8. O6. Dry cleaning establishments.
- 8. O7. Electronic circuit assembly.
- 8. O8. Laundromats, unless connected to a sanitary sewer.
- 8. O9. Metal plating, finishing or polishing.
- 8. O10. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for sales and storage associated with marinas.
- 8. O11. Photographic processing.
- 8. O12. Printing.

8 P. Parking Areas - Shoreland Zone

- 8. P. 1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures in the district in which they are located
- 8. P. 2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and, where feasible, to retain all runoff on site.
- 8. P. 3. In determining the appropriate size of proposed parking facilities, the following shall apply:
 - A. Typical parking space: approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - B. Internal travel aisles: approximately twenty (20) feet wide.

8 Q. Roads and Drive ways - Shoreland Zone

The following standards shall apply to the construction of roads and/or drive ways and drainage systems, culverts, and other related features:

- 8. Q. 1. Roads and drive ways shall be set back at least one hundred (100) feet, horizontal distance, from the normal high water line of a great pond and seventy-five (75) feet, horizontal distance, from the normal high water line of other water bodies, tributary streams or upland edges of wetlands, unless no reasonable alternative exists, the road and/or driveway setback requirements shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream or wetland.

On slopes of greater than twenty (20) percent the road and/or drive way setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Section 8 Q. 1. does not apply to approaches to water crossings or to roads or drive ways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Road and drive ways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 8 Q. 1. except for that portion of the road or driveway necessary for direct access to the structure.

8. Q2. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, or tributary stream or wetland.
8. Q3. New roads and driveways are prohibited in the Resource Conservation and Stream Protection Districts except that the Planning Board may grant a permit to construct a road or driveway 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.
8. Q4. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection 8 X.
8. Q5. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
8. Q6. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus 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. 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.
8. Q7. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

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

DITCH RELIEF & DRAINAGE - SHORELAND

<u>Grade (Percent)</u>	<u>Spacing (Feet)</u>
0 - 2	250
3 - 5	200 - 135
6 - 10	100 - 80
11 - 15	80 - 60
16 - 20	60 - 45
21 +	40

- B Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.
- C On road sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle down slope from a line perpendicular to the centerline of the road or driveway.
- D 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.

8 R Signs - Shoreland Zone

The following provisions shall govern the use of signs in the Resource Conservation, Stream Protection, Residential and Commercial Districts within the Shoreland Zone:

- 8 R 1. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
- 8 R 2. Name signs are allowed provided such signs shall not exceed two (2) signs per premises and shall not exceed twelve (12) square feet in the aggregate.
- 8 R 3. Residential uses may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- 8 R 4. Signs relating to trespassing and hunting shall be allowed without restrictions as to number provided that no such sign shall exceed two (2) square feet in area.
- 8 R 5. Signs relating to public safety shall be allowed without restriction.
- 8 R 6. No sign shall extend higher than twenty (20) feet above the ground.
- 8 R 7. Signs may be illuminated only by shielded, non-flashing lights.

8 S Essential Services - Shoreland Zone

- 8 S 1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- 8 S 2. The installation of essential services, other than road side distribution lines, is not allowed in the Shoreland Zone Resource Conservation District or Stream Protection District, except to provide services to a permitted use within said District, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

8. S. 3. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

8. T. Mineral Exploration and Extraction - Shoreland Zone

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling test boring or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures, to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

8. T. 1. A reclamation plan shall be filed with, and approved by, the Planning Board before a permit is granted. Such plans shall describe in detail procedures to be undertaken to fulfill the requirements of Section 8. T. 4. below.
8. T. 2. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet, horizontal distance, of the normal high water line of a great pond, and within seventy-five (75) feet, horizontal distance, of the normal high water line of any other water body, tributary stream or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet of any property line, without written permission of the owner of such adjacent property.
8. T. 3. All other requirements for extraction set forth in Article 12. H are met.
8. T. 4. Within twelve (12) months following the completion of extraction operations at any extraction site, which operation shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
- A. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - B. The final graded slope shall be two and one half to one (2 ½:1) slope or flatter.
 - C. Top soil or loam shall be retained to cover all disturbed land areas, which shall be re-seeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
 - D. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

8. U. Agriculture - Shoreland Zone

- 8. U.1. All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Mine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. Sections 4201-4209).
- 8. U.2. 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. 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.
- 8. U.3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the Shoreland Zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- 8. U.4. There shall be no new tilling of soil within one hundred (100) feet, horizontal distance, of the normal high water line of a great pond; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.
- 8. U.5. New established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high water line of a great pond; within seventy-five (75) feet, horizontal distance, of other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated with ongoing 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 Conservation Plan.

8. V. Timber Harvesting - Shoreland Zone

- 8. V.1. Within the strip of land extending seventy-five (75) feet inland from the normal high water line in resource the Conservation District abutting a great pond there shall be no timber harvesting, except to remove safety hazards.
- 8. V.2. Except in areas as described in 8. V.1 above, timber harvesting shall conform to the following provisions:
 - A. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 ½ feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 - 1. Within one hundred (100) feet, horizontal distance, of the normal high water line of a great pond or river, and within seventy-five (75) feet, horizontal distance, of the normal high water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear cut openings, and a well distributed

stand of trees and other vegetation, including existing ground cover, shall be maintained.

2. At distances greater than one hundred (100) feet, horizontal distance, of a great pond or river and greater than seventy-five (75) feet, horizontal distance, of the normal high water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clear cut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet they shall be at least one hundred (100) feet apart. Such clear cut 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.
- B. No accumulation of slash shall be left within fifty (50) feet of the normal high water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high water line of a water body shall be removed.
 - C. Timber harvesting equipment shall not use stream channels as travel routes except when:
 1. Surface waters are frozen; and
 2. The activity will not result in any ground disturbance.
 - D. 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 surfaces which would not be eroded or otherwise damaged.
 - E. 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.
 - F. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet, horizontal distance, from the normal high water line of a water body or upland edge of a wetland.

8. W Clearing of or Removal of Vegetation for Activities Other than Timber Harvesting - Shoreland Zone

8. W1. In a Shoreland Zone Resource Conservation District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high water line, except to remove safety hazards.

Elsewhere, in any Shoreland Zone Resource conservation District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in the District.

8. W2. Except in areas as described in Section 8. W1. above, and except to allow for the development of permitted uses within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high water line of a great pond or river, and seventy-five (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:

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

B. Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 8. W2. B a 'well distributed stand of trees' adjacent to a great pond or river, or stream flowing to a great pond, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (125 square feet) area as determined by the following rating system

Diameter of Tree at 4 ½ Feet Above Ground Level (inches)	Points
2 - <4 in	1
>4 - <8 in	2
8 - <12 in	4
12 in or greater	8

Adjacent to other water bodies, tributary streams, and wetlands a 'well distributed stand of trees' is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

The following shall govern in applying this point system

1. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer.
2. Each successive plot must be adjacent to, but not overlap a previous plot.
3. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance.
4. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance.
5. Where conditions permit, not more than fifty (50) percent of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than twelve (12) inches in diameter.

For the purposes of Section 8 W2 B, 'other natural vegetation' is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4½) feet above ground level for each 25-foot by 50-foot rectangular area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until five (5) saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter, measured at 4½ feet above ground level may be removed in any ten (10) year period

- C In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 8 W2 and Section 8 W2 A above.
- D Pruning of tree branches, on the bottom one third of the tree is allowed.
- E 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 re-planted with native tree species unless existing new tree growth is present.

Section 8 W2 does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

8. W3. At distances greater than one hundred (100) feet, horizontal distance, from a great pond or river, and seventy-five (75) feet, horizontal distance, from the normal high water line of any other water body, tributary stream or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in

diameter, measure 4 ½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.

In no event shall clear openings for any purpose including but not limited to, principle and accessory structures, drive ways, lawns and sewage disposal areas, exceed in the aggregate, twenty-five (25) percent of the lot area within the Shoreland Zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared.

- 8. W4. Legally existing non-conforming cleared openings may be maintained, but shall not be enlarged, except as allowed in this Ordinance.
- 8. W5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 8. W.

8. X Erosion and Sedimentation Control - Shoreland Zone

8. X1. All activities which involve filling, grading, excavations, or other similar activities which result in unstabilized soil conditions and which require a permit, shall also require a written Soil Erosion and Sedimentation Control Plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

- A. Mulching and re-vegetation of disturbed soil.
- B. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
- C. Permanent stabilization structures such as retaining wall or rip rap.

8. X2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

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.

8. X3. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of rip rap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

- A. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
- B. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

- C 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 silt fences.

8 Y Soils - Shoreland Zone

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

8 Z Water Quality - Shoreland Zone

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or will impair designated uses or the water classification of the water body, tributary stream or wetland.

8 Z A Archaeological Sites - Shoreland Zone

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 Mine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

8 Z B Single Family Residential Structures - Shoreland Zone

The Planning Board may approve a permit for a single family residential structure in a Resource Conservation District provided that the applicant demonstrates that all of the following conditions are met:

- A There is no location on the property, other than a location within the Resource Conservation District, where the structure can be built.
- B The lot on which the structure is proposed was undeveloped and was established and recorded in the Registry of Deeds of the County in which the lot is located before the adoption of the Resource Conservation District.
- C All proposed buildings, sewage disposal systems and other improvements are:
 - 1. Located on natural ground slopes of less than twenty (20) percent; and

2. Located outside the floodway of the 100 year flood plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one (1) foot above the 100 year flood plain elevation; and the development is otherwise in compliance with any applicable municipal flood plan ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be one half (1/2) the width of the 100 year flood plain.

- D. The total ground floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of fifteen hundred (1,500) square feet. This limitation shall not be altered by variance.
- E. All structures, except functionally water dependent structures, are set back from the normal high water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than seventy-five (75) feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood plain, and its proximity to moderate value and high value wetlands.

8 Z C Storm Water Runoff - Shoreland Zone

- A. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural pre-development conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces, and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of storm waters.
- B. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

8 Z D Septic Waste Disposal - Shoreland Zone

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

- A. Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high water line of a water body or the upland edge of a wetland.
- B. A holding tank is not allowed for a first time residential use in the Shoreland Zone.

Article 9. Aquifer Protection Zone

9. A Purpose

In order to provide for the protection and conservation of the quality and quantity of ground water, in accordance with the provisions of 30-A M.R.S.A. § 3001 and 38 M.R.S.A. § 401, an Aquifer Protection Zone is hereby created.

9. B Scope

This zone applies to any structure or use extending to within three hundred (300) feet of a mapped 50+ GPM sand and gravel aquifer.

Nothing in this procedure nor any decision by the planning Board should be deemed to create ground water rights, other than those rights which the applicant may have under Maine Law.

9. C Nature and Effect

The Aquifer Protection Zone shall overlay the existing districts created by this Ordinance, and its terms shall supersede any requirements of said underlying districts, unless the underlying requirements are more restrictive than those set forth here, in which case the more restrictive shall govern.

9. D Establishment of Districts

The Aquifer Protection Zone shall be divided into the following districts:

9. D.1. Rural

The Rural District includes those areas in the Rural District (as described in Article 4. D of this Ordinance) that are also in the Aquifer Protection Zone.

9. D.2. Commercial

The Commercial District includes those areas in the Commercial District (as described in Article 4. D of this Ordinance) that are also in the Aquifer Protection Zone.

9. E Non-Conformance

The Non-Conformance provisions of Article 5 of this Ordinance shall apply in the Aquifer Protection Zone, as well as the following additional limitations on the expansion of non-conforming structures and uses:

9. E. A Lot Coverage:

A non-conforming structure, including a driveway, parking lot, or any other structure with an impervious surface may be expanded only if the total area of all structures, parking lots and other impervious surfaces on the same lot after the proposed expansion will not exceed those set in the Dimensional Requirements Table.

9. E B Change of Use of a Non- Conforming Structure:

The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the sand and gravel aquifer than the existing use.

In determining whether greater adverse impact will occur, the Planning Board shall require written documentation from the applicant regarding the possible effects on public health and safety. This documentation may include, but need not be limited to, a hydrogeological survey demonstrating that the sand and gravel aquifer will not be more adversely impacted by the proposed use than by the existing use. This documentation shall be written by a qualified professional engineer.

9. E Land Uses

All land use activities, as indicated in the Land Use Table, shall conform to all of the applicable land use standards. The district designation for a particular site shall be determined from the Official Zoning Map of the Town of Livingston, and the Mine Geological Survey "Hydrogeological Data for Significant Sand and Gravel Aquifers", Map #98-141 (1998).

9. G Land Use Standards

All land use activities within the Aquifer Protection Zone shall conform to the following provisions, if applicable.

9. G A Minimum Lot Standards

9. G A 1 Minimum Lot sizes. See the Dimensional Requirements Table.

9. G A 2 If more than one residential dwelling unit or more than one principal commercial light structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.

9. H Requirement of Hydrogeological Study

Development activities are permitted within the Aquifer Protection Zone. A hydrogeological study may be required by the Planning Board, demonstrating that the sand and gravel aquifer will not be adversely impacted by the development.

9. I Lot Coverage - See the Dimensional Requirements Table

9. I. A The total area of any new structure permitted in the Aquifer Protection Rural District, including paved areas and other impervious surfaces, shall not exceed ten (10) percent of any lot, or portion thereof, located within the Aquifer Protection District.

- 9.I.B The total area of any new structure permitted in the Aquifer Protection Commercial District, including paved areas and other impervious surfaces, shall not exceed fifteen (15) percent of any lot, or portion thereof, located within the Aquifer Protection District.

9.J Uses Involving Hazardous or Special Waste Materials Prohibited

The following new uses are prohibited within the Aquifer Protection Zone:

- 9.J.1 Automobile graveyards.
- 9.J.2 Asphalt and tar processing.
- 9.J.3 Removed by referendum vote, November 6, 2012.
- 9.J.4 Removed by referendum vote, November 6, 2012.
- 9.J.5 Removed by referendum vote, November 6, 2012.
- 9.J.6 Fuel distribution.
- 9.J.7 Injection wells.
- 9.J.8 Removed by referendum vote, November 6, 2012.
- 9.J.9 Junk yards.
- 9.J.10 Laundromats, unless connected to a sanitary sewer.
- 9.J.11 Removed by referendum vote, November 6, 2012.
- 9.J.12 Below ground storage of petroleum products or chemicals for new uses.
- 9.J.13 Removed by referendum vote, November 6, 2012.
- 9.J.14 Removed by referendum vote, November 6, 2012.
- 9.J.15 Salt storage.
- 9.J.16 Waste disposal.
- 9.J.17 Removed by referendum vote, November 6, 2012.

9.K Soils

- 9.K.A All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, water pollution, and aquifer contamination, whether during or after construction.
- 9.K.B Proposed uses requiring subsurface waste disposal, and commercial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Mine Certified Soil Scientists, Mine Registered Professional Engineers, Mine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties.
- 9.K.C The report shall be based upon
 - 9.K.C.1 The analysis of the characteristics of the soil and surrounding land and water areas (including subsurface aquifers).
 - 9.K.C.2 Maximum ground water elevation.
 - 9.K.C.3 Presence of ledge.
 - 9.K.C.4 Drainage conditions, and
 - 9.K.C.5 Other pertinent data which the evaluator deems appropriate.
 - 9.K.C.6 The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

9. L Performance Standards

9. L A Agriculture

9. L A 1. All spreading or disposal of manure shall be accomplished in conformance with the *Minnesota Guidelines for Manure and Manure Sludge Disposal on Land* published by the University of Minnesota Soil and Water Conservation Commission in July, 1972.
9. L A 2. No new facilities for the storage or stockpiling of manure shall begin operation within the Aquifer Protection Zone after the effective date of this Ordinance without a Planning Board permit. Any application for such a permit shall be accompanied by a hydrogeological survey demonstrating that the sand and gravel aquifer will not be adversely impacted by the proposed facility. All manure storage areas within the Aquifer Protection Zone must be constructed or modified such that they produce no discharge of effluent or contaminated storm water. Existing facilities which do not meet this requirement may remain in operation after the date of this Ordinance, but must meet the no-discharge provision within the above five (5) year period.
9. L A 3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure within the Aquifer Protection Zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of the required plan shall be considered to be a violation of this Ordinance.
9. L A 4. After the effective date of this Ordinance, newly established livestock grazing areas shall not be permitted within the Aquifer Protection Zone except with a Planning Board permit. Livestock grazing associated with ongoing farm activities, and which is not in conformance with the above provisions may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan filed with the Planning Board.

9. M Timber Harvesting

9. M1 Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted within the Aquifer Protection Zone. In addition:
9. M1. A Within the Rural District in the Aquifer Protection Zone, there shall be no clear cut openings, and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
9. M1. B Within the Commercial District in the Aquifer Protection Zone, harvesting operations shall not create single clear cut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5000) square feet they shall be at least

one hundred (100) feet apart. Such clear cut 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.

- 9. M1. C Slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Burning of slash is prohibited.

9. N Clearing of Vegetation for Development

- 9. N1 Except to allow for the development of permitted uses, within a the Rural District in the Aquifer Protection Zone, 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. Selective cutting of trees 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" shall be defined as maintaining a rating score of twelve (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 (inches)	Points
2 - 4 in	1
>4 - 12 in	2
>12 in	4

- 9. N2 Thus, if a 25-foot by 25-foot plot in the Rural District within the Aquifer Protection Zone contains trees worth a total of twenty (20) points, trees worth a total of eight (8) points may be removed from the plot (20 - 8 = 12), provided that no cleared openings are created.

Notwithstanding the above provisions, no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- 9. N3 Except to allow for the development of permitted uses, within the Commercial District in the Aquifer Protection Zone, there shall be permitted on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for development, including but not limited to principal and accessory structures, drive ways and sewage disposal areas, exceed in the aggregate, twenty-five (25) percent of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed. This provision shall not apply to the Commercial District.

9. N4 Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.
9. N5 Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

Article 10. Endangered Species and Critical Overlays Zone

10.1 Purpose

In order to provide for the protection and conservation of endangered plant and animal species and wildlife and fisheries habitat, an Endangered Species and Critical Areas Zone is hereby created.

10.2 Scope

This Zone applies to any structure or use extending into any area mapped by the Maine State Department of Inland Fisheries and Wildlife as:

- 10.2 A Habitat for species appearing on the official state or federal list of endangered or threatened species;
- 10.2 B High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
- 10.2 C Shorebird nesting, feeding and staging areas;
- 10.2 D Critical spawning and nursery areas for Atlantic sea run salmon, as defined by the Atlantic Sea Run Salmon Commission; or
- 10.2 E High or moderate deer wintering areas.

10.3 Nature and Effect

The Endangered Species and Critical Areas Zone shall overlay the existing districts created by this Ordinance, and its terms shall supersede any requirements of said underlying districts, unless the underlying requirements are more restrictive than those set forth here, in which case the more restrictive shall govern.

10.4 Non-Conformance

The Non-Conformance provisions of Article 5 of this Ordinance shall apply in the Endangered Species and Critical Area Zone. In addition, the use of a non-conforming structure may not be changed to another use on land within the Endangered Species and Critical Area Zone unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the habitat and species the land supports than does the existing use.

In determining whether greater adverse impact will occur, the Planning Board shall require from the applicant written documentation, which may include a report prepared by a wildlife biologist, regarding the probable effects of the proposed change in use on significant habitat and species.

10.5 Land Use and Performance Standards

All new structures and uses extending into the Endangered Species and Critical Areas Zone, with the exception of non-intensive recreational uses, shall require a Conditional Use Permit. The Planning Board shall not issue a permit for any such new building or use unless, after receiving a written application, it determines that the proposed building or use will have no adverse impact on the habitat and species that have caused the land to be included within the Endangered Species and Critical Areas Zone.

In determining whether adverse impact will occur, the Planning Board may require from the applicant written documentation, which may include a report prepared by a wildlife biologist, regarding the probable effects of the proposed building or use on significant habitat and species. The requirements of this section shall be in addition to, and not instead of, the requirements of Article 6 of this Ordinance, governing Conditional Use Permits.

Article 11. Performance Standards -- General Requirements

THE FOLLOWING STANDARDS SHALL APPLY TO ALL USES, BOTH CONDITIONAL AND PERMITTED, AS APPROPRIATE IN THE VARIOUS DISTRICTS.

11. A Access to Lots

11. A.1. Year-round Lots

- 11. A.1. A No building permit shall be issued to erect any structure on a lot without frontage on a public way unless an access road meeting the following criteria has been constructed within a deeded right-of-way, a minimum of thirty (30) feet in width.
- 11. A.1. B The access road shall be constructed to a minimum width of fifteen (15) feet if serving one to two dwelling units.
- 11. A.1. C The access road shall contain a minimum depth of fifteen (15) inches of 6' minus gravel and have drainage ditches and culverts a minimum size of fifteen (15) inches at all appropriate points.
- 11. A.1. D Such an access road shall serve no more than two dwelling units.
- 11. A.1. E Any access road serving three or more dwelling units shall meet the road design and construction standards applicable to new private roads (see Article 11.J.)
- 11. A.1. F The costs of road construction or improvements shall be the responsibility of the applicants and/or person(s) requesting the building permit.
- 11. A.1. G All street construction must meet best management practices.

11. A.2 Seasonal Lots

- 11. A.2. A The access road shall be constructed to a minimum width of fifteen (15) feet if serving one to two dwelling units.
- 11. A.2. B The access road shall contain a minimum depth of seven (7) inches of 6' minus gravel and have drainage ditches and culverts a minimum size of twelve (12) inches at all appropriate points.
- 11. A.2. C Such an access road shall serve only seasonal dwelling units.
- 11. A.2. D The costs of street construction or improvements shall be the responsibility of the applicant(s) and/or person(s) requesting the building permit.

11. A.3 No building permit shall be issued to erect a structure which is located more than one hundred (100) feet from a public or private road unless an access road meeting the construction standards of Article 11. A.1. has been constructed

11. B Air Emissions for Commercial/Industrial Uses Only

No emission of dust, ash, smoke or other particulate matter which can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity, which can cause soiling beyond the property boundaries, or which is composed of solid or liquid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air at the point of emission from a chimney stack is permitted. The emission of non-fuming, odorous matter in such quantities, as determined by the Code Enforcement Officer, to be offensive at the lot boundaries is prohibited.

11. C Buffer Areas/Setbacks for Commercial/Industrial Uses Only

No industrial or commercial buildings or uses shall be established in, or abut, a residential use, unless a landscaped buffer strip is provided to screen the uses visually. Where no natural vegetation can be maintained or due to varying site conditions, the landscaping may consist of fences, walls, tree plantings, hedges or combinations thereof.

The buffering shall be sufficient to minimize the impacts of any kind of potential use such as: loading and unloading operations, outdoor storage areas, vehicle parking, mineral extraction, waste collection and disposal areas. Where a potential safety hazard to small children would exist, physical screening/barriers shall be used to deter entry to such premises.

The buffer areas shall be maintained and vegetation replaced to insure continuous year round screening.

11. D Explosive Materials for Commercial/Industrial Uses Only

No flammable or explosive liquids, solids or gases shall be stored in bulk, excluding residential type uses, unless they are located at least seventy-five (75) feet from any lot line (in the case of above-ground storage), or forty (40) feet from any lot line (in the case of underground storage), and all materials shall be stored in a manner and location which is in compliance with applicable rules and regulations of the Mine Department of Public Safety and all other applicable federal, state, and local regulations.

11. E Disposal of Noxious Materials

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid material of such nature, quantity, obnoxiousness, toxicity, or temperature that run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm groundwater or create objectionable shore deposits, floating or submerged debris, oil or scum color, odor, taste, or unsightliness that is harmful to human, animal, plant or aquatic life.

11.F Above Ground Storage Facilities

All above ground storage facilities for petroleum, chemicals, chemical or industrial wastes, and biodegradable raw materials shall be located on impervious pavement and shall be completely enclosed by an impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a twenty-five year storm so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for this requirement.

11.G Storage Tank Standards

All petroleum product storage tank and/or chemical tanks must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshal.

11.H G are

Lighting may be used to serve security, safety and operational needs, provided that it neither adversely affects abutting properties, nor impairs the vision of motorists on adjacent roadways. Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings. Direct or indirect illumination shall not exceed 0.5 foot-candles upon abutting residential properties.

11.I Landscaping

The landscape shall be preserved in its natural state insofar as practical, by minimizing tree removal and grade changes in keeping with the general appearance of neighboring developed areas. Landscaping shall be designed to soften, screen, or enhance the physical design of structures and parking areas to avoid the encroachment of the proposed use on abutting land uses.

11.J Noise

11.J.1 The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any activity shall be limited by the time period and land use district listed below. Sound levels shall be measured at least four (4) feet above ground at the property boundary.

	Sound Pressure Level Limits (Measured in dB(a) Scale)	
	7a m- 8p m	8p m- 7a m
All Other Districts	70	45
Commercial Districts	70	50

- 11.J.2 The levels specified may be exceeded by 10 dBA for a single fifteen (15) minute period per day. Noise shall be measured by a meter set on the A weighted response scale, slow response. The meter shall meet the American National Standards Institute (ANSI S1.4-1961) "American Standard Specification for General Purpose Sound Level Meters".
- 11.J.3 No person shall engage in construction activities, on a site abutting any residential use between the hours of 8:00 p.m. and 7:00 a.m., which exceed those limits established for residential districts. Otherwise the following activities shall be exempt from these regulations:
 - 11.J.3.A Sounds emanating from construction and maintenance activities conducted between 7:00 a.m. and 8:00 p.m.
 - 11.J.3.B Sounds emanating from safety signals, warning devices, emergency pressure relief valves and other emergency activities.
 - 11.J.3.C Sounds emanating from traffic on public transportation facilities

11. K Off-Street Parking and Loading

11. K1. General

- 11. K1.A A permitted use in any district shall not be extended, and no structure shall be constructed or enlarged, unless off-street automobile parking space is provided in accordance with the following requirements.
- 11. K1.B Parking areas with more than two (2) parking spaces shall be arranged so that it is not necessary for vehicles to back into the street.
- 11. K1.C Required off-street parking for all land uses shall be located on the same lot as the principal building or facility.
- 11. K1.D The joint use of a parking facility by two or more principal buildings or uses may be approved as an administrative appeal by the Board of Appeals where it is clearly demonstrated that said parking facilities would substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees of such establishments.
- 11. K1.E Parking spaces shall be provided as required and made available for use prior to the issuance of the Certificate of Occupancy.

11. K2. Additional Requirements for Commercial and Industrial Establishments

- 11. H2.A Access points from a public road to commercial and industrial operations shall be so located as to minimize traffic congestion and

to avoid generating traffic on local access streets of a primarily residential character.

- 11. K 2 B All parking areas, drive ways and other areas serving ten (10) or more vehicles shall be constructed at a minimum as follows:
 - 1. 15' minimum sub-base type D gravel;
 - 2. 3' minimum base gravel type A gravel;
 - 3. 2' MDOT type B or 19 millimeter super pave binder course;
 - 4. 1' MDOT type C or 9.5 millimeter super pave wearing course;
 - 5. shall have appropriate bumper or wheel guards where needed.

- 11. K 2 C All drive way entrances and exits shall be kept free from visual obstructions higher than three (3) feet above street level for a distance of twenty-five (25) feet measured along the intersecting drive way and street lines in order to provide visibility for entering and leaving vehicles.

- 11. K 2 D Loading facilities shall be located entirely on the same lot as the building or use to be served so that trucks, trailers, and containers for loading or storage should not be located upon any Town way.

- 11. K 2 E The following minimum off-street loading bays or berths shall be provided and maintained in the case of new construction, alterations, and changes of use:
 - 11. K 2 E 1 Retail, office, consumer services, wholesale, warehouse and industrial operations with a gross floor area of more than 5,000 square feet require the following:

5,001 to 20,000 sq. ft.	1 bay
20,001 to 50,000 sq. ft.	2 bays
50,001 to 100,000 sq. ft.	3 bays
100,001 to 150,000 sq. ft.	4 bays
150,001 to 300,000 sq. ft.	5 bays

 - 11. K 2 E 2 Each 150,000 square feet over 300,000 square feet requires one (1) additional bay.

Loading docks should not be on any street frontage.

- 11. K 2 F Off-street parking and loading spaces, where not enclosed within a building shall be effectively screened from view by a continuous landscaped area not less than six feet in height and fifteen feet in width along exterior lot lines adjacent to residential properties, except that drive ways shall be kept open to provide visibility for entering and leaving.

11. K3 Parking Lot Design Criteria (Not applicable to single family dwellings and duplexes)

11. K3 A Vehicular Entrance and Exit

- 11. K3. A1 Entrances and exits should be clearly identified by the use of signs, curb cuts, and landscaping
- 11. K3. A2 Entrance/exit design shall be in conformance with the standards of Article 11. H2

11. K3 B Interior Vehicular Circulation

- 11. K3. B1 Major interior travel lanes should be designed to allow continuous and uninterrupted traffic movement.
- 11. K3. B2 Enclosures, such as guard rails, curbs, fences, walls, and landscaping should be used to identify circulation patterns of parking areas and to restrict driving movements diagonally across parking aisles, but not to reduce visibility of oncoming pedestrians and vehicles.
- 11. K3. B3 Entrance/exits shall be designed to allow adequate stacking of vehicles without blocking interior vehicle circulation lanes.

11. K3 C Landscaping

- 11. K3. C1 All parking lots shall be landscaped along the property boundaries with shrubbery, trees and other landscape materials. Large parking lots shall provide a 2 ½' caliper shade tree per twenty (20) parking spaces (six (6) trees per acre) located at representative points throughout the lot.

11. K3 D Parking

- 11. K3. D1 Access to parking spaces should not be from major interior travel lanes, and shall not be immediately accessible from any public way.
- 11. K3. D2 Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.

- 11. K3. D3 Parking aisles should be oriented perpendicular to stores or businesses for easy pedestrian access and visibility.
- 11. K3. D4 All parking spaces and access drives shall be at least five (5) feet from any side or rear lot line, except for the additional requirements in buffer yards.
- 11. K3. D5 Parking spaces and aisle layout shall conform to the following standards.
- 11. K3. D6 In paved parking areas painted stripes shall be used to delineate parking spaces. Stripes should be a minimum of 4" in width. Where double lines are used, they should be separated a minimum of 1' 0" on center.
- 11. K3. D7 In aisles utilizing diagonal parking, arrows should be painted on the pavement to indicate proper traffic flow.
- 11. K3. D8 Bumpers and/or wheel stops shall be provided where overhang of parked cars might restrict traffic flow on adjacent through roads, restrict pedestrian movement on adjacent walkways, or damage landscape materials.
- 11. K3. D9 Parking spaces shall be provided to conform with the number required in the following schedule:

PARKING SPACES

Activity	Minimum Required Parking
Residential	2 spaces per dwelling unit
2 or more bedrooms	1.5 spaces per dwelling unit
1 bedroom	1 space per dwelling unit
Elderly Housing	1 space per room/unit rental and for each employee on the largest shift
Tourist home boarding, lodging house, motel, hotel, inn	1 space per three seats based upon max. seating capacity
Church	1.5 spaces per classroom
Public and Private Schools	8 spaces per classroom
Secondary -	1 space for each student and 1 space for each faculty and staff member
Post-Secondary -	1 space for every 4 children facility is licensed to care for.
Child care facility	1 space per every seventy-five (75) square feet of floor space.
Private Clubs or Lodges	1 space per 3 seats based upon max. seating capacity.
Theater, Auditorium, Public Assembly Areas	

Funeral Homes	1 space for every 100 square feet of floor space.
Medical Care Facilities	1 space for every three beds and every two employees on the max. working shift.
Offices, Banks	1 space for every 150 square feet of floor space.
Medical Offices (MD's, OD's, dentists)	10 spaces for each doctor, dentist, or other medical practitioner.
Veterinarian clinic, kennel	5 spaces/veterinarian
Retail and Service Businesses	1 space for every 150 sq. ft. of floor space.
Barber/Beauty Shop	4 spaces/chair
Restaurant	1 space per three seats based upon max. seating capacity.
Industrial Businesses	1 space/employee on the maximum working shift.
Warehouse, wholesale	1 space/500 sq. ft. floor area business
Flea Market	3 spaces/table
Mixed Use	Total of individual uses.
Automobile repair garages and gasoline filling stations	5 spaces for each bay or area used for repair work.
Library, museum, art gallery	1 space for each 150 sq. ft. of floor space.
Marina	1 space for each boat slip and mooring.
Commercial recreation facility	1 space for each 100 sq. ft. of fitness space floor area.
Motor vehicle sales	1 space reserved for customers per thirty vehicles displayed on the lot.

NOTES

- 1 Where the calculation of the aforementioned parking spaces results in a fractional part of a complete parking space, the parking spaces required shall be construed to be the next highest number.
- 2 The above are minimum standards, and additional parking spaces shall be required if these prove to be inadequate.
- 3 Where floor space is to be used in calculating the number of required parking spaces, gross floor area shall be used unless otherwise noted.

11. L Refuse Disposal/ Commercial-Industrial

The applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. The Planning Board shall consider the impact of particular industrial or chemical wastes or by-products upon the town's facilities (in terms of volume, flammability or toxicity) and may require the applicant to dispose of such wastes elsewhere, in conformance with all applicable State and Federal regulations. The Planning Board may require the applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

11. M Street Construction

11. M1. Private roads constructed after the effective date of this Ordinance to provide access to permitted uses in all zones shall meet or exceed the Town's road construction standards for slope, preparation, sub-base, and base (as specified in the Town's Subdivision Rules and Regulations standards).
11. M2. Slopes may not exceed fifteen percent (15%) for segments over one hundred (100) feet in length. Streets which must exceed this limit shall be designed by a professional engineer.
11. M3. Compliance with the requirements of this section, or of any other part of this Ordinance, will not entitle any builder, owner, or user of any road to have the road accepted or maintained by the Town of Lington.
11. M4. Discontinued roads, abandoned roads and rights-of-ways that have historically served the District may be upgraded to support approved uses and are exempt from slope requirements.
11. M5. Routine maintenance of existing roads is not considered road construction.
11. M6. All street construction will be required to follow best management practices.

11. N Sanitary Provisions

When two or more lots or buildings in different ownership share a common subsurface disposal system the system shall be owned and maintained in common by an Owners'

Association. Covenants in the deeds for each lot shall require mandatory membership in the Association and provide for adequate funding of the association to assure proper maintenance of the system

11. O Set backs and Screening

11. O 1. Exposed storage areas, exposed machinery, sand and gravel extraction operations, and areas used for the storage or collection of discarded automobiles, auto parts, metals or any other articles of salvage or refuse, shall have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge six (6) feet or more in height) to provide a visual buffer sufficient to minimize their impact on other land uses and properties in the area.
11. O 2. Where a potential safety hazard to children would be likely to arise, either from temporary or permanent activities, provisions shall be undertaken to minimize physical hazards. This may also include and not limited to physical screening sufficient to deter small children from entering the premises shall be provided and maintained in good condition or as deemed by the Code Enforcement Officer.

11. P Signs

11. P 1. In the Residential Districts, only the following signs shall be permitted
11. P 1. A Signs are permitted and may be used to convey the inhabitants' names, the property name, and safety and caution messages. Such signs shall not be placed on the roof of the building and shall be no larger than four (4) square feet.
11. P 1. B Rental vacancies may be advertised with a non-illuminated sign no larger than four (4) square feet. Such sign shall be erected only during such times as the rental property is vacant.
11. P 1. C The sale of real estate may be advertised by non-illuminated temporary signs, no larger than six (6) square feet in area. Each broker or person advertising the sale shall be permitted only one (1) sign on any premises. All such signs shall be removed upon the date of the closing and transfer of the deed for the premises.
11. P 1. D Educational and religious uses may display one (1) sign for each building. No such sign shall be larger than twenty (20) square feet in area.
11. P 1. E Other non-residential uses may display one (1) non-illuminated sign, not exceeding twenty (20) square feet in area.

11. P.2 In the Commercial Zones, only the following signs shall be permitted:
11. P.2 A Signs shall relate to the premises on which they are located and shall only identify the occupant of such premises or advertise the service available within said premises. There shall be no temporary promotion signs, banners, streamers or placards erected, suspended, posted or affixed in any manner outdoors or on the building exterior of premises except as provided in this Ordinance.
- ~~11. P.2 B DELETED MARCH 1, 2013 REFERENDUM VOTE~~
- 11 P.2 C Free standing business signs shall be permitted in connection with any legal business or industry and shall meet the following requirements:
11. P.2 C 1 Set back from the center of the road shall be a minimum of thirty-three (33) feet.
11. P.2 C 2 A free-standing sign shall not impair a driver's normal sight distance.
11. P.2 C 3 All signs shall be maintained in good condition and repair.
11. P.2 C 4 Maximum height for business signs shall not exceed fifteen (15) feet.
11. P.2 C 5 For individual business establishments a maximum of one (1) double sided sign shall be permitted. Total sign area for double sided sign (2 exposed faces) shall not exceed fifty (50) square feet, single sided sign (1 exposed face) shall not exceed twenty-five (25) square feet.
11. P.2 C 6 For multi-establishment businesses, such as shopping centers or office complexes, a maximum of one (1) directory sign with the total of two exposed faces not to exceed seventy-five (75) square feet in size, plus one (1) identification sign for each business within the complex not to exceed twenty-four (24) square feet in size shall be permitted on the directory sign.
11. P.2 D On each premises there is permitted one (1) sign attached to the building for each occupant.
11. P.2 D 1 If attached to the structure by way of a frame or bracket, which overhangs a pedestrian walkway or public side walk, it shall not extend beyond five (5)

feet of the structure face to which attached and have a vertical height clearance between the sign bottom and/or sidewalk/pedestrian walkway of ten (10) feet.

11. P. 2 D2 If the proposed sign is to be attached to the structure surface without the use of overhanging frames or brackets, the "wall sign" shall not extend or project more than twelve (12) inches from the structure surface. Cut out letters should not project more than six (6) inches from the building wall.

11. P. 2 D3 No sign shall be permitted on the roof of any building.

11. P. 2 D4 Signs posted within a window shall not cover more than thirty (30) percent of the window area.

11. P. 3 Illumination of Signs

11. P. E 1 No sign shall be illuminated with flashing, moving, or animated type lights.

11. P. E 2 Illuminated signs shall be illuminated only with white light.

11. P. E 3 All internally illuminated signs shall have a dark background with light lettering or figures, to reduce glare.

11. P. 4 The above regulations shall not apply to the following:

11. P. 4. 1 Flags and insignia of any government.

11. P. 4. 2 Legal notices, identification, information, or directional signs erected or required by governmental bodies.

11. P. 4. 3 Integral decorative or architectural features of buildings except letters, trade marks, moving parts, or moving or flashing lights.

11. P. 4. 4 Signs directed and guiding traffic and parking on private property, but bearing no advertising matter or commercial identification.

11. P. 4. A Temporary signs for special events may be posted in any district upon written permit from the Code Enforcement Officer. The Code Enforcement Officer shall only grant such a permit after presentation of evidence that the authorities controlling the proposed location of the sign have approved its posting. A

temporary sign shall be posted for a period not to exceed twenty (20) days. The applicant shall remove said signs upon termination of the permit. Street banners shall be no larger than fifty (50) square feet in area. No temporary sign, other than a street banner, shall be larger than six (6) square feet in area. Permits for hanging street banners across the public way shall be issued only upon assumption of complete liability in writing by the person, firm or corporation hanging the banner for any damage resulting from the placement of said banner. Such liability shall be acknowledged upon the application for the permit.

11. P.4 B Existing non-conforming signs shall be removed within one (1) year of the effective date of this Ordinance.

11. Q Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses shall require a soils report based on an on-site investigation and prepared by a Mine Certified Soil Scientist.

11. R Soil Erosion Control

Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by the following erosion control management practices:

11. R.1. The stripping of vegetation, removal of soil, re-grading or other development of the site shall be accomplished by limiting the duration of exposure and area of the site to be disturbed. Dust control methods shall be employed during dry conditions.
11. R.2. Temporary vegetation, mulching and/or siltation fabrics shall be used to protect critical areas during the development. Sedimentation of run-off waters shall be trapped by debris basins, silt traps, sediment basins or other methods determined acceptable by the town.
11. R.3. Permanent vegetation and/or other erosion control measures should be installed prior to completion of the construction, but no later than six months after completion of the construction.
11. R.4. The top or bottom of a cut or fill shall not be closer than ten feet to a property line unless otherwise mutually agreed to by the affected landowner and town but in no instance shall said cut or fill exceed a 3:1 slope.

11.S Storage of Materials

All materials stored outdoors shall be stored in such a manner as to prevent the breeding and harboring of insects, rats or other vermin. This shall be accomplished by enclosures in containers, raising materials above ground, separation of material, prevention of stagnant water, extermination procedures or other means.

11.T Storm Water Management

- 11.T.1 All new construction and development, whether or not served by a storm water collection and transportation system shall be designed to reflect or resemble, as nearly as possible, natural runoff conditions in terms of volume, velocity and location of runoff. If runoff after development would exceed predevelopment runoff conditions, the off-site impact must be evaluated in terms of potential soil erosion and sedimentation, drainage capacity, and land use/land cover characteristics. Appropriate methods of reducing off-site impact shall be employed.
- 11.T.2 All development plans shall define maintenance requirements and identify parties responsible for maintenance of the storm water control system. When methods of reducing storm water impact are necessary or desirable, storm water runoff control plans shall include:
- 11.T.2.A Control methods effective both during and after construction.
 - 11.T.2.B Control methods compatible with upstream and downstream characteristics.
 - 11.T.2.C Documentation by the designer that increasing the volume and rate of runoff from the proposed development will not aggravate conditions downstream or upstream.
 - 11.T.2.D Provisions for on-site storage and gradual discharge of excessive flows, or contribution toward increasing downstream capacity (e.g. by enlarging existing culverts), when the channel downstream is not able to accommodate the increased volume or rate of runoff created by the proposed development.
- 11.T.3 Consideration of the following factors:
- 11.T.3.A Impact: on-site, downstream, upstream and basin-wide;
 - 11.T.3.B Costs: initial, amortized, operation and maintenance;
 - 11.T.3.C Intensity of rainfall;
 - 11.T.3.D Timing of rainfall: (e.g., falling of snow or during the spring snow melt);

- 11. T.3.E Amount of precipitation in the basin during the five (5) days preceding the storm in question;
 - 11. T.3.F Hydrologic soil groups throughout the basin (i.e., the soil's rate of water infiltration and transmission);
 - 11. T.3.G Hydrologic conditions throughout the basin (soil's moisture content, humus/organic content, temperature, and whether or not it is frozen);
 - 11. T.3.H Vegetative cover throughout the basin (vegetation helps soil dry out after a rainfall, intercepts some precipitation during the rainfall and slows down the flow of water over the land);
 - 11. T.3.I Area of land covered by impervious surfaces throughout the basin (roads, sidewalks, roofs, driveways, patios, etc.);
 - 11. T.3.J Topography throughout the basin (slopes affect the rate of runoff; marshland reduces peak discharge rate by slowing down the rate of runoff);
 - 11. T.3.K Size and shape of watershed (peak discharge rates are slower in long, narrow watersheds).
11. T.4 Storm water runoff systems should be designed to facilitate aquifer recharge when it is advantageous to compensate for groundwater withdrawals or reductions in infiltration. Conversely, designs should avoid recharge where groundwater effects might be harmful. Design of permanent storage facilities should consider safety, appearance, recreational use, and cost and effectiveness of maintenance operations, in addition to the primary storage function. Natural overland flows and open drainage channels and swale locations should be the preferred alignments for major components of a residential drainage system. The use of enclosed components (such as underground piping) should be minimized where the existing natural systems are able to accommodate storm runoff. Energy dissipaters (to reduce high flow velocities) and other forms of outfall protection shall be employed where enclosed drains discharge onto erodible soils.

11. U Timber Harvesting and Lot Clearing

In addition to the general provisions of Article 6 E of this Ordinance governing Conditional Use Permits, the following restrictions shall apply to Timber Harvesting and Lot Clearing in the Resource Conservation District:

11. U.1 Timber Harvesting:

Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:

- 11. U 1. A Slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground.
- 11. U 1. B Timber harvesting equipment shall not use stream channels as travel routes except when:
 - 11. R 1. B 1 Surface waters are frozen; and
 - 11. R 1. B 2 The activity will not result in any ground disturbance.
- 11. U 1. C 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.
- 11. U 1. D Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering any water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil re-vegetated.

11. U 2 Clearing of Vegetation for Development:

The clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in the Resource Conservation District. All clearing shall be subject to the following requirements for maximum cleared area and buffer strips:

- 11. U 2 A There shall be no new cleared opening for a permitted use greater than one hundred and twenty thousand (120,000) square feet in the forest canopy as measured from the outer limits of the tree crown.
- 11. U 2 B Selective cutting of trees outside the maximum allowable cleared opening 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" shall be defined as maintaining a rating score of twelve (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 ½ feet Above Ground Level (inches)	Points
2-4 in	1
>4-12 in	2
>12 in	4

Thus, if a 25-foot by 25-foot plot adjacent to a great pond contains trees worth a total of twenty (20) points, trees worth a total of eight

(8) points may be removed from the plot (20 - 8 = 12), provided that no cleared openings are created

Notwithstanding the above provisions, no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period

- 11. U2 C Pruning of tree branches, on the bottom 1/3 of the tree is permitted
- 11. U2 D 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 tree growth is present.
- 11. U2 E In no event shall cleared openings for development, including but not limited to principal and accessory structures, drive ways and sewage disposal areas, exceed in the aggregate, twenty-five (25) percent of the lot area or one hundred and twenty thousand (120,000) square feet, whichever is greater, including land previously developed
- 11. U2 F Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.
- 11. U2 G Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section

11. V Toxic and Noxious Discharges

No use shall for any period of time discharge across the boundaries of the lot on which it is located toxic and noxious matter.

11. W Traffic Impacts and Street Access Control

11. W1. General

Provision shall be made for vehicular access to the development and circulation upon the lot in such a manner as to safeguard against hazards to traffic and pedestrians in the street and within the development, to avoid traffic congestion on any street and to provide safe and convenient circulation on public streets and within the development. More specifically, access and circulation shall also conform to the following standards and the design criteria below

- 11. W1. A The vehicular access to the development shall be arranged to minimize traffic use of local residential streets.
- 11. W1. B Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where

there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.

- 11. W1.C The street giving access to the lot and neighboring streets which can be expected to carry traffic to and from the development shall have traffic carrying capacity and be suitably improved to accommodate the amount and types of traffic generated by the proposed use.
- 11. W1.D Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, drive ways and traffic controls within public streets.
- 11. W1.E Access ways shall be of a design and have sufficient capacity to avoid queuing of entering vehicles on any street.
- 11. W1.F Where topographic and other conditions allow provision shall be made for circulation drive way connections to adjoining lots of similar existing or potential use:
 - 11. T1.F1 When such drive way connection will facilitate fire protection services as approved by the Fire Chief and/or,
 - 11. T1.F2 When such drive way will enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a street.

11. W2 Drive way Design

11. W2 A General

Drive way design shall be based on the estimated volume using the drive way classification defined below.

- 11. W2.A1 Low Volume Drive way: Less than 25 vehicle trips per day.
- 11. W2.A2 Medium Volume Drive way: Any drive way that is not a low volume or high volume drive way.
- 11. W2.A3 High Volume Drive way: Peak hour volume of 400 vehicles or greater.

11. W2 B Sight Distances

Drive ways shall be designed in profile and grading and located to provide the required sight distance measured in each direction. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit drive way with the front of the vehicle a minimum of ten (10) feet behind the curb line or edge of shoulder, with the height of the eye 3-1/2 feet, to the top of an object 4-1/2 feet above the pavement. The required sight distances are listed below for various posted speed limits.

11. W2 B 1 Two Lane Roads. A sight distance of ten (10) feet for each mile per hour of posted speed limit shall be maintained or provided.
11. W2 B 2 Four Lane Roads. The sight distances provided below are based on passenger cars exiting from drive ways onto four lane roads and are designed to enable exiting vehicles:
- a. Upon turning left or right to accelerate to the operating speed of the street without causing approaching vehicles to reduce speed by more than ten (10) miles per hour, and
 - b. Upon turning left, to clear the near half of the street without conflicting with vehicles approaching from the left.

Operating Speed (mph)	Safe Sight Distance - Left (ft)	Safe Sight Distance - Right (ft)
20	130	130
30	220	260
40	380	440
50	620	700

11. W2 C Vertical Alignment

A drive way shall be flat enough to prevent the dragging of any vehicle undercarriage. Low volume drive ways shall slope upward or downward from the gutter line on a straight slope of two (2) percent or less for at least twenty-five (25) feet followed by a slope of no greater than ten (10) percent for the next fifty (50) feet. The maximum grade over the entire length shall not exceed fifteen (15) percent. Medium and high volume drive ways should slope upward or downward from the gutter line on a straight slope of two (2) percent or less for at least twenty-five (25) feet. Following this landing area, the steepest grade on the drive way shall not exceed eight (8) percent.

11. W2 D Low Volume Drive ways

1. **Ske w Angle.** Low volume drive ways shall be two-way operation and shall intersect the road at an angle as nearly ninety (90) degrees as site conditions permit, but in no case less than sixty (60) degrees.
2. **Cur b Radi us.** The curb radius shall be between five (5) feet and fifteen (15) feet, with a preferred radius of ten (10) feet.
3. **Drive way Wid th.** A single dwelling unit shall be a minimum of twelve (12) feet. Two dwelling units shall be a minimum of fifteen (15) feet.

4. **Curb-Cut Width** Curb-cut width shall be between twenty-two (22) feet and thirty-six (36) feet, with a preferred width of thirty-six (36) feet.

11. W2 E Medium Volume Drive ways

1. **Skew Angle.** Medium volume drive ways shall be either one-way or two-way operation and shall intersect the road at an angle as nearly ninety (90) degrees as site conditions permit, but in no case less than sixty (60) degrees.
2. **Curb Radius.** Curb radius will vary depending if the drive way is a one-way or two-way operation. On a two-way driveway the curb radius shall be between twenty-five (25) feet and forty (40) feet, with a preferred radius of thirty (30) feet. On one-way drive ways, the curb radius shall be thirty (30) feet for right turns into and out of the site, with a five (5) foot radius on the opposite curb.
3. **Width.** On a two-way driveway the width shall be between twenty-four (24) and twenty-six (26) feet, with a preferred width of twenty-six (26) feet. However, where truck traffic is anticipated, the width may be no more than thirty (30) feet. On a one-way drive way the width shall be between sixteen (16) feet and twenty (20) feet, with a preferred width of sixteen (16) feet.
4. **Curb-Cut Width.** On a two-way drive way the curb-cut width shall be between seventy-four (74) feet and one hundred and ten (110) feet with a preferred width of eighty-six (86) feet. On a one-way drive way the curb-cut width shall be between forty-six (46) feet and seventy (70) feet with a preferred width of fifty-one (51) feet.

11. W2 E High Volume Drive ways

1. **Skew Angle.** High volume drive ways shall intersect the road at an angle as nearly ninety (90) degrees as site conditions permit, but in no case less than sixty (60) degrees.
2. **Curb Radius.** Without channelization islands for right-turn movements into and out of the site, the curb radius shall be between thirty (30) feet and fifty (50) feet. With channelization islands, the curb radius shall be between seventy-five (75) feet and one hundred (100) feet.
3. **Curb Cut Width.** Without channelization, curb-cut width shall be between one hundred and six (106) feet and one hundred and sixty-two (162) feet with a preferred width of one hundred and fifty-four (154) feet. With channelization, the curb-cut width shall be between one hundred and ninety-six (196) feet and two

hundred and sixty-two (262) feet with a preferred width of two hundred and fifty-four (254) feet.

4. Entering and exiting drive ways shall be separated by a raised median which shall be between six (6) feet and ten (10) feet in width. Medians separating traffic flows shall be no less than twenty-five (25) feet in length, with a preferred length of one hundred (100) feet.
5. Width Drive way widths shall be between twenty (20) feet and twenty-six (26) feet on each side of the median, with a preferred width of twenty-four (24) feet. Right turn only lanes established by a channelization island shall be between sixteen (16) feet and twenty (20) feet, with a preferred width of twenty (20) feet.
6. Appropriate traffic control signs shall be erected at the intersection of the drive way and the street and on medians and channelization islands.

11. W2 G Special Case Drive ways

Special case drive ways are one-way or two-way drives serving medium or high volume uses with partial access (right turn only) permitted. These drive ways are appropriate on roadway segments where there is a raised median and no median breaks are provided opposite the proposed drive way. These drive ways are usually located along the approaches to major signalized intersections where a raised median may be provided to protect left-turning vehicles and separate opposing traffic flows.

11. W2 H Perpendicular drive ways

1. Curb Radius. Curb radius shall be between thirty (30) feet and fifty (50) feet, with a preferred radius of fifty (50) feet.
2. Drive way width Drive way width shall be between twenty-six (26) feet and thirty (30) feet with a preferred width of thirty (30) feet. On two-way drive ways, a triangular channelization island shall be provided at the intersection with the street. On each side of the island the one-way drive shall be between fifteen (15) feet and twenty-four (24) feet with a preferred width of twenty (20) feet.
3. Curb-Cut Width The total curb-cut width shall be between eighty-six (86) feet and one hundred and thirty (130) feet with a preferred width of one hundred and thirty (130) feet.
4. Channelization island The channelization island on two-way drive ways shall be raised and curbed. Corner radius shall be two (2) feet.

11. W2 I Skewed Drive ways

1. Skew Angle. The skew angle shall be between forty-five (45) and sixty (60), with a preferred angle of forty-five (45).
2. Curb Radius. Curb radius shall be between thirty (30) feet and fifty (50) feet on the obtuse side of the intersection, with a preferred radius of thirty (30) feet. Curb radius shall be between five (5) feet and ten (10) feet on the acute side of the intersection with a preferred radius of five (5) feet.
3. Drive way width. The width of the drive way shall be between fifteen (15) feet and twenty-four (24) feet with a preferred width of twenty (20) feet. Where entering and exiting drive ways meet, the width shall be between twenty-four (24) feet and thirty (30) feet, with a preferred width of thirty (30) feet.
4. Curb-Cut Width. The curb-cut width for each drive way shall be between thirty-five (35) feet and seventy-five (75) feet with a preferred width of forty-two (42) feet.

11. W3 Drive way Location and Spacing

11. W3 A Minimum Corner Clearance

Corner clearance shall be measured from the point of tangency (PT) for the corner to the point of tangency for the drive way. In general the maximum corner clearance should be provided as practical based on site constraints. Minimum corner clearances are listed below based upon drive way volume and intersection type.

MINIMUM STANDARDS FOR CORNER CLEARANCE

Drive way Type	Intersection With Signal	Intersection Without Signal
Low Volume	150	50
Medium Volume	150	50
High Volume	500	250
Special Case		
Right turn in only	100	50
Right turn out only	100	50
Right turn in or out only	100	50

Where the minimum standard for a full access drive cannot be met, only a special case drive way shall be permitted. If, based on the above criteria, full access to the site cannot be provided on either the major or minor street, the site shall be restricted to partial access. Alternately, construction of a shared access drive with an adjacent parcel is recommended.

11. W3. B Drive way Spacing

Drive ways shall be separated from adjacent drive ways and property lines as indicated below in order to allow major through routes to serve effectively their primary arterial function of conducting through traffic. This distance shall be measured from the driveway point of tangency to the driveway point of tangency for spacing between drive ways and from the driveway point of tangency to a projection of the property line at the edge of the roadway for driveway spacing to the property line.

MINIMUM DRIVEWAY SPACING

Minimum Spacing to Adjacent Drive way

by Drive way Type¹ (Dp)² -- all distances in feet

Drive way Type	Minimum Spacing to Property Line (Dpl) ³	Minimum Spacing		High w/o RT*	High w/ RT**	Special Case
		Low	Medium			
Low Volume	5	***				
Medium Volume	10	-	75			
High Volume (w/o RT)	75	-	75	150		
High Volume (w/ RT)	75	-	75	250	500	
Special Case	10	-	75	75	75	40****

- 1 Between two more drive ways serving a single parcel, or from a proposed drive way to an existing drive way.
 - 2 Dp measured from point of tangency of drive way to point of tangency of adjacent drive way.
 - 3 Dpl measured from point of tangency of drive way to projection of property line on roadway edge.
- * High volume drive way without right turn channelization.
- ** High volume drive way with right turn channelization.
- *** Low volume drive ways are not permitted in combination with other drive way types on a single lot.
- **** Right-turn-in-only upstream of right-turn-out-only. Right-turn-out followed by right-turn-in not allowed.

11. W4 Number of Drive ways

The maximum number of drive ways on a single street is controlled by the available site frontage and the table above. In addition, the following criteria shall limit the number of drive ways independent of frontage length.

- 11. W4. A No low volume traffic generator shall have more than one two-way driveway onto a single roadway.
- 11. W4. B No medium or high volume traffic generator shall have more than two two-way driveways or three driveways in total onto a single roadway.
- 11. W4. C Each new lot created after the effective date of this Ordinance with frontage on Route 25 shall be served by a driveway or entrance way shared in common with at least one adjacent lot.

11. W5. Construction Materials/ Paving

- 11. W5. A All driveways entering a curbed street shall be curbed with materials matching the street curbing. Curbing is required around all raised channelization islands or medians.
- 11. W5. B All private driveways serving one or two dwellings shall contain a minimum depth of fifteen (15) inches of 6' minus gravel with an adequate turnaround.
- 11. W5. C All driveways shall be paved with bituminous concrete pavement within the street right-of-way. All commercial driveways regardless of driveway volume shall be paved with bituminous concrete pavement within thirty (30) feet of the street right-of-way.

11. X Water Quality

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous, or solid materials of such nature, quality, obnoxiousness, toxicity, or temperature that run-off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life. All above ground storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, shall be located on impervious pavement, and shall be completely enclosed by an impervious dike which shall be high enough to contain the total of 110% storage capacity of liquid kept within the storage area, so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for "home heating oil" and diesel fuel, not exceeding two hundred and seventy-five (275) gallons in size, may be exempted from this requirement, in situations where neither a high seasonal water table (within 15" of the surface) nor rapidly permeable sandy soils are involved.

11. Y Water Supply

Prior to the issuance of any occupancy permit for any structure with a potable water supply system a water quality analysis demonstrating that the State of Maine Safe Drinking Water Guidelines are met shall be submitted to the Code Enforcement Officer.

No development activities shall be permitted within three hundred (300) feet of a mapped 50+ GPM sand and gravel aquifer unless a hydrological study has been conducted and accepted by the Planning Board, demonstrating that the sand and gravel aquifer will not be adversely impacted by the development. No uses which involve hazardous or special waste materials including petroleum products shall be permitted within three hundred (300) feet of a mapped 50+ GPM aquifer.

11. Z Cemeteries/ Burial Sites

Construction or excavation may not be constructed within twenty-five (25) feet of a known burial site or within twenty-five (25) feet of an established cemetery. See Title 13 of the Mine Revised Statutes, Section 1371- A

Article 12 Performance Standards, Specific Activities and Land Uses

12 A Agricultural Land Conservation and Subdivision Development Standards

- 12 A.1. The purpose of this article is to allow landowners a reasonable return on their holdings, in such a way that the majority of existing open field and pasture may remain un-built upon for use by future generations. Toward this end, it is recommended that all residential subdivision development proposals encompassing ten (10) or more acres of existing open fields or pasture should be laid out according to the "cluster" standards and in a manner consistent with the Limiting on subdivision standards. If the parcel which is proposed for development also contains land which is not either open field or pasture, new dwellings should be clustered on such land to the most practical extent, so that the fields and pastures remain as undeveloped as possible.
- 12 A.2. All dwelling units should be arranged so that the maximum lot size is 40,000 square feet or one half the minimum lot size for the zone, but in no instance shall individual lots with subsurface waste water disposal systems be less than 20,000 square feet.
- 12 A.3. To the fullest extent practicable, all buildings and roads shall be located a way from the soil types which are most suitable for agriculture (based on the crop production table of the county soil survey). This provision does not apply to the location of on-site septic disposal facilities, which must be placed on soil meeting the standards of the Mine State Subsurface Waste water Disposal Rules.
- 12 A.4. Applicants for subdivision review under this subsection shall provide the Planning Board with copies of deed covenants (with prospective purchasers) or conservation easements (with the town) describing land management practices (to be followed by the developer and/or a community association of property owners) which will ensure that the existing fields or pastures will be plowed or mowed at least once every year.
- 12 A.5. Agricultural land owners are not required to sell that part of their property which is to become open space provided that they convey the development rights of that open space to the Town in a conservation easement prohibiting future non-agricultural development.

12 B Animal Husbandry

When permitted as conditional uses, animal husbandry shall meet the following standards:

- 12 B.1. All pasture, barns, barnyards, and other areas where the livestock, animals, or fowl are kept, housed, fed, or cared for shall be a minimum of one hundred (100) feet from the nearest dwelling other than the applicant's.

- 12 B.2. Uncovered manure shall be kept one hundred and fifty (150) feet from the nearest dwelling other than the applicant's and three hundred (300) feet from any water body or well.
- 12 B.3. All feed and grain shall be stored in rodent proof containers.
- 12 B.4. All paddocks, pastures, barnyards or other enclosures must be adequately fenced to contain livestock, animals or fowl.
- 12 B.5. On parcels smaller than three (3) acres, the Planning Board shall limit the number and species of animals permitted. The Planning Board shall consider the size and layout of the lot; the size of adjacent lots; the presence of vegetative screening and buffer strips; and the potential for noise, odor, and vermin problems.
- 12 B.6. On parcels over three (3) acres the number and species shall be limited to that recommended by State and Federal husbandry guidelines.

12 C Automobile Graveyards and Junkyards

Automobile graveyards and junk yards shall meet the following standards:

- 12 C.1. Prior to issuance of the municipal permit, the applicant shall present either a permit from the Maine Department of Environmental Protection (DEP) or a letter from the DEP stating that a permit is not required.

12 C.2 Site Considerations

- 12 C.2 A. No motor vehicles or material shall be located on a sand and gravel aquifer, or on an aquifer recharge area, as mapped by the Maine Geological Survey, or a licensed geologist.
- 12 C.2 B. No motor vehicles or material shall be located within the 100 year flood plain, as mapped by the Federal Insurance Administration, the Army Corps of Engineers, or the US Department of Agriculture, unless information presented by the applicant is sufficient to persuade the Planning Board that flooding is not an issue.
- 12 C.2 C. A visual buffer capable of completely screening from view all portions of the automobile graveyard or junkyard shall be established and maintained along all property lines.
- 12 C.2 D. No motor vehicles or material shall be stored within five hundred (500) feet of any dwelling or public or private school.
- 12 C.2 E. No motor vehicles or material shall be stored within three hundred (300) feet of any water body.
- 12 C.2 F. The site shall comply with the requirements of State Chapter 183 SS1.

12 C.3 Operational Considerations

Upon receiving a motor vehicle, the battery shall be removed, and the engine lubricant, transmission fluid, brake fluid, and engine coolant shall be drained into watertight, covered containers. No discharge of any fluids from any motor vehicle shall be permitted into or onto the ground.

The applicant shall provide a copy of a disposal contract to remove all fluids to ensure they are not kept on the property.

12 D Bed & Breakfast

- 12 D.1. The application for approval shall include a scale drawing of the lot showing the location of: existing buildings, existing and proposed parking, and existing and proposed sewage disposal systems.
- 12 D.2. There shall be no less than one (1) parking space for each rental room in addition to the spaces required for the dwelling unit.
- 12 D.3. There shall be one (1) bathroom provided for the rental rooms, in addition to the bathroom for the dwelling unit.
- 12 D.4. Each rental room shall have not less than ten by twelve feet horizontal dimensions.
- 12 D.5. Each rental room shall be equipped with an approved smoke detector.

12 E Campgrounds and Tenting Grounds

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following (in cases of possible conflict, the stricter rule shall apply):

12 E.1 General

- 12 E.1.A. A campground must be constructed on at least ten (10) acres of land, and all camping units or structures shall be located at least one hundred (100) feet from any property line and two hundred (200) feet from any residence (except residences belonging to the campground owners).
- 12 E.1.B. Campsites shall be laid out and screened in such a manner that none are within view from public roads, navigable rivers, existing residences or approved subdivisions. Any combination of evergreen planting, landscaped earthen berms, or solid fencing may be used to achieve this screening standard, when campsites would otherwise be visible from the locations described above.
- 12 E.1.C. No trailers other than recreational vehicles or utility trailers as defined herein, shall be permitted within any campground.

temporarily or otherwise. No camping unit shall be stored or exhibited for sale for commercial purposes within the park.

12.E.1.D Tent sites and sites for recreational vehicles (RVs) shall be laid out so that the density of each developed acre of land does not exceed the standards below (in terms of sites per acre of land, excluding circulation roads):

	Non-Shore and	Shore and Zone
Tent sites	14 per acre	8 per acre
RV sites	11 per acre	7 per acre

12.E.1.E The minimum frontage of a campsite along any shoreline shall be one hundred (100) feet. Minimum setback from the normal high water elevation shall be one hundred (100) feet for all recreational vehicles, tents, or other vehicles and temporary or permanent structures.

12.E.1.F No campsite shall be located within a Resource Protection District or within the 100 year flood plain.

12.E.2 Parking and Circulation

12.E.2.A A minimum of three hundred (300) square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site. Recreational vehicles shall be parked in spaces so that:

12.E.2.A.1 There shall be a minimum of fifty (50) feet between vehicles; and

12.E.2.A.2 There shall be a minimum of seventy-five (75) feet between all recreational vehicles and tents, and all public rights-of-way located inside the boundaries of the campground.

12.E.2.B Vehicular access shall be provided onto a hard-surfaced road adequate for the volume and type of traffic likely to be generated. Grades and sight distances specified in the town's subdivision standards shall be observed in designing all intersections. Roads shall be constructed of at least 12 inches of 6' minus gravel, 2" of crushed gravel (1/2" chips) and two applications of liquid asphalt (1/2 gallon per sq. yd. each application). The minimum width of roadways shall be twelve (12) feet for one-way roads and twenty-two (22) feet for two-way roads. No vehicle parking shall be permitted on the roadway.

12.E.3 Health and Safety

- 12.E.3.A Each recreational vehicle, tent, or shelter site shall be provided with a picnic table and trash receptacle. The park management shall dispose of refuse from said containers by transporting the refuse in a closed truck or in enclosed containers or bags to an approved disposal area at least once every three (3) days.
- 12.E.3.B A campground shall provide water and sewerage systems, sanitary stations, and convenience facilities in accordance with the regulations of the State Wastewater Disposal Rules. In no case shall less than one (1) toilet and lavatory be provided for each sex for every ten (10) camping and tent sites. All recreational vehicle sites shall be equipped with water and sewage hook-ups, connected to approved distribution or disposal systems.
- 12.E.3.C Fire extinguishers capable of dealing with electrical and wood fires shall be kept in all service buildings. A suitable ingress and egress shall be provided so that every campground may be readily serviced in emergency situations. 24 hour emergency communication service (e.g. telephones) shall be provided.
- 12.E.3.D Each campsite shall be provided with a masonry or metal fireplace, approved in writing by the Fire Chief.

12.E.4 Planning and Review

- 12.E.4.A Roads, parking campsites and required facilities shall be planned in accordance with the basic principles outlined below and shall be shown on the proposed plan which is submitted for review and approval as a conditional use:
 - 12.E.4.A.1 A logical sequence of entry and circulation should be created: entrance, administration and storage, parking campsites, toilets and laundry, playing fields or shoreline.
 - 12.E.4.A.2 Campsites should be clustered in groups according to intensity of use (low density, medium density, etc.) and also related to common support service areas (laundries, play areas, etc.) serving a number of campsite clusters. The purpose is to minimize road length, increase accessibility, and preserve open space.
 - 12.E.4.A.3 Foot paths and roads should follow "desire lines" of pedestrian and vehicular movement between campsites and all jointly used facilities. Parking areas may be grassed, reinforced with open concrete blocks.

12.E.4.A.4 Access roads shall be laid out as loops to the greatest extent that is practicable, although "cul-de-sacs" or "dead-ends" may be allowed to serve up to twenty (20) campsites.

12.E.4.B A soil erosion and sedimentation control approved by the County Soil and Water Conservation District shall be submitted. In addition to data on soils, slopes and drainage, a vegetation map showing the following items may be required:

12.E.4.B.1 The major types of vegetation should be identified and described (as to age, height, openness or density, and pattern, either natural or reforested).

12.E.4.B.2 New planting should be selected to provide screening and shelter, to tolerate existing and proposed site conditions, and to blend compatibly with existing natural vegetation.

12.E.4.B.3 All vegetative clearing should avoid creating straight-line edges between open land and surviving stands.

12.E.4.B.4 Areas of activity and/or traffic should be sited to avoid wildlife areas (such as thickets for birds and small mammals, or deer yards and trails).

12.F Cluster Developments (moved to Subdivision Ordinance Article 10.20 on 3/5/10 per referendum vote)

12.G Recreational Facility

All recreation facilities shall meet the provisions below.

12.G.1. There shall be provided adequate off-street parking for the anticipated maximum attendance at any event.

12.G.2. Containers and facilities for rubbish collection and removal shall be provided.

12.G.3. Adequate screening, buffer area, or landscape provisions shall be built, planted, or maintained, to protect adjacent residences from adverse noise, light, dust, smoke, and visual impact.

12.H Extractive Industry

12.H.1. Permit Not Required

The following activity shall be allowed without a Conditional Use Permit from the Planning Board:

- 12 H 1. A The removal or transfer of less than one hundred (100) cubic yards of material from or onto any lot in any twelve (12) month period
- 12 H 1. B The removal, or transfer of material incidental to construction, alteration or repair of a building for which a permit has been issued or in the grading and landscaping incidental thereto, and
- 12 H 1. C The removal or transfer of material incidental to construction, alteration or repair of a public or private way or essential service.

12 H2 Permit Required

- 12 H 2 A Unless exempted above, topsoil, rock, sand, gravel and similar earth materials may be removed from locations where permitted under the terms of this Ordinance only after a Conditional Use Permit for such operations has been issued by the Planning Board. All other extraction, processing and storage shall require a Conditional Use Permit from the Planning Board.
- 12 H 2 B The removal or transfer of one hundred (100) cubic yards to five hundred (500) cubic yards of material from or onto any lot in any twelve (12) month period in permitted areas requires a permit. See Land Use Table for permitting authority.

12 H3 Submission Requirements

- 12 H 3 A Applications to the Planning Board for a Conditional Use Permit for the excavation, screening, crushing or storage of soil (including topsoil), peat, loam sand, gravel, rock, or other mineral deposits shall be accompanied by a plan prepared according to the performance standards herein, in compliance with applicable State Laws, and accompanied by all required State Permits or Licenses.

Existing operations which have not yet received a Planning Board Permit pursuant to the Gravel Pit Ordinance of Livingston, now superseded by this Ordinance, have sixty (60) days from the effective date of this Ordinance to apply to the Planning Board for a permit.

The submission requirements and the approval standards shall be the same as for new operations, provided however, the Planning Board may grant a waiver from such standards where necessary to avoid undue hardship, so long as any such waiver does not jeopardize the health, safety, and welfare of the community as otherwise provided in this ordinance.

- 12 H 3 B The applicant shall submit plans of the proposed extraction site showing the property lines and names of abutting owners and ways, indicating not greater than five (5) foot contour intervals, relating to U.S. Geodetic Survey data;

- 12. H3. B 1. The location and slope of the grades, existing and as proposed upon completion of the extraction operation; and
- 12. H3. B 2. Detailing proposed:
 - A fencing
 - B buffer strips
 - C signs
 - D lighting
 - E parking and loading areas
 - F entrances and exits
 - G a written statement of the proposed method, regularity, working hours and
 - H proposed rehabilitation and restoration of the site upon completion of the operation
- 12. H3. C The Planning Board may require the additional submission of a hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality within the general area.
- 12. H3. D Plans for the proposed extraction site shall include:
 - 12. H3. D1 A standard boundary survey of the property lines.
 - 12. H3. D2 Names and addresses of owners of abutting property.
 - 12. H3. D3 Existing elevations, at not greater than five (5) foot contour intervals as well as the location and slope of the grades proposed upon completion of the extraction operation.
 - 12. H3. D4 Proposed fencing, buffer strips, signs, lighting
 - 12. H3. D5 Parking and loading areas, entrances and exits.
 - 12. H3. D6 A written statement of the proposed method, regularity, working hours.
 - 12. H3. D7 Proposed plans and specifications for the rehabilitation and restoration of the site upon completion of the operation.
 - 12. H3. D8 An estimate of the elevation of the seasonal high water table within the excavation site shall be submitted. The Planning Board may require the additional submission of a hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality within the general area.

12 H4 Performance Standards

- 12 H4.A No part of any extraction operation shall be permitted within one hundred and fifty (150) feet of any property or street line, or three hundred (300) feet from a dwelling unit, except that drainage ways to reduce run-off into or from the extraction area may be allowed up to one hundred (100) feet of such line. Natural vegetation shall be left and maintained on the undisturbed land.
- 12 H4.B If any standing water accumulates, the site shall be fenced in a manner adequate to keep children out. Measures shall be taken to prevent or halt the breeding of insects.
- 12 H4.C No slopes steeper than three (3) feet horizontal to one (1) foot vertical shall be permitted at any extraction site unless a fence at least six (6) feet is erected to limit access to such locations.
- 12 H4.D Before commencing removal of any earth materials, the owner or operator of the extraction site shall present evidence to the Planning Board of adequate insurance with a company licensed to do business in the State of Maine, in an amount not less than \$1,000,000 against liability arising from the proposed extraction operations, and such insurance shall be maintained throughout the period of operation.
- 12 H4.E Any topsoil and subsoil suitable for purposes of re-vegetation shall, to the extent required for restoration, be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased. Such stockpiles shall be protected from erosion, according to the erosion prevention performance standards of this section.
- 12 H4.F Sediment shall be trapped by diversions, silting basins, terraces and other measures designed by a professional engineer.
- 12 H4.G The sides and bottom of cuts, fills, channels, and artificial water courses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Mine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications.
- 12 H4.H Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Maine Department of Marine Resources, the Department of Environmental Protection, and/or the Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board.
- 12 H4.I The hours of operation at any extraction site shall be limited as the Planning Board deems advisable to ensure operational compatibility with nearby residences.

- 12. H4.J. Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods shall be subject to approval by the Road Commissioner. No mud, soil, sand, or other materials shall be allowed to accumulate on a public road from loading or hauling vehicles.
- 12. H4.K. All access/egress roads leading to or from the extraction site to public ways shall be treated with suitable materials to reduce dust and mud for a distance of at least three hundred (300) feet from such public ways.
- 12. H4.L. No equipment debris, junk or other material shall be permitted on an extraction site. Any temporary shelters or buildings erected for such operations and equipment used in connection therewith shall be removed within thirty (30) days following completion of active extraction operations.
- 12. H4.M. The applicant's plans shall specify a close out and rehabilitation plan. Rehabilitation should begin as soon as possible in accordance with the time limits established in the close out/rehabilitation plan. A yearly report shall be filed with the Code Enforcement Office indicating the progress of the rehabilitation until the pit is closed and the rehabilitation, including all planting, has been completed.

If any substantial change is desired by the owner or operator to the close out/rehabilitation plan, the plan shall be resubmitted to the Planning Board for review and action, because only the Planning Board is authorized to approve any substantial alteration to a Conditional Use Permit. Substantial shall be defined in this context to include a change in the timetable of more than six (6) months as set forth in the plan.

Within six (6) months of the completion of extraction operations at any extraction site or any one or more locations within any extraction site, ground levels and grades shall be established in accordance with the approved plans filed with the Planning Board.

- 12. H4.M1. All debris, stumps, boulders, and similar materials shall be removed or disposed of in an approved location or, in the case of inorganic materials, buried and covered with a minimum of two (2) feet of soil.
- 12. H4.M2. The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used.
- 12. H4.M3. Storm drainage and water courses shall leave the location at the original natural drainage points and in

a manner such that the amount of drainage at any point is not significantly increased

12. H4. M4. At least four (4) inches of topsoil or loam shall be retained or obtained to cover all disturbed areas, which shall be reseeded and properly restored to a stable condition adequate to meet the provisions of the "Environmental Quality Handbook, Erosion and Sediment Control", as amended or revised, published by the Maine Soil and Water Conservation Commission

12. H4. M5. No slope greater than three (3) feet horizontal to one (1) foot vertical shall be permitted

12. H4. N. Prior to beginning excavation on the site the applicant shall file with the town a bond payable to the Town of Limestone with sureties satisfactory to the Planning Board, or some other form of security including but not limited to, an escrow account, a security deposit, a passbook or letter of credit. In determining the amount of the bond or the security, the Planning Board shall take into consideration the characteristics of the site, the excavation plan, and the rehabilitation plan which may call for a phased plan for closing out each section of the pit as it is exhausted. In no instance shall the amount be less than one hundred and twenty-five (125) percent of the estimated cost of rehabilitation. All proceeds of forfeited bonds or other security shall be expended by the Town for reclamation of the area for which the security was posted, and any remainder shall be returned to the operator or owner.

If the operator has partially reclaimed the land, the Planning Board shall issue to the operator a release of such securities as the Town has held on deposit to cover the part of the reclamation, so long as the remaining amount of security held by the Town is deemed sufficient to cover the cost of the remainder of the reclamation

Within sixty (60) days after the date of completion of reclamation provided in the mining plan, the operator shall file with the Planning Board a final report containing such information as shall be determined by the Planning Board. Upon the filing of the final report, and upon determination that this article has been complied with, the Planning Board shall release the securities, if any, still in the Town's possession.

If the owner of a site does not begin to rehabilitate the site within six (6) months of when the reclamation plan schedules rehabilitation, or discontinues use of the site as defined herein without rehabilitating the site, the Town may enter the site, perform the work required to meet the rehabilitation plan, and place a lien on the property to collect any expenses it incurs for which it does not have performance guarantees.

12.H5 Existing Operations

Discontinuation of any existing non-conforming operation for a period of more than one (1) year shall result in the loss of "grandfathered" status for that operation. Discontinuation is defined as being the excavation, processing or storage of less than five hundred (500) cubic yards of material.

12.H6 Renewal Submissions

Submissions for renewal of permits in this category must be accompanied by a certification from a qualified firm that noise levels are within those specified in the General Performance Standards section of this Ordinance.

12.I Ground Water and or Spring Water Extraction and/or Storage

Purpose

The purpose of these regulations is to protect the quality and quantity of ground water, spring water and/or water in aquifers and their recharge areas located wholly or partially within the Town of Livingston, to insure that any large scale water extraction is subjected to prior review and approval so as to establish the ongoing sustainability and quality of said water supplies and the avoidance of any interruption or degradation of water quality and quantity to members of the general public within the Town and generally to protect the health, safety and welfare of persons dependent upon such water supplies.

Authority

These regulations are adopted pursuant to 22 MRS A 2642 (' Municipal Regulations Authorized ') and the Mine Constitution, Article VII, Part Second and 30 A MRS A 2101 et seq (' Municipal Home Rule ').

12.I.1 Definitions

Words and phrases, unless their context requires otherwise, shall be defined as they are in Article 2 - Definitions of this Ordinance. First as set forth in Article 2, second in accordance with their generally accepted technical meaning within the involved scientific disciplines, third as defined by Mine Statutes, and fourth their dictionary definition.

12.I.2 Large Scale Water Extraction

12.I.2.A Permit Required

The daily (meaning on any given day) extraction of more than five thousand (5000) gallons of ground water, spring water and/or water from aquifers or their recharge areas by any one entity or person, or consortium or association of entities or persons acting in concert, regardless of the number of extraction

facilities utilized, shall require a written permit issued by the Planning Board, after a public hearing.

12.I.2 B Inapplicability

The requirements of review and approval shall not apply to extraction of water which is to be used within the Town of Lington for standard agricultural purposes; drinking water and domestic water supply to private residences within the Town of Lington; water supply for public facilities such as schools within the Town of Lington; fire suppression; or for on-site residential, commercial and industrial purposes within the Town of Lington to the limit of their historical use of water which exists as of the date of the adoption of these regulations.

12.I.2 C Application Requirements

1. The application shall be in writing and be accompanied by the site plans prepared by a licensed surveyor, licensed engineer, or similar appropriately licensed professional.
2. The application shall include:
 - (a) Evidence of applicant's right, title and interest in and to the property(ies) from which the water is extracted. If such evidence is other than outright ownership and title as evidenced by a deed duly recorded in the York County Registry of Deeds, the entire document/documentation whether by lease, option, contract or otherwise establishing right, title and interest shall be submitted with the application.
 - (b) A statement of the total maximum daily quantity of water to be extracted, from all extraction points operated by the same individual or entity, or consortium or association of individuals or entities.
 - (c) The location(s) of the points of extraction.
 - (d) The method(s) of extraction.
 - (e) The proposed use for which the water is to be extracted, including the identity of any end user of the extracted water whose facilities for use, processing, transporting, storage, bottling, sales or other similar activities are located outside of the Town of Lington.
 - (f) A copy of any application and exhibits and reports for such extraction filed or to be filed with any other municipal authority or any agency or department of the State of Maine, including as required by 22 M.R.S.A. 2660-A et seq. (transport of water for commercial purposes), or under applicable Department of Human Services rules and regulations.

- (g) A copy of any permit, approval, or denial for such extraction as may have been issued by any agency referred to in (f) above.
- (h) A written report, certified to the Licensing Board procured and paid for by the applicant, of a hydrogeologic investigation and study, conducted and prepared by a licensed professional hydrogeologist, geologist, hydrologist, registered professional engineer or other appropriately licensed professional possessing in the judgment of the Licensing Board, comparable credentials and qualifications. The report must address at the least the following:
 - (1) The rates of draw down and recharge of any aquifer or other ground water source as may have been established by a pumping or 'stress test' or other similar testing regime in accordance with accepted standards within the geology and engineering professions.
 - (2) The characteristics of the aquifer or other ground water source, including rates of draw down and recharge, sustainable extraction rates, aquifer boundaries, recharge areas, impacts on the water table, and impacts on any and all existing water bodies including but not limited to, lakes, ponds, rivers, streams and wetland areas, and private wells or other existing extraction locations within the zone of contribution.
 - (3) Possible effects on the aquifer or other ground water resources which might result in the disturbance of existing minerals such as, but not limited to, iron, manganese, arsenic, and uranium and any health hazards raised by such disturbances(s) or other impacts including issues such as drinking water turbidity, clarity and aroma.

3. The application shall be accompanied by:

- (a) Written notification of the application and an explanation of the intent, scope and location of the proposed water extraction interests readily understandable to a layman to be addressed and mailed to, via certified mail, return receipt requested, the following:
 - (1) The owners of record of all parcels of land lying above the aquifer or other water source cited in the application.
 - (2) The owners of record of all parcels of land lying within 500 feet of the outside perimeter of the aquifer or other water source cited in the application.
 - (3) The owners of record of all parcels of land having frontage on any body of water whether lake, pond, river, stream or wetland within five hundred (500) feet of the outside perimeter of the aquifer or other water source cited in the

application, even though such individual parcels may themselves lie more than five hundred (500) feet from the outside perimeter of said aquifer or other water source.

- (4) For purposes of these notification requirements an applicant is entitled to rely on information on file at the Livingston Town Office as represented by its most recent assessors' maps and the mailing addresses maintained by the Town as to the owners of the affected parcels shown hereon. Actual posting of the certified mail notices is not required until the application is declared or deemed to be complete (See D (6) below)
- (5) For good cause shown, the above notice requirements may be modified by the Planning Board where, for example, it can be established that a body of water, a portion of which lies within 500 feet of the outside perimeter of the aquifer or other water source, extends so far from the proposed extraction point(s) that actual notice to the owners of all land having frontage on that body of water is not necessary.

(b) A small scale site plan depicting at least the following:

- (1) The limits (outside perimeter) of the aquifer or other water source cited in the application, and the bounds of the land of the applicant.
- (2) The location of all water bodies located within five hundred (500) feet of the outside perimeter of the aquifer or other water source.
- (3) The location(s) of the proposed extraction points.
- (4) The existing network of public or private roads leading to or by the extraction point(s).
- (5) Any proposed new streets or drive ways to be constructed for access to and egress from the extraction point(s), and the point(s) of intersection of such proposed streets or drive ways with existing streets.
- (6) Any existing or proposed utility lines to be utilized in the extraction operation(s).
- (7) The location and type of monitoring and test wells.
- (8) Any existing or proposed pipes, pipelines, aqueducts or similar that are intended to facilitate transport of extracted water from the extraction point(s) towards the intended end user, if any part of the extracted water is ultimately to be

transported outside the geographic limits of the Town of
Lington.

- (9) Any other relevant and material detail(s) bearing on the proposed extraction process, the omission of which would tend to hinder the ability of the reviewing authority, affected land owners, or the public from developing a full understanding of the scope and impact of the proposal.

(c) A large scale site plan depicting at least the following:

- (1) A detailed plan of the extraction point(s), including without limitation, well heads, pumping facilities, monitoring or test wells, buildings, sheds, paving, vehicular drives, parking and turn around, utility lines, fencing, access roads or driveways, elevation and contour lines.
- (2) Any other relevant and material detail(s) bearing on the proposed extraction process the omission of which would tend to hinder the ability of the reviewing authority, affected landowners or the public from developing a full understanding of the scope and impact of the proposal.

12.I.2.D Application Process

1. The entire application, including studies, reports, site plans and all other items referred to in 12.I.2.C above shall be submitted to the Planning Board in triplicate.
2. The Planning Board shall have thirty (30) days from the date of submission to conduct a preliminary review of the application solely for the purpose of determining whether the application is complete as required by these regulations. For good cause shown, and upon receipt of confirmatory independent technical advice, the Planning Board may waive one or more of the application details upon a determination that such details are unnecessary, unobtainable as a practical matter, or duplicative and that such waiver would not tend to hinder the ability of the Planning Board, affected landowners or the public from developing a full understanding of the scope and impact of the proposal.
3. If within said thirty (30) day period the Planning Board deems the application incomplete in any material or relevant respect it shall so inform the applicant by the best practical means, either by writing or verbally at a regularly scheduled meeting of the Planning Board at which the applicant, or its duly authorized representative, is present after which the applicant shall have a reasonable period of time, not to exceed sixty (60) days, to complete its application in accordance with these regulations, upon failure of which the applicant shall be deemed withdrawn.

4. If by the end of said thirty (30) day period for review for completeness the Planning Board has not informed the applicant the application is incomplete, it shall as a result be deemed complete, in which case the Planning Board shall schedule a public hearing on the application at a date not later than sixty (60) days from the date the application was originally submitted, or not later than sixty (60) days from the date a supplemented application originally deemed incomplete, was reviewed for completeness and declared (or deemed by the passage of a thirty (30) day period) complete.
5. Any review of the application by the Planning Board or its agent for completeness is preliminary only and is not to be deemed a substantive review and confers no vested right upon the applicant or under the application. Substantive review shall not be deemed to occur until the convening of a public hearing on the application under these requirements.
6. Applicant's obligation of written notification via certified mail of property owners as set forth in 12.I.C.3 above shall not accrue until the application is declared or deemed complete under these regulations.

12.I.2.E Review Process; Hearing Process

1. The completed application shall be reviewed by the Planning Board at a public hearing convened for that purpose, pursuant to fifteen (15) days published notice in a newspaper of general circulation within the Town of Lington and posting of notice at three conspicuous public places within the Town, and upon confirmation on the hearing date that certified mail notice has been sent to all affected landowners as previously set forth in these regulations.
2. The Planning Board shall be entitled to adopt whatever procedural rules for the hearing including the imposition of reasonable time limits for the presentations of the applicants, opponents, if any, and the general public, it deems appropriate, fair and reasonably calculated to afford a full consideration of the issues pertaining to the application.

12.I.2.F Decision Performance Standards

1. Upon the adjournment of the public hearing the Planning Board shall schedule a public session of the Planning Board, to occur not later than thirty (30) days from the final adjournment of the public hearing, to deliberate and render a decision.
2. The Planning Board's decision may be:
 - (a) To approve the application;
 - (b) To deny the application; or

- (c) To approve the application conditionally, with conditions or stipulations upon the satisfactory completion of which the application will be finally approved. Provided however, any approval (conditional or unconditional) shall require the Planning Board's determination that the applicant has satisfied all of the performance standards set forth below
 - (d) Any approval shall specify that it is only for a daily extraction total not exceeding the maximum daily quantity set forth in the application, and any increase in such daily totals shall require further application and review in accordance with these regulations.
3. The Planning Board shall issue a written decision with findings of fact and rulings and conclusions not later than thirty (30) days from the date on which it votes at a public session to approve, deny, or approve with conditions, and a copy of such written decision shall thereupon promptly be provided to applicant and otherwise be available publicly.
 4. Any extraction authority granted hereunder shall be for a period not to exceed three (3) years, but may be renewed subject to the same criteria contained herein
 5. With respect to an application for a permit renewal if, after notice and hearing as referred to in Article E above, the reviewing authority finds the following a renewal permit for another three (3) year period shall be issued
 - (a) There is no increase in the permit holder's extraction activities in terms of the quantity of water to be extracted, and
 - (b) There is no change in the location or configuration of the extraction facility, and
 - (c) There has been no material failure by the permit holder to comply with any conditions of the expiring permit; and
 - (d) There has been no material failure by the permit holder to meet the performance standards applicable to the expiring permit; and
 - (e) There is no significant, credible evidence that the permit holder's continuing operation would be unable to meet the performance standards of the regulation during any renewal period
 - (f) Any application for a renewal permit must be filed with the reviewing authority not less than ninety (90) days prior to the expiration of the existing permit.

12.L.3 Performance Standards

No approval shall be granted any application until and unless the reviewing authority shall have affirmatively found that each of the following performance standards has been or will be met, the burden of establishing and demonstrating compliance with which is solely the applicant's. The applicant must also demonstrate to the reviewing authority that it possesses the expertise and financial resources to provide continuing adherence to these standards.

12.1.3 A Geologic and Hydrologic Standards

1. The quantity of water to be extracted will not cause undesirable changes in ground water flow patterns relating to the aquifer, its recharge areas, or other ground water sources within the Town.
2. The quantity of water to be extracted will not negatively impact, diminish or alter any surface waters within the Town, including during any period of drought.
3. The quantity of water to be extracted will not cause any ground subsidence beyond the property lines of applicant's property.
4. The quantity of water to be extracted will not adversely affect the long term sustainability of the aquifer, or its recharge areas, or other ground water sources, including during periods of drought.
5. The proposed extraction will not create a health risk or issues such as drinking water turbidity, clarity or aroma resulting from the disturbance of existing minerals, or from any other cause, with ongoing follow up monthly testing for this purpose, results to be provided in writing to the Licensing Code Enforcement Officer on at least a monthly basis.
6. The establishment of an ongoing follow up monitoring system and development of a system of recording and documenting extraction and recharge data, within the zone of contribution, to be reported in writing to the Licensing Code Enforcement Officer on at least a monthly basis. At least twenty-five (25) percent of monitoring locations shall be private wells located within the zone of contribution.

12.1.3 B Impacts on General Vicinity

1. The applicant assumes any and all liability for the loss, interruption, degradation or interference with the pre-existing beneficial domestic use of ground water by a landowner or lawful land occupant, or other public or private water supply, caused by applicant's withdrawal or extraction of water.

For purposes of this section, 'beneficial domestic use', 'ground water' and 'pre-existing use' shall be as defined by 38 MRS A 404 - 1A C

For purposes of this section, liability of applicant shall be for compensatory damages only and shall be limited to the following:

- (a) All costs necessary to restore the landowner or lawful land occupant to a status which is reasonably equivalent in terms of quantity and quality of groundwater made, available on a similarly accessible and economic basis;
- (b) Compensatory damages for loss or damage to property, including with limitation, the loss of habitability of residence, caused to the landowner or lawful land occupant by reason of the interference prior to restoration of the status provided for in sub-paragraph (a); and
- (c) Reasonable costs, including expert witness and attorney fees incurred in initiating and prosecuting an action when necessary to secure a judgment granting the relief provided for under this section.

The reviewing authority shall require the furnishing of a bond or other performance guaranty is deemed of equivalent security to secure the applicant's obligation under this section.

- 2. Provision shall be made for vehicular access to extraction facility(ies) and for circulation, loading and unloading upon the lot in such a manner as to safeguard against hazards to traffic and pedestrians on adjacent streets or roads, to avoid traffic congestion with traffic safety hazards, or other safety risks.
- 3. Any drive ways or access roads to the extraction facility(ies) shall be designed in profile and grading and located so as to provide sight distance as set out in the Linington Zoning Ordinance, Article 11. A and 11.J. and State DOT requirements.
- 4. Drive ways or access roads to the extraction facility(ies) shall conform to the standards set out in the Linington Zoning Ordinance, Article 11. A and 11.J. and State DOT requirements.
- 5. Additional vehicular demand on existing town roads or public easements occasioned by the operation of the extraction facility(ies) will not exceed the capacity of those roads, or cause the premature failure, aging or diminished utility of those roads.
- 6. To the extent the extraction facility(ies) will be served by pipes, pipelines, aqueducts or similar that such installations will be sited and constructed in a manner which will not interrupt the public's use of any existing street; interrupt the public's access to any public facility great pond or similar; interrupt private access to private property, or pose the risk of damage to any property along or through which such installation traverses as a result of any failure or malfunction which might cause ponding, erosion, run off or similar.
- 7. The proposed extraction and activities incident to such extraction such as increased traffic (volume and type), parking hours or operation, noise,

glare from lights, or similar potential for nuisances are unlikely to cause a negative impact on adjacent properties and the nearby vicinity as a whole.

12.I.3.C Extraction for Commercial Purposes and/or Bulk Water Transport out of Lington

In addition to the foregoing performance standards, any application for an extraction permit which includes or contemplates the transport of water in excess of five thousand (5,000) gallons per day out of the Town of Lington must also meet the following standards and requirements:

1. The Town must have received a copy of any application filed with any state agency, under the provisions of 22 MRS A 2660-A, or the Bulk Water Transport Rules of the Department of Human Services, contemporaneous with its filing with the State and a copy of any decision pertaining thereto.
2. Transport of water will not constitute a threat to public health, safety, or welfare.
3. Water is not available naturally in the location to which it will be transported.
4. Failure to authorize transport of the water would create a substantial hardship to the potential recipient of the water, and
5. The water withdrawal will not adversely affect existing uses of groundwater or surface water resources, including private wells.

12.I.4 Independent Expert Assistance

If the reviewing authority reasonably determines it requires independent expert assistance to assist it in its preliminary review of the application, or in evaluating the substance of the application at a public hearing, or in developing appropriate conditions of approval, it may engage the services of such expert assistance, to serve as the reviewing authority's own expert. To the extent the projected or estimated cost of such assistance exceeds the existing Town appropriation for such assistance, if any, the applicant shall be required to pay to the Town, in advance of the scheduling of any public hearing, a sum equal to said projected or estimated cost, the failure of which payment shall excuse the reviewing authority from scheduling any public hearing until such payment is made in full.

12.I.5 Concurrent Jurisdiction

As applicable, jurisdiction of the Planning Board under these regulations is concurrent with such jurisdiction as may presently be vested in the Lington Planning Board and/or the Lington Board of Appeals (under the Lington Zoning Ordinance) and the Lington Code Enforcement Officer/Local Plumbing Inspector (under the Lington Zoning Ordinance) and is not intended to divest the former of existing jurisdiction as applicable, but rather establishes and imposes additional requirements and procedures as set forth herein.

12.I.6 Enforcement and Severability

These regulations may be enforced by the municipal officers of the Town of Lington under 30 A MRS.A 4452, the fines and penalties set forth therein to apply hereto. Should any section or provisions of these regulations be declared by a court of competent jurisdiction to be invalid, such decision shall not invalidate or effect the enforcement of any other section or provision of these regulations.

As an additional means of enforcement, the Planning Board may suspend or revoke any permit issued hereunder if it determines, after notice and hearing that it was issued in error or upon incomplete or false information, or that applicant has failed to comply with any conditions of approval, and upon such suspension or revocation all water extraction addressed by said permit shall cease until a new approval or permit is obtained under these regulations by the applicant. Any appeal of any suspension or revocation of a permit shall be to the Board of Appeals as an administrative appeal under Article 14, C. I. of the Lington Zoning Ordinance.

12.J. Home Occupations

A home occupation shall be permitted if it complies with all of the requirements of this section.

- 12.J.1. The use of a dwelling unit for a home occupation shall clearly be incidental and subordinate to its use for residential purposes.
- 12.J.2. The number of non-resident employees of a home occupation shall be limited to one (1). More than one requires Board of Appeals approval.
- 12.J.3. A home occupation may not alter the residential character of the structure, neighborhood or change the character of the lot from its principal use as a residence.
- 12.J.4. The home occupation shall be carried on wholly within the principal or accessory structures. The outside storage or display of materials or products shall be screened from view from the abutting properties and street.
- 12.J.5. The Performance Standards in Article 11 of this Ordinance shall apply. If additional parking spaces are provided, they shall be located to the rear or side yard of the principal structure but not within the required yard setbacks.
- 12.J.6. One (1) non-illuminated sign, no larger than two (2) square feet may be erected on the premises.
- 12.J.7. The sale of products shall be limited to those which are crafted, assembled, or substantially altered on the premises, to catalog items ordered off the premises by customers and to items which are accessory and incidental to a service which is provided on the premises.

- 12.J.8 A home occupation shall not involve the use of heavy commercial vehicles for delivery from or to the premises.
- 12.J.9 A home occupation shall not create greater traffic than normal for the area in which it is located or generate more than twenty (20) vehicle trips per day.
- 12.J.10 No nuisance or offensive: vibration, smoke, dust, odors, heat, glare, or electrical disturbance shall be generated. In furtherance of the standard, no commercial or industrial machinery, ovens or other equipment normally associated with a commercial or industrial scale facility shall be used by a home occupation to process goods, materials, or foods.

12 K Hotels/ Motels and Inns

For traffic safety on and immediately adjoining each motel, hotel or inn and to assure health, safety and welfare of occupants and of the neighborhood generally, the following land, space, building, traffic, utility, and service design requirements shall be complied with. For the purposes of this section, the terms hotel, motel and inn are used interchangeably.

- 12.K.1. The minimum lot size for any hotel shall contain not less than three (3) acres of total area. The minimum frontage shall be ten times the posted speed limit of the most traveled way serving the development but not less than two hundred (200) feet lot width at the street and throughout the first two hundred (200) feet of depth of said lot back from the street. Access drive ways into the development shall be at an angle no less than thirty (30) degrees and no more than forty-five (45) degrees to facilitate movement of traffic off the public way and onto the property. Drive ways shall be separated by a minimum of one hundred (100) feet. The curb radius of the intersection of the drive way to public way shall be no less than thirty (30) feet. Access and egress drives shall not exceed a slope of two (2) percent for the first seventy-five (75) feet onto the property.
- 12.K.2 No part of any building on a motel lot shall be closer than sixty (60) feet to the front lot line, rear lot line or either side line of such lot. A green space, not less than twenty (20) feet wide, shall be maintained open and green with grass, bushes, flowers or trees all along each side lot line, the rear lot line, the front line of such lot, except for entrance and exit drive ways. The green space shall not be used for automobile parking.
- 12.K.3 Buildings on a motel lot shall not cover more than fifteen (15) percent of the area of the lot.
- 12.K.4 If cooking or eating facilities are provided in hotel rental units, each rental unit shall be considered a dwelling unit and the hotel shall be required to meet all the standards for multifamily developments in this ordinance including the residential density requirements of the appropriate district.
- 12.K.5 Each motel rental unit shall contain not less than two hundred (200) square feet habitable floor area enclosed by walls and roof, exclusive of any adjoining portions of roofed or covered walkways. Each motel rental sleeping room shall

not be less than twelve (12) by fifteen (15) feet horizontal dimensions, exclusive of bath. Each rental unit shall include private bathroom facilities.

- 12. K.6. On each hotel lot, one (1) apartment may be provided for a resident owner, manager, or other responsible staff person.
- 12. K.7. Hotel building construction plans shall be reviewed and approved by the State Fire Marshall's Office.
- 12. K.8. Parking spaces shall be designed to accommodate the traveling public by a minimum space width of ten (10) feet and space depth of twenty (20) feet for perpendicular spaces. Angled parking space width and depths shall be increased by ten (10) percent and twenty-five (25) percent above the standards contained in this Ordinance.

12. L. Kennels and Veterinary Hospitals

- 12. L.1. Structures or pens for housing or containing the animals shall be located not less than one hundred (100) feet from the nearest residence other than the owners' existing at the time of permit.
- 12. L.2. All pens, runs, or kennels, and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties. Among the factors that shall be considered are the relationship of the use to the topography, natural and planted horticultural screening, the direction and intensity of the prevailing winds, the relationship and location of residences and public facilities on nearby properties, and other similar factors.
- 12. L.3. The owner or operator of a kennel shall maintain the premises in a clean, orderly, and sanitary condition at all times. No garbage, offal, feces, or other waste material shall be allowed to accumulate on the premises. The premises shall be maintained in a manner that they will not provide a breeding place for insects, vermin or rodents.
- 12. L.4. Temporary storage containers for any kennel or veterinary wastes containing or including animal excrement shall be kept tightly covered at all times and emptied no less frequently than once every four (4) days. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required for outdoor runs.
- 12. L.5. If outdoor dog "runs" are created, they shall be completely fenced in, and shall be paved with cement, asphalt or a similar material to provide for cleanliness and ease of maintenance.
- 12. L.6. Any incineration device for burning excrement-soaked waste papers and/or animal organs or remains shall be located a minimum distance of four hundred (400) feet from nearest residence other than the applicants, and shall have a chimney vent not less than thirty-five (35) feet above the average ground elevation. The applicant shall also provide evidence that he has obtained approval from the Mine Department of Environmental Protection for the proposed

incinerator, and that it meets state standards for particulate emissions, flue gas temperature, and duration of required flue temperatures.

12 L 7. All other relevant performance standards in Article 11 of this Ordinance shall also be observed.

12 M Manufactured Housing

12 M1. The Town of Linnington finds that in order to ensure that manufactured housing located in the Town is reasonably safe for human habitation that all manufactured housing units to be moved into the town after the effective date of this Ordinance shall meet either the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Chapter 70, or the standards set forth in Appendix A 'Suggested Safety Standards for Older Mobile Homes'.

12 M3 Mobile Home Parks

12 M3 A Mobile home parks shall meet all the requirements for a residential subdivision, and shall conform to all applicable State laws and local ordinances.

12 M3 B The minimum area of land within a park shall be ten (10) acres.

12 M3 C Lots in a mobile home park shall meet all the dimensional and area requirements for single family dwellings for the district in which the park is situated, or be laid out in accordance with the Cluster Development provisions of this Ordinance. If laid out in accordance with the provisions of the Cluster Development section, the following shall apply:

12 M3 C 1 Size of individual mobile home lots.

A Each individual mobile home lot which is served by an on-lot subsurface waste water disposal system shall be not less than twenty thousand (20,000) square feet in area, and shall be not less than one hundred (100) feet wide.

B Each individual mobile home lot which is served by an off-site waste water disposal system shall be not less than five thousand (5,000) square feet in area, and shall be not less than seventy-five (75) feet wide.

C Each individual mobile home lot located wholly or partly within a Shoreland District shall meet the minimum lot size requirements of the Shoreland District.

12. M3. C2 No mobile home shall be located less than twenty-five (25) feet from any lines of an individual lot.

12. M3. D A continuous landscaped area not less than fifty (50) feet in width, containing evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier shall be located on all exterior lot lines of the park, except that drive ways shall be kept open to provide visibility for vehicles entering and leaving the park.

12. M3. E All mobile homes shall be equipped with adequate skirting to enclose the underside of the mobile home.

12. N Multi-family Developments (moved to Subdivision Ordinance Section 10.21 on 3/5/10 per referendum vote)

12. O Professional Offices in Non-Commercial Districts

In a non-commercial district, professional offices may be permitted as a conditional use in those districts indicated on the Land Use Table and in accordance with the provisions below.

12. O1. New professional offices shall be located only within existing buildings, in order to retain the essential character of the neighborhood, except as allowed in section 12. O5 below.

12. O2. Parking for professional offices should be located to the side or rear of the building and be screened from view from all streets and abutting residential properties.

12. O3. All outdoor lighting shall be directed in such a manner as to avoid "overspill" onto abutting residential properties, or glare into the street.

12. O4. Exterior alterations shall be minimized and shall be similar to the original architectural style of the building.

12. O5. In special situations where a building is extremely dilapidated and structurally unsound and where re-use is therefore not practicable or economically feasible, or where a building is not judged to be a significant component of the neighborhood's overall architectural and historic character, the Planning Board may approve plans to replace an existing residential building with a proposed new professional office building whose scale and design would be appropriate to the site and to the neighborhood.

12. P Restaurants

12. P.1. The application for a permit shall state the maximum seating capacity of the restaurant. Any expansion or enlargement over the stated capacity shall require a new permit.

- 12.P.2. When subsurface waste water disposal is proposed, completed soil evaluation forms (HHE-200) shall be submitted. All proposed subsurface disposal systems shall meet the Mine State Subsurface Wastewater Disposal rules.
- 12.P.3. Loading and waste disposal facilities shall be located to the side or rear of the building and shall be screened from abutting residences within two hundred (200) feet. Screening shall be comprised of a continuous landscaped area not less than eight (8) feet in width, containing evergreen shrubs, trees, fences, walls, berms, or any combination, forming a visual barrier not less than six (6) feet in height.
- 12.P.4. All restaurants must meet applicable State of Mine rules and statutes.

12 Q Schools, Colleges, Churches, Fraternal Organizations, Not-for-Profit Clubs

Public and private schools, colleges, churches, fraternal organizations, and not-for-profit clubs shall meet the provisions below

- 12.Q.1. A green strip, suitably landscaped, at least twenty (20) feet wide shall be provided along all property lines, except where drive ways enter and exit.
- 12.Q.2. No building shall be closer than fifty (50) feet from a property line.
- 12.Q.3. When adjacent to residences within two hundred (200) feet, parking areas and outdoor activity areas shall be effectively screened from view by a continuous vegetative barrier or stockade fence not less than six (6) feet in height.

12 R Wireless Telecommunications Facilities

The purpose of this Ordinance is to provide a process and a set of standards for the construction of wireless telecommunications facilities in order to implement a municipal policy concerning the provision of wireless telecommunications services, and the siting of their facilities;

Establish clear guidelines standards and time frames for the exercise of municipal authority to regulate wireless telecommunications facilities;

Allow competition in telecommunications service;

Encourage the provision of advanced telecommunications services to the largest number of businesses, institutions and residents of the Town of Livingston.

Permit and manage reasonable access to the public rights of way of the Town of Livingston for telecommunications purposes on a competitively neutral basis;

Ensure that all telecommunications carriers providing facilities or services within the Town of Livingston comply with the Ordinance of the Town.

Ensure the Town of Livingston can continue to fairly and responsibly protect the public health, safety and welfare;

Encourage the co-location of wireless telecommunications facilities, thus helping to minimize adverse visual impacts on the community;

Enable the Town of Livingston to discharge its public trust consistent with rapidly evolving Federal and State regulatory policies, industry competition and technological developments;

Further the goals and policies of the Comprehensive Plan, while promoting orderly development of the Town with minimal impacts on existing uses; and

Protect the scenic and visual character of the community.

The location and installation of new transmitter towers and alternative communication towers including the replacement of existing towers shall conform to the following standards:

12 R.1. Design Criteria

- 12 R.1. A The tower shall be a free standing monopole design. Lattice style towers and similar facilities requiring three (3) or more legs and/or guy wires for support are not allowed unless the Planning Board determines that a monopole is not suitable for the location and that the best interest of the Town will be served by construction of a lattice style tower.
- 12 R.1. B Except where dictated by Federal or State requirements, the Planning Board, at its discretion, may require that a proposed tower be camouflaged or designed to blend with its surroundings. This may include, but is not limited to, having a galvanized finish, being painted gray or in a sky tone above the top of surrounding trees and earth tone below treetop level, or being designed to resemble a tree species similar to those in the area.
- 12 R.1. C Carrier capacity. Wireless telecommunications towers shall be designed to accommodate multiple carriers.
- 12 R.1. D Lighting of towers shall be prohibited unless required by the Federal Aviation Administration. Lighting shall be limited to that needed for emergencies.

12 R.2. Set backs

- 12 R.2. A The tower shall be set back from all property lines a distance equal to at least one hundred and fifty percent (150%) of its height.

12 R.3. Landscaped Buffer for Transmitter Tower Sites

Unless existing vegetation provides a buffer of at least the width of the minimum set back for the zoning district, all property lines along the roadway or visible to existing abutting or nearby buildings shall be landscaped as follows:

- (a) 6-8' high ever green shrubs shall be placed in an alternating pattern averaging 5' on center, within 15' of the property boundary.
- (b) At least one row of deciduous, not less than 2' caliper diameter and measured 4 ½' above ground and spaced an average of twenty (20) feet apart and within twenty-five (25) feet of the property boundary.
- (c) In lieu of the foregoing planting requirements, the Planning Board may determine that the existing vegetation may be supplemented to achieve an equivalent means of minimizing the visual impact.

12 R4 Requirements of Other Entities

Proposals for towers submitted after the effective date of this Ordinance amendment shall meet all applicable requirements of Federal and State regulations before local approval is given. The Planning Board may waive this requirement if the applicant demonstrates that application has been made for any relevant Federal and State approvals or, if no approvals are required, that the project conforms to all Federal and State standards or that there are not such standards that apply. If the Planning Board approves an application prior to the applicant receiving all Federal and/or State approvals, the Planning Board shall condition its approval on the receipt of those other approvals.

12 R5 Structural Requirements

12 R.5. A Towers shall be designed and installed in accordance with the standards of the Electronic Industries Association (EIA) Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.

12 R.5. A.1. Height. A new wireless telecommunications facility must be no more than 185 feet in height.

12 R.5. A.2. Structural Standards. A new wireless telecommunications facility must comply with the current Electronic Industries Association/ Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled :Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.

12 R.5. B The applicant's engineer shall provide documentation showing that the proposed tower meets or exceeds the current standards of the American National Standards Institute ANSI/EIA/TIA-222- 'E' for York County relative to wind and 1/2' ice loads.

12 R.5. C For towers placed on buildings or other structures, the applicant shall also provide written certification that the building itself is structurally capable of safely supporting the tower and its accompanying equipment.

12. R.5. D Visual Impact. The proposed wireless telecommunications facility will have no unreasonable adverse impact upon designated scenic resources within the Town, as identified either in the municipally adopted Comprehensive Plan or by a State or Federal agency.

12. R.5. D.1. In determining the potential unreasonable adverse impact of the facility upon the designated scenic resources, the Planning Board shall consider the following factors:

- a. The extent to which the proposed wireless telecommunications facility is visible above the tree line, from the viewpoint(s) of the impacted designated scenic resource;
- b. the type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;
- c. the extent to which the proposed wireless telecommunications facility would be visible from the viewpoint(s);
- d. the amount of vegetative screening;
- e. the distance of the proposed facility from the viewpoint and the facility's location within the designated scenic resource; and
- f. the presence of reasonable alternatives that allow the facility to function consistently with its purpose.

12. R.5. E Noise. During construction, repair or replacement, operation of a back-up power generator at any time during a power failure, and testing of a back-up generator between 8:00 a.m. and 9:00 p.m. is exempt from existing municipal noise standards.

12. R.5. F Historic & Archaeological Properties. The proposed facility, to the greatest degree practicable, will have no unreasonable adverse impact upon a historic district, site or structure which is currently listed on or eligible for listing on the National Register of Historic Places.

12. R.6 Approval Process

No person shall construct or expand a wireless telecommunications facility without approval of the Planning Board or Code Enforcement Officer as follows:

- 12 R 6 1. Expansion of an Existing Facility and Co-location Approval by the Code Enforcement Officer is required for any expansion of an existing wireless telecommunication facility that increases the height of the facility by no more than twenty (20) feet; accessory use of an existing wireless telecommunication facility; or co-location on an existing wireless telecommunication facility.
- 12 R 6 2. New Construction Approval of the Planning Board is required for construction of a new wireless telecommunication facility; and any expansion of an existing wireless telecommunication facility that increases the height of the facility more than twenty (20) feet.

12 R 7. Approval Authority

The Planning Board shall review applications for wireless telecommunication facilities and make written findings on whether the proposed facility complies with this Ordinance.

12 R 8. Approval Process

- 12 R 8 1. Pre-Application Conference All persons seeking approval of the Planning Board or Code Enforcement Officer under this Ordinance shall meet with the Code Enforcement Officer no less than fourteen (14) days before filing an application. At this meeting the Code Enforcement Officer shall explain to the applicant the Ordinance provisions, as well as application forms and submissions that will be required under this Ordinance.
- 12 R 8 2. Application All persons seeking approval of the Code Enforcement Officer or the Planning Board under this Ordinance shall submit an application as provided below. The Code Enforcement Officer shall be responsible for ensuring that notice of the application has been published in a newspaper of general circulation in the community.
- 12 R 8 3. Application for Code Enforcement Officer Approval Applications for permit approval by the Code Enforcement Officer must include the following materials and information:
- 12 R 8 3 A. Documentation of the applicant's right, title, or interest in the property where the facility is to be sited, including name and address of the property owner and the applicant.
 - 12 R 8 3 B. A copy of the FCC license for the facility or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.
 - 12 R 8 3 C. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or

eligible for listing in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).

12. R & 3 D Location map and elevation drawings of the proposed facility and any other proposed structures, showing color, and identifying structural materials.

12. R & 3 E For proposed expansion of a facility, a signed statement that commits the owner of the facility, and his or her successors in interest, to

1. Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response.
2. Negotiate in good faith for shared use by third parties.
3. Allow shared use if an applicant agrees in writing to pay reasonable charges for co-location.
4. Require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adopting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

12. R & 4 Application for Planning Board Approval. An application for approval by the Planning Board must be submitted to the Code Enforcement Officer. The application must include the following information:

12. R & 4 A Documentation of the applicant's right, title, or interest in the property on which the facility is to be sited, including name and address of the property owner and the applicant.

12. R & 4 B A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.

12. R 8 4 C A USGA 7.5 minute topographic map showing the location of all structures and wireless telecommunications facilities above one hundred and fifty (150) feet in height above ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed facility, unless this information has been previously made available to the municipality. This requirement may be met by submitting current information (within thirty (30) days of the date the application is filed) from the FCC Tower Registration Database.

12. R 8 4 D A site plan:

1. Prepared and certified by a professional engineer registered in Maine indicating the location, type, and height of the proposed facility, antenna, capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and all applicable American National Standards Institute (ANSI) technical and structural codes.
2. Certification by the applicant that the proposed facility complies with all FCC standards for radio emissions is required.
3. A boundary survey for the project performed by a land surveyor licensed by the State of Maine.

12. R 8 4 E A scenic assessment consisting of the following:

1. Elevation drawings of the proposed facility and any other proposed structures, showing height above ground level.
2. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing; the color of the structure and the proposed lighting method.
3. Photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or their designee, during the pre-application conference. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
4. A narrative discussing:

- a. The extent to which the proposed facility would be visible from or within a designated scenic resource.
- b. The tree line elevation of vegetation within one hundred (100) feet of the facility.
- c. The distance to the proposed facility from the designated scenic resources noted viewpoints.

12 R & 4 F A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.

12 R & 4 G Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, the evidence for which may consist of any one or more of the following:

- 1. Evidence that no existing facilities are located within the targeted market coverage area as required to meet the applicant's engineering requirements.
- 2. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements.
- 3. Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:
 - a. Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.
 - b. The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structure, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.
 - c. Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.

4. For facilities existing prior to the effective date of this Ordinance, the fees, costs, contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this Ordinance.
5. Evidence that the applicant has made diligent good faith efforts to negotiate co-location on an existing facility, building, or structure, and has been denied access.

12. R & 4. H Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed or eligible for listing in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800); and identification of environmental effects of any facility pursuant to the requirements of the National Environmental Policy Act (NEPA).

12. R & 4. I. A signed statement stating that the owner of the wireless telecommunications facility and his or her successors and assigns agree to

3. Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response.
4. Negotiate in good faith for shared use of the wireless telecommunications facility by third parties.
5. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location.
6. Require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return of equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.

12. R 8.4.J. A form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned.

12. R 8.4.K. Evidence that a notice of the application has been published in a local newspaper of general circulation in the community.

12. R.9. Submission Waiver

The Code Enforcement Officer or Planning Board, as appropriate, may waive any of the submission requirements based upon a written request of the applicant submitted at the time of the application. A waiver of any submission requirements may be granted only if the Code Enforcement Officer or Planning Board finds in writing that due to the special circumstances of the application, the information is not required to determine compliance with the standards of this Ordinance.

12. R.10. Abandonment

12. R.10. A. It shall be the responsibility of the owner of a tower to notify the Code Enforcement Officer of the date of abandonment or cessation of use of the tower within one (1) month from the date of such abandonment or cessation. If the owner shall fail to give the notice required by this paragraph, the Code Enforcement Officer shall make a determination of such date, which determination shall be conclusive as to such date.

12. R.10. B. In the case of an abandoned tower, it shall be removed by the owner of the tower within one (1) year of its abandonment or cessation of use. Abandoned structures associated with abandoned towers shall also be removed. If the owner of the abandoned tower fails to remove the tower, the owner of the property on which the tower is located shall be responsible for its removal.

12. R.11. Co-location

Except as otherwise provided below, a new wireless telecommunication facility and related equipment must be designed and constructed to accommodate expansion for the future co-location of at least three (3) additional wireless telecommunication facilities or providers. However, the Planning Board may waive or modify this standard where the district height limitation effectively prevents future co-location.

12. R.11. A. Tower applicants must send written notice by pre-paid first class United States mail to all other telecommunication tower owners and licensed telecommunication providers in the proposed coverage area stating their siting needs and/or co-location capabilities in an effort to encourage tower co-location. An applicant for a new tower must provide evidence that existing or previously approved towers cannot accommodate the telecommunication equipment (antennas, cables, etc.) planned for the proposed tower. Such evidence would be:

1. Planned equipment would exceed the structural capacity of existing and approved towers, considering the existing and planned use of those towers, and existing and approved towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost, as defined below
2. Planned equipment will cause radio wave frequency interference with other existing or planned equipment for that tower, and the interference cannot be prevented as at reasonable cost as defined below
3. Existing or approved towers do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or approved
4. Other reasons that make it impracticable to place the equipment planned by the applicant on existing and approved towers.

12 R 11. B Shared use shall be conditioned on the applicant's agreement to pay a reasonable fee and cost of adapting existing facilities to the proposed use.

1. Such costs shall be pertinent to the southern Maine market area.
2. These may include, but not limited to, reasonable costs for reinforcing the tower or structure, for preventing radio wave frequency interference and other changes reasonably required to accommodate shared use.
3. The fee and costs for shared use are unreasonable, among other reasons, if they exceed the cost of the proposed tower.

12 R 11. C Once the Planning Board has determined that telecommunication equipment proposed by the applicant cannot be accommodated on an existing or approved tower, each tower so found is presumed unable to accommodate similar equipment that may be proposed in the future.

12 R 11. D A proposal to construct a new tower taller than one hundred (100) feet must include evidence that it can structurally support a minimum of three (3) antenna arrays.

12 R 11. E The Planning Board may require evidence of structural support to accommodate additional arrays for non-monopole towers.

12 R 12. Interest of Telecommunication Entity

A proposal to construct a tower must include evidence that a telecommunication or other entity proposes to locate on or use the tower.

12 R13. Lighting

A tower shall be lighted only if it is required by a Federal or State agency or if the Planning Board finds that lighting of the tower is needed due to its location with respect to the Livingston Airport.

12 R14. Security

The base of the tower shall be made non-accessible to unauthorized persons by the installation of a fence designed to deter such access.

12 R15. Non-conformance

Towers existing before the effective date of this Ordinance which do not comply with these performance standards or with the use or dimensional requirements of the zoning district in which they are located, may continue to be used. The addition, removal, or re-location of telecommunication antennas on such towers shall not constitute the expansion or enlargement of the non-conforming use and does not require review by the Planning Board, provided the total height of the tower, including attached devices, is not increased.

12 R16. Inspection

Inspection of communication towers by a licensed structural engineer shall be required to ensure structural integrity. Such inspections shall be at the owner's expense and required as follows:

- A. All towers - upon completion of construction.
- B. Monopole towers - at least once every ten (10) years.
- C. Self-support towers - at least once every five (5) years.
- D. Guyed towers - at least once every three (3) years.

The inspection report shall be provided to the Code Enforcement Officer within thirty (30) days of its receipt by the tower owner. Based upon results of the inspection the Town may require the repair or removal of the communication tower.

12 S. Small Wind Energy Systems

The purpose of this Ordinance is to regulate the placement and construction of small wind energy systems in order to promote their safe, efficient and effective use.

12 S 1 Authority

All small wind energy systems not exceeding a total height of one hundred (100) feet, shall be administered with a building permit from the Code Enforcement Officer (CEO).

12 S 2 Design Criteria

- A No tower, including blades, shall be above one hundred (100) feet in height. For property sizes equal to or greater than five (5) acres, the total number of small wind energy systems shall not exceed three (3). Each system shall be separated at its base by 1.2 times its total height. Each system shall have a maximum 25 Kw turbine.
- B All small wind energy towers shall be set back a minimum horizontal distance of 1.1 times the total height of the tower from property lines, public rights-of-way, easements and dwelling units. New dwelling units shall not be constructed within the fall zone area after a small wind energy system has been constructed and is operating.
- C For all systems, the minimum distance between the ground and any protruding blades shall be twenty (20) feet as measured at the lowest point of the arc of the blade or twenty (20) feet above the highest point of any structure or obstacle within twenty (20) feet from the base of the turbine.
- D It is preferred the tower be a monopole and maintain a galvanized steel finish unless the owner is attempting to conform the tower to the surrounding environment and architecture, in which case it may be painted to reduce visual obtrusiveness. An alternative, engineered design satisfactory to the Code Enforcement Officer may be considered.
- E Towers shall not display any permanent or temporary signs, writing symbols, logos, or any graphic representation of any kind, except appropriate manufacturer's or installer's identification and warning signs.
- F No tower shall be lighted unless required by the FAA.
- G Wind energy towers shall meet the criteria for noise in Section 11. G of this Ordinance.
- H No tower shall have a climbing apparatus within twelve (12) feet of the ground. All access doors or access ways to the tower and electrical equipment shall be lockable.

- I. The system shall be operated and located such that no disruptive electromagnetic interference with signal transmission or reception is caused beyond the site. If it has been demonstrated that the system is causing disruptive interference beyond the site, the system operator shall promptly eliminate the disruptive interference or cease operation of the system.
- J. All small wind energy systems shall be equipped with both manual and automatic over speed controls.

12 S 3 Submission Requirements

- A. A site plan drawn to scale showing the location of the proposed small wind energy system, locations of all existing buildings within the fall zone, structures and property lines along with distances.
- B. Elevation of the site to scale showing the height, design and configuration of the small wind energy system and the height and distance to all existing structures, buildings, electrical lines and property lines.
- C. Manufacturer's drawings and engineering analysis of the system's tower including weight capacity.
- D. Documentation from the manufacturer that the small wind energy system will reduce noise levels in compliance with Section 11. G of this Ordinance.
- E. Specifications and drawings, including power generation capacity of the generator, hub and blade prepared by the manufacturer or a professional engineer. This shall include the height of the tower.
- F. Structural drawings of the wind tower, base or foundation, prepared by the manufacturer or a professional engineer. If attachment to an existing structure is proposed, a description or drawing acceptable to the Code Enforcement Officer shall be submitted.
- G. If connection to the publicly regulated grid is proposed, a copy of the contract between applicant and utility verifying that the proposed connection is acceptable, and/or other evidence making clear that the Utility is aware of the proposed connection and finds it acceptable.
- H. Any additional information deemed necessary by the Code Enforcement Officer.

12 S 4 State and Federal Requirements

- A All small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports. Evidence of compliance or non-applicability shall be submitted with the application.
- B All small wind energy systems must comply with applicable building code, National Electric Code, and other State and Federal requirements.

12 S 5 Removal of Unsafe Small Wind Energy Systems

Any small wind energy system found unsafe by the CEO shall be shut down immediately and repaired by the owner to meet all federal, state, and local safety standards or removed. If the owner fails to repair or remove the system as directed, the CEO may pursue legal action to have the system removed at the owner's expense.

12 S 6 Abandonment

A small wind energy system which is not generating electricity for twelve (12) consecutive months shall be deemed abandoned and shall be dismantled and removed from the property within six (6) months at the expense of the property owner.

12 S 7. Administration

- A The Code Enforcement Officer may attach reasonable conditions to approvals to ensure conformity with the purposes and provisions of this Ordinance. The CEO may condition final approval on receipt of copies of all State or Federal permits required by the project.
- B All approvals shall expire within one (1) year of the date of issuance unless work thereunder is substantially commenced within one (1) year from the date of approval. If work is not substantially completed within two (2) years from the date of issue, a new application may be required by the Code Enforcement Officer.

DEFINITIONS

Small Wind Energy System A wind energy system consisting of a maximum 25 Kw wind turbine, a maximum one hundred (100) foot high tower, footings, electrical infrastructure, fence and any other associated equipment or structures.

Tower: The vertical component of a small wind energy system that elevates the wind turbine generator and attached blades above the ground.

Total Height: The vertical distance measured from a point on the ground at the original grade to the highest point of the wind turbine blade (or other component) when the tip is at full vertical.

Wind Turbine: The parts of the wind energy system including the blades, generator, and tail.

Fall Zone: An area 1.1 times the total height of the small wind energy system

Article 13 Enforcement and Penalties

13. A Enforcement Officer

13. A.1. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he shall notify, in writing the person responsible for such violations, indicating the nature of the violations and ordering the action necessary to correct it. The Code Enforcement Officer shall order the removal of illegal 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. A copy of such notices shall be submitted to the Municipal Officers and be maintained as a permanent record.
13. A.2. The Code Enforcement Officer should maintain a current file of all pertinent Federal, State and local statutes, ordinances, regulations, codes, and plans relating to land-use regulation including local subdivision plans.
13. A.3. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocations of permits, appeals of court actions, violations investigated, violations found, and fees collected. On an annual basis, a summary of this record for all activity within the Shoreland Zone shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

13. B Legal Action and Violations

When any violation of any provision of this Ordinance shall be found to exist, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Lington. The Municipal Officers, or their authorized agents, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

13. C Fines

Any person being the owner, contractor or having control or use of any structure or premises who violates any of the provisions of this Ordinance shall, upon conviction, be fined in accordance with provisions of 30-A M.R.S. A §4452. Each day such a violation is permitted to exist after notification shall constitute a separate offense. Fines shall be payable to the town.

Article 14 Board of Appeals

14 A Establishment and Organization

A Board of Appeals is hereby established in accordance with the provisions of 30-A M R S A Section 2691, which shall consist of five (5) members and two (2) associate members. The term of office of a member or associate is five (5) years serving staggered terms. A municipal officer or his spouse may not be a member or associate member of the Board of Appeals. When a regular member of the Board of Appeals is unable to act because of interest, physical incapacity or absence, an associate member chosen by the chairperson shall act in his stead. Members of the Board of Appeals shall be appointed by the municipal officers. When there is a permanent vacancy, the municipal officers shall appoint a new member to serve for the remainder of the unexpired term. Members of the Board of Appeals may be removed from office by the municipal officers for cause upon written charges and after public hearing. "For cause" shall include failure of a board member or associate to attend three (3) consecutive meetings without the recorded consent of the chairman. The Board of Appeals shall elect officers from its own membership.

14 B Proceedings of the Board of Appeals

The Board of Appeals shall adopt rules necessary to the conduct of its affairs, in keeping with the provisions of this Ordinance and Title 30- A M R S A, Section 2691. Meetings shall be held at the call of the chairman and at such other times as the Board of Appeals may determine. The chairperson, or in his absence, the vice chairperson, may administer oaths. All meetings shall be open to the public. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or of absence or failure to vote, and shall keep records of its examinations and other official actions, all of which shall be a public record and be filed in the Town Clerk's office.

14 C Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers:

14 C.1. Administrative Review

- 14. C.1. A To hear and decide appeals, on a de novo basis, where it is alleged by an aggrieved party that there is a violation or error in any order, requirement, decision, or determination made by the Code Enforcement Officer or Planning Board in the administration and enforcement of this Ordinance, or any appeal designated an administrative appeal in this Ordinance.
- 14. C.1. B To determine whether the criteria of this Ordinance for administrative appeals have been met.

14. C.2 Variances. To authorize variances upon appeal in specific cases, but only within the limitations set forth in this Ordinance.

14. C.3 Interpretations of the Ordinance.

14 D Variances

Variances may be granted only under the following conditions:

14. D.1. Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

14. D.2. Variances cannot, under any circumstances, be obtained for establishment of any uses otherwise prohibited by the Ordinance.

14. D.3. The Board of Appeals shall not grant a variance unless it finds that:

14. D.3. A That the land in question cannot yield a reasonable return unless a variance is granted.

14. D.3. 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.

14. D.3. C That the granting of a variance will not alter the essential character of the locality.

14. D.3. D That the hardship is not the result of action taken by the applicant or a prior owner.

14. D.3. E That the proposed structure or use is in a Shoreland zone and would meet all the performance standards contained in Article 11 except for the provision which has created the non-conformity and from which relief is sought.

14. D.4. Such hardship may be found by the Board of Appeals where this Ordinance, as applied to the applicant's property, substantially destroys or decreases the value of the property in question for any permitted use to which the land or property can reasonably be put. Mere inconvenience to the property owner shall not satisfy this requirement. Financial hardship alone or pleading that a greater profit may be realized from the applicant's property were a variance granted shall not be sufficient evidence of unnecessary hardship. Personal hardship shall not be considered as grounds for a variance, since the variance will continue to affect the character of the neighborhood after title to the property has passed.

14. D.5. The variance granted is the minimum variance that will make possible the reasonable use of the land or structure in order to preserve the terms of the ordinance as much as possible, and the Board of Appeals may impose such conditions to a variance as it deems necessary, to this end. The party receiving the variance shall comply with any conditions imposed. If no action is taken by the applicant to use the variance within one (1) year of issuance it shall become

void unless the applicant applies to the Board of Appeals and receives an extension.

14. D6. Whenever the Board of Appeals grants a variance a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title, and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting shall be prepared. No rights may accrue to the variance recipient, heirs, or assigns unless and until the recording is made within thirty (30) days.

14 D7. Shoreland Zone Only

A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

14 D8 Disability Variance

Notwithstanding section 14. D3. above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwellings. The Board of Appeals shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Board of Appeals may impose conditions on the variance, including limiting the variances to the duration of the disability or to the time that the person with the disability lives in the dwelling. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under Title 5 M.R.S.A., Section 4553, and the term "structures necessary for access to or egress from the dwelling" is defined to include railing, wall roof systems necessary for the safety or effectiveness of the structure.

14 E Appeal Procedure

14 E1 Making an Appeal

14. E 1. A An appeal may be taken to the Board of Appeals by an aggrieved person from any decision of the Code Enforcement Officer or Planning Board, except for enforcement related matters as described in Section 14. C 1. A above. Such an appeal shall be taken within thirty (30) days of the official, written decision appealed from.
14. E 1. B Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal on forms provided which includes:

- 14. E 1. B 1 A sketch drawn to scale showing lot lines, location of existing structures and other physical features of the lot pertinent to the relief request.
- 14. E 1. B 2 A concise written statement stating what relief is requested and why the appeal or variance should be granted.
- 14. E 1. C When appeals are filed, they shall be examined for completeness and accuracy, and particularly to determine whether all information necessary to make determinations has been supplied. Where information is lacking or inadequate at the time of submission and the deficiency cannot be remedied immediately, the applicant shall be notified in writing of the incompleteness. If the additional information is not received prior to the date the public notice of the hearing must be issued, a hearing shall not be scheduled until such deficiency is remedied.
- 14. E 1. D Upon receiving an application for an appeal or a variance, the Code Enforcement Officer or Planning Board shall transmit to the Board of Appeals all the papers specifying the record of the decision appealed from. Each appeal shall be accompanied by a fee to cover advertising and administrative costs.
- 14. E 1. E The Board of Appeals shall hold a public hearing on an appeal or a request for a variance within thirty five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

14. E 2 Procedure on Appeal

- 14. E 2 A At least fifteen (15) days prior to the date of the hearing on such appeal, the Board of Appeals shall cause to be published in one issue in a newspaper of general circulation in the Town a notice which includes:
 - 14. E 2 A 1. The name of the person appealing
 - 14. E 2 A 2. A brief description of the property involved
 - 14. E 2 A 3. A brief description of the decision appealed from or the nature of a variance appeal.
 - 14. E 2 A 4. The time and place of the Board of Appeal's hearing
- 14. E 2 B At least ten (10) days prior to the date set for hearing the Board of Appeals shall also cause the Town Clerk to give similar written notice to:
 - 14. E 2 B 1. All property owners of record whose properties lie within two hundred (200) feet of the affected property,

- 14. E 2 B 2 The person making the appeal, and
- 14. E 2 B 3 The Planning Board, the Code Enforcement Officer, and any other parties of record

14. E 3 Hearings

- 14. E 3 A The Board of Appeals may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examinations as may be required for a full and true disclosure of the facts.
- 14. E 3 B The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. All persons at the hearing shall abide by the order of the Chairperson.
- 14. E 3 C At any hearing a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause. For example, if the Board of Appeals determines that the appeal before it was inappropriately classified the Board of Appeals shall give the applicant the opportunity to amend the application and continue the hearing until the public has been properly notified of the appeal's reclassification and of the time and place when the hearing will continue.
- 14. E 3 D The Code Enforcement Officer or his designated assistant shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material he deems appropriate for an understanding of the appeal.
- 14. E 3 E The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record.
- 14. E 3 F The record may be kept open after the hearing by order of the Chairman until a date established by the order.

14. F Decisions of the Board of Appeals

- 14. F 1 A majority of the full voting membership of the Board of Appeals shall constitute a quorum for the purpose of deciding an appeal.
- 14. F 2 The person filing the appeal shall have the burden of proof.
- 14. F 3 The Board of Appeals shall decide all administrative and variance appeals within thirty five (35) days after the hearing and shall issue a written decision on all appeals.

14. F.4. All decisions shall become a part of the record and shall include a statement of findings of fact and conclusions of law as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented, and the appropriate order, relief or denial thereof. Notice of any decision shall be mailed or hand delivered to the petitioner, his representative or agent, the Planning Board, agency or office, the Code Enforcement Officer, and the Municipal Officers within seven (7) days of the decision date.

For Shore and Zoning: The Board of Appeals shall state the reasons and basis for its decisions, including a statement of the facts found and conclusion reached by the Board. The Board of Appeals shall cause written notice of its decision to be mailed or hand delivered to the applicant and to the Department of Environmental Protection (if the decision pertains to Shore and zoning issues) within seven (7) days of the Board of Appeal's decision. Copies of the written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer and the Municipal Officers.

14. F.5. Upon notification of the granting of an appeal by the Board of Appeals, the Code Enforcement Officer shall immediately issue a permit in accordance with the conditions of the approval, unless the applicant needs a Conditional Use Permit.
14. F.6. Except as provided by 30-A M.R.S.A. Section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

14. G Stay of Proceedings

An appeal stays all legal proceedings related to the action appealed from unless the officer or board from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal has been filed with the officer or board, that by reason of facts stated in the certificate a stay would, in the officer or board's opinion, cause irreparable harm to property or create a threat to the life or health of any person including the appellant. In such case, the officer or board, if legally authorized by State law or local ordinance, may seek injunctive relief or, in appropriate cases, refer the matter to the Municipal Officers for prosecution.

14. H Reconsideration

In accordance with 30-A M.R.S.A., Section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board of Appeals to reconsider a decision must be filed within (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive

vote of the majority of the Board of Appeals members originally voting on the decision, and proper notification to the landowner, petitioner, Planning Board, Code Enforcement Officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board of Appeals may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

Article 15. Legal Status Provisions

15. A Conflict with Other Laws

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other Ordinance, regulation or statute, the provision imposing the greater restriction upon the use of land, buildings or structures shall control.

15. B Severability

Should any section or part of a section or any provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

15. C Repeal of Prior Ordinances

All prior Land Use or Zoning Ordinances, with the exception of the Subdivision Rule and Regulations adopted by the Town of Livingston in 1973, as amended, are repealed.

15. D Effective Date

This Ordinance shall take effect and be in force from the date of its adoption.

Article 16 Amendments

16 A Initiation

A proposal for an amendment to the Ordinance may be initiated by:

- 16.1A The Planning Board, by majority vote of the Board
- 16.1A.2 The Municipal Officers, through a request to the Planning Board
- 16.1A.3 An individual, through a request to the Planning Board
- 16.1A.4 A written petition of a number of voters equal, to at least ten percent (10%), of the number of votes cast in Limerick in the last gubernatorial election

16 B Procedure

- 16.B.1. Any proposal for an amendment shall be made to the Planning Board in writing stating the specific changes requested. When a change in zoning boundaries is proposed, the application shall state the nature, extent, and location of the boundary change proposal, and shall be accompanied by a scale drawing showing the areas to be changed, with dimensions. When an amendment is proposed (a) by the Municipal Officers; (b) by the Planning Board, or (c) by petition, as set forth in Article 16.1.D above, then such proposal need not be accompanied by any fee. In all other cases, a fee shall accompany any amendment proposal to cover the costs of hearings, and advertisements.
- 16.B.2. Within thirty (30) days of receiving an amendment proposal the Planning Board shall hold a public hearing on the proposed amendment, and unless the amendment has been submitted by the Municipal Officers or by a petition, the Board shall vote whether to forward the amendment to the Municipal Officers. The Board shall make a written recommendation regarding passage to the Municipal Officers and Legislative Body prior to any action on the amendment by the Municipal Officers.
- 16.B.3. The Municipal Officers shall hold a public hearing on the proposed amendment. Notice of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing. The notice shall contain the time, date, and place of hearing and sufficient detail about the proposed changes as to give adequate notice of their content. If the proposed changes are extensive, a brief summary of the changes, together with an indication that a full text is available at the municipal clerk's office shall be adequate notice.
- 16.B.4. Proposed amendments in the Shoreland Zone must be submitted to the State of Maine Department of Environmental Protection pursuant to the provision of 38 M.R.S.A., Section 435-449.

16 C Adoption

Amendments to this Ordinance shall be adopted by the legislative body by referendum ballot.